

**State of New Hampshire  
Board of Barbering, Cosmetology, & Esthetics  
Concord, New Hampshire**

In the Matter of:  
**TT Nails & Spa**  
**Shop License # 4405**  
**And**  
**Tuan Phan**  
**Manicurist License # 18760**  
(Adjudicatory Proceedings)

Docket No. Emergency

**ORDER OF EMERGENCY LICENSE SUSPENSION**  
**AND NOTICE OF HEARING**

1. RSA 541-A:30, III and New Hampshire Board of Barbering, Cosmetology, & Esthetic Administrative Rule (“Bar”) 402.03 authorize the New Hampshire Board of Barbering, Cosmetology, & Esthetics (“Board”) to suspend a license pending the commencement of an adjudicatory proceeding, in cases involving imminent danger to public health, life, safety, or welfare. In such cases, the Board must commence a hearing no later than ten (10) working days after the date of the emergency order. If the Board does not commence the hearing within ten (10) working days, the suspension order shall be automatically vacated. *See* RSA 541-A: 30, III and Bar 402.03 (c). The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension *See*, RSA 541-A: 30, III. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board’s final decision. *See*, RSA 541-A: 30, III.

2. TT Nails & Spa (“Shop/ Respondent 1”) was first issued a New Hampshire shop license (#4405) February 19, 2019.

3. Tuan Phan is listed on the New Hampshire Shop license.

4. Tuan Phan, (“Respondent 2”) was issued a New Hampshire Manicurist license (#18760) July 13, 2005.

5. The Board has received information indicating that continued licensure of the

*N.H. Board of Barbering, Cosmetology, & Esthetics  
In the Matter of TT Nails & Spa and Tuan Phan  
Order of Emergency License Suspension and Notice of Hearing*

Shop/Respondent 1 and Respondent 2 poses a threat to public health, safety or welfare, which warrants the temporary suspension of the Shop/ Respondent 1's license and Respondent 2's license pending a hearing on whether permanent and/or temporary disciplinary sanctions should be imposed. A preliminary investigation was conducted and a complaint was provided to the Board.

6. In support of this *Order of Emergency License Suspension and Notice of Hearing*, the Board alleges the following facts:

- A. On March 7, 2020, Inspector Beulah Green, of the Office of Professional Licensure and Certification ("OPLC") conducted a routine inspection of the Shop.
- B. The March 7, 2020 Shop inspection resulted in a Complaint and fine totaling ONE THOUSAND FIVE HUNDRED AND FOUR DOLLARS (\$1504.00) for various health and safety violations, including but not limited to improper disinfecting and sanitizing of work tools including dirty metal clippers (nippers, cuticle pushers etc.) at various work stations in the Shop, dirty files (buffing, drill tips emery boards, regular files) at various work stations in the Shop, reuse of foam flip-flops meant for single use (disposable) by patrons, and an unlicensed individual working in the Shop.
- C. Respondent 2 and Shop paid the ONE THOUSAND FIVE HUNDRED AND FOUR DOLLAR (\$1504.00) administrative fine.
- D. On June 26, 2020, Inspector Beulah Green conducted a follow-up inspection of the Shop.
- E. The June 26, 2020 follow-up inspection resulted in another Complaint and proposed fine in the amount of ONE THOUSAND EIGHTY TWO DOLLARS (\$1082.00) for various health and safety violations, including but not limited to improper disinfecting and sanitizing of work tools including dirty metal clippers (nippers, cuticle pushers etc.) at various work stations in the Shop, dirty files (buffing, drill tips emery boards, regular files) at various work stations in the Shop, reuse of foam flip-flops meant for single use (disposable) by patrons, and

an unlicensed individual working in the Shop.

- F. In one instance Inspector Green noted metal implements that appeared to be disinfected but still contained pieces of skin and toe nails.
- G. The fine issued June 26, 2020 remains unpaid.
- H. On August 22, 2020, Inspector Beulah Green conducted another follow-up inspection at the Shop. A Complaint and proposed fine was issued in the amount of ONE THOUSAND ONE HUNDRED FORTY FOUR DOLLARS (\$1,144.00) was issued for various health and safety violations including but not limited to improper disinfecting and sanitizing of work tools including dirty metal clippers (nippers, cuticle pushers etc.) at various work stations in the Shop, dirty files (buffing, drill tips emery boards, regular files) at various work stations in the Shop, reuse of foam flip-flops meant for single use (disposable) by patrons, and an unlicensed individual working in the Shop.
- I. Inspector Green also noted a dirty foot spa filter on August 22, 2020, and noted the cleaning was last logged August 7, 2020.

7. Based upon the above information, the Board finds that the case involves an immediate danger to public health, safety or welfare. Further, the Board believes there is a reasonable basis for both immediately suspending the Shop/Respondent 1's license and Respondent 2's license on a temporary basis and for commencing an expedited disciplinary proceeding against the Shop/Respondent 1 and Respondent 2 pursuant to RSA 541-A:30, III and Bar 402.03.

8. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 313-A: 22 and/ or administrative rule Bar 302.05 (c)(1), (c)(3), (c)(5), (c)(8) which warrants the continued

imposition of a temporary license suspension, the imposition of permanent disciplinary sanctions, or both. The specific issues to be determined in this proceeding are:

- A. Whether, after receiving complaints and fines for health and safety practice violations after inspections March 7, 2020 and June 26, 2020, a third inspection conducted August 22, 2020 revealed health and safety violations similar to the March 7, 2020 and June 26, 2020 inspections, whereby, the Shop/Respondent 1, and Respondent 2, have continued to engage in unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession; by continuing unsafe and unsanitary practices, placing the health and safety of the general public in immediate danger, in violation of NH RSA 313-A: 22 (c), Bar 302.07 (c)(1), Bar 302.07 (c)(3), Bar 302.07 (c)(5), Bar 302.07 (c)(8).
- B. Whether, after receiving complaints and fines for health and safety practice violations after inspections March 7, 2020 and June 26, 2020, a third inspection conducted August 22, 2020 revealed health and safety violations similar to the March 7, 2020 and June 26, 2020 inspections, whereby, the Shop/Respondent 1, and Respondent 2, have demonstrated unfitness or incompetency by reason of negligent habits or other causes; or negligent or willful acts performed in a manner inconsistent with the health or safety of persons relying on the expertise of the licensee; by continuing unsafe and unsanitary practices, and allowing an unlicensed individual to practice, placing the health and safety of the general public in immediate danger, in violation of NH RSA 313-A: 22 (d), Bar 302.07 (c)(1), Bar 302.07 (c)(3), Bar 302.07 (c)(5), Bar 302.07 (c)(8).

C. Whether, after receiving complaints and fines for health and safety practice violations after inspections March 7, 2020 and June 26, 2020, a third inspection conducted August 22, 2020 revealed health and safety violations similar to the March 7, 2020 and June 26, 2020 inspections, whereby, the Shop/Respondent 1, and Respondent 2, have engaged in willful or repeated violations of the provisions of NH RSA 313-A and Bar 100- 600 by continuing unsafe and unsanitary practices, and allowing an unlicensed individual to practice, placing the health and safety of the general public in imminent danger, in violation of NH RSA 313-A: 9, II (b), 313-A: 22 (g), Bar 302.07 (c)(1), Bar 302.07 (c)(3), Bar 302.07 (c)(5), Bar 302.07 (c)(8).

9. While RSA 313-A: 23 requires that the Board furnish the Shop/ Respondent 1 and Respondent 2 at least 14 days' notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 541-A: 30, III and Bar 402.03 require the Board to commence and adjudicatory hearing with ten (10) working days after the date of an immediate, temporary license suspension order.

10. The Board intends to complete this adjudicative proceeding within the ten (10) working day time period provided by RSA 541-A: 30, III and Bar 402.03. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless the Shop and/or Respondent 2 agrees to continue the suspension period pending issuance of the Board's

final decision in this matter. See RSA 541-A: 30, III and Bar 402.03.

**THEREFORE, IT IS ORDERED** that the Shop/ Respondent 1 and Respondent 2's New Hampshire license is **IMMEDIATELY SUSPENDED** until further order of the Board; and,

**IT IS FURTHER ORDERED** that an adjudicatory proceeding be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:30, III; and Bar 402.03. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

**IT IS FURTHER ORDERED** that the Shop/Respondent 1 and Respondent 2 shall appear before the Board on **Wednesday September 9, 2020 at 2:00 PM** at the Board's office located at 7 Eagle Square, Concord, N.H., to participate in an emergency suspension hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 313-A and Bar 100-600; and,

Due to the current pandemic the **hearing will be held remotely** via ZOOM. A web link with log in information and telephone number to the meeting will be provided to the Respondent(s) within 72 hours of the hearing.

**IT IS FURTHER ORDERED** that if the Shop/ Respondent 1 and/or Respondent 2 elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

**IT IS FURTHER ORDERED** that Respondents' failure to appear at the time and place specified above may result in the hearing being held *in absentia*, or the imposition of disciplinary sanctions without further notice or an opportunity to be heard, or both; and,

**IT IS FURTHER ORDERED** that Michael Porter, Esq, Administrator III, OPLC Enforcement, or designee, 7 Eagle Square, Concord, NH, is appointed to act as Hearing Counsel in this matter with all the authority within the scope of RSA 313-A to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,

**IT IS FURTHER ORDERED** that Holly Rodrigues, Chairperson, or any other person whom she may designate, shall act as presiding officer in this proceeding; and,

**IT IS FURTHER ORDERED** that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and seven (7) copies, and with an additional copy mailed to any party to the proceeding, and to , Jill Perlow, Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within ten (10) days of receipt of such motion or other document unless otherwise ordered by the Board; and,

**IT IS FURTHER ORDERED** that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than five (5) days before the date of the hearing. Respondent shall pre-mark exhibits with capital letters, and Hearing Counsel shall pre-mark exhibits with Arabic numerals; and,

**IT IS FURTHER ORDERED** that unless good cause exists, all motions shall be filed at least three (3) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief, except any motion seeking to postpone a hearing or conference, which shall be filed at least ten (10) days before the hearing or conference in question; and,

**IT IS FURTHER ORDERED** that the entirety of all oral proceedings shall be made by a certified shorthand court reporter provided by the agency and,

**IT IS FURTHER ORDERED** that all documents shall be filed with the Board by mailing or delivering them to Talia Wilson, Board Administrator, 7 Eagle Square, Concord, New Hampshire 03301; and

**IT IS FURTHER ORDERED** that routine procedural inquiries may be made by contacting Talia Wilson, Board of Barbering, Cosmetology, & Esthetics at (603)271-6745, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

**IT IS FURTHER ORDERED** that a copy of this Notice of Hearing shall be served upon Respondents' in-hand and by certified mail addressed to the address supplied to the Board in his/their latest renewal application. See RSA 313-A: 23 and Bar 206.03. A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD

Dated: 8/31/2020



\_\_\_\_\_  
Authorized Representative of the  
New Hampshire Board of Barbering,  
Cosmetology, & Esthetics.