

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

---

**BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS**

**In Re: Cozy Nails,  
Shop Lic. #1516**

Docket No.: 22-BAR-0026

**Shop Owner: Huy V. Dinh**

**FINAL DECISION AND  
ORDER– 5/15/23**

---

**I. ATTENDEES:**

Jeanne Chappell, Board Chair  
Kimberly A. Hannon, Board Member  
Sarah Partridge, Board Member  
Donna Woodsom, Board Member  
Teresa Boyer, Board Administrator  
Talia Wilson, Board Administrator  
Elizabeth Eaton, Esq., Board Counsel  
Shane D. Goulet, Esq., OPLC Hearings Officer  
Jack Crisp, Esq. Counsel for the Licensee  
Huy V. Dinh, Licensee and Shop Owner  
Thuy Mountlon, Witness  
Jenna Roberts, Witness  
Ling Tu Reno, Interpreter  
Collin Phillips, Esq., OPLC Prosecutor  
Sandra Hodgdon, Inspector for OPLC  
Shannon Avery, Inspector for OPLC

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

On 11/01/21, the New Hampshire Board of Barbering, Cosmetology, and Esthetics ("Board") approved a Settlement Agreement with Cozy Nails ("Licensee"), resolving allegations of misconduct relating to health and sanitation and license violations of Board rules found on the Licensee's shop premise on or about 07/30/21. On 12/20/21, the Board held an adjudicatory hearing resolving separate allegations of misconduct related to health and sanitation violations as set forth in an inspection report

dated 04/30/21. As part of the 12/20/21 order, the Licensee's shop license was suspended until it met certain conditions and placed on probation for a period of three years, commencing from the date the Licensee's license was reinstated. See 12/20/21 Ord at Section V., Paragraph C and D, Page 4. The Licensee's license was reinstated on 01/18/22. On 07/26/22, the Office of Professional Licensure and Certification ("OPLC"), acting on behalf of the Board, conducted a routine inspection of the Licensee's premises and allegedly found multiple health and sanitation violations. After investigation, the Board voted on 09/19/22 to commence this adjudicative proceeding. On 1/3/23 the hearing was continued to 3/20/23. On 3/17/23 the Presiding Officer continued the hearing scheduled for 3/20/23 to accommodate the Licensee's request for a translator. On 5/15/23, a hearing was held on this matter. This Final Order follows.

### **III. SUMMARY OF THE EVIDENCE:**

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 213.03:

a. (5) Exhibits were submitted by Hearing Counsel, numbered as follows:

#### Prosecution's Exhibits

1. 08/12/2022 Memorandum by Chief Inspector Hodgdon and Inspector Avery
2. 07/26/2022 Shop Inspection Report
3. Inspection Photograph (Rasp and (3) foot spa agitators)
4. Settlement Agreement – 09/30/21 with corresponding Shop Inspection Form
5. Final Decision and Order – 12/20/21 with corresponding Shop Inspection Form

b. (2) Exhibits was submitted by Licensee/Shop Owner, in response to Hearing Counsel's identified Exhibit, numbered as follows.

#### Defendant's Exhibits

- A. Letters of Reference (R1-R38)
- B. Minutes of September 20, 2021 Board Meeting

c. Testimony was received from:

1. Sandra Hodgdon, Inspector
2. Shannon Avery, Inspector
3. Jenna Roberts, Customer
4. Thuy Mountlon, Manager

5. Huy V. Dinh, Licensee

**IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:**

Pursuant to Rule 211.02(a), Hearing Counsel has the burden of proving its case by a preponderance of the evidence. The Presiding Officer admitted Hearing Counsel's (5) Exhibits by agreement of the parties. The Licensee submitted (2) Exhibits. Hearing Counsel objected to as portion of Licensee's submissions. The Presiding Officer found them to be relevant and material were admitted, and the Board gave them the weight they deserved.<sup>1</sup> Hearing Counsel called OPLC Inspector's Sandra Hodgdon and Shannon Avery, the Licensee called two witnesses and testified on his own behalf.<sup>2</sup> The credible evidence presented at the hearing allows the Board to find the following facts.

**Sandra Hodgdon, OPLC Chief Inspector**

Sandra Hodgdon was sworn in and testified that she is the Chief Inspector of Salons and Barbershops for OPLC's Enforcement Division with over six years' experience in the field. She testified in support of her Memorandum dated 08/12/2022 and represented that it is an accurate document. See Exhibit 1. She testified that on 07/26/2022, her and Inspector Shannon Avery performed a routine inspection of Cozy Nails as a training exercise. Thuy Mountlon, the Shop's Manager, and owner's sister were present for the inspection along with a few other employees. She testified that her inspection revealed three (3) dirty foot spa agitators and one (1) rasp file were present within the shop. She represented that Exhibit 2 was the resulting report from their inspection which was drafted by Inspector Shannon Avery. Inspector Hodgdon testified that the photograph taken during the inspection on 07/26/2022 was taken by

---

<sup>1</sup> Licensee objected to the submission of Hearing Counsel's "Petition to Accept Findings of Fact and Rulings of Law" but had no objection to the submission of Hearing Counsel's submission of the "Findings of Fact and Rulings of Law." The Licensee's contention was that the submission of the "Petition to Accept Findings of Fact and Rulings of Law" was "improper" advocacy in support of the "Findings of Fact and Rulings of Law." The Presiding Officer noted the Licensee's objection and allowed the "Petition" to be viewed by the Board after giving instruction that it was purely to be viewed as legal argument, akin to a closing statement.

<sup>2</sup> The Presiding Officer also swore in the translator, with the standard language used in New Hampshire courtrooms.

Inspector Avery. See Exhibit 3. Inspector Hodgdon testified she removed (3) foot spa agitators from a container filled with an EPA registered disinfectant. Upon removal she observed them to be slimy and covered with biofilm and debris. Inspector Hodgdon further testified to finding a “rasp file” in the back of the shop near the laundry hidden between two towels. She represented that the manager informed her that they don’t use it on anyone and that the file was for her personal use.

On cross-examination, Inspector Hodgdon acknowledged that the blue tint on the foot spa agitators represented in Exhibit 3 was likely from the “Barbicide” where the agitators were soaking.<sup>3</sup> She further qualified that the shine in the photograph of the foot spa agitators represents the slime and biofilm. Inspector Hodgdon acknowledged that the shop did have everything available on the premises to clean and disinfect foot spa agitators properly. Upon further questioning, Inspector Hodgdon stated it was not possible that she found the foot spa agitators “in the process of being cleaned” because you have to clean the agitators before you disinfect them. In response to questions about the rasp file, Inspector Hodgdon acknowledged that she “assumed” it was being hidden because it was found between towels in the back of the shop.

**Shannon Avery, OPLC Inspector**

Inspector Avery testified that she was present on 07/26/2022 for the inspection of Cozy Nails and further reaffirmed Inspector Hodgdon’s testimony.

**Jenna Roberts, Customer**

Ms. Roberts was sworn in and testified in support of the Licensee. She stated that she has been a frequent customer of Cozy Nails for 15 years, attending approximately every 3 to 6 weeks. She testified that she is friends with the shop owner and manager and represented she had written an email to the Board in support of the shop. See Exhibit 1. She testified that what struck her and other patrons about the pending

---

<sup>3</sup> “Barbicide” is understood by the Board and all parties as an EPA registered disinfectant which is blue in color.

complaint was the mention of a “rasp file”. She stated that “rasp files” are not available for use at Cozy Nails, and she has never seen one being used on a customer. She further relayed that she has witnessed shop employees refuse this service to customers. Ms. Roberts concluded by saying she is very particular about shop cleanliness and has never had any concerns that Cozy nails wasn’t up to appropriate standards.

**Thuy Moutlon, the Shop’s Manager**

Ms. Moutlon was sworn in and testified, by and through the interpreter, that she has been the manager of Cozy Nails since 2021. She stated that she was present for the shop inspection on 07/26/2022 and witnessed the (3) foot spa agitators (referenced in the complaint) were found by Inspector Hodgdon soaking in “Barbicide” disinfecting product. Ms. Moutlon testified and demonstrated to the Board the process she utilizes to clean and disinfect foot spa agitators after customer use. After they have been used on a customer she takes them apart and uses a soft brush to clean them with soap and hot water; she concludes by rinsing them. After they have been cleaned, she puts the agitators in “Barbicide” for ten minutes to soak. After 10 minutes, she checks them to see if they are clean and repeats the process if they do not appear clean. Upon completion of the process the agitators are rinsed, dried, and put in a clean container with a cover that is marked “clean”. Ms. Moutlon continued to testify that the agitators have been used many times and get worn over time.<sup>4</sup>

Ms. Moutlon was unaware that a “rasp file” was present in the shop between towels near the laundry. She acknowledged that she informed Inspector Hodgdon that it was for person use when in fact that was not true. She represented the basis for the inaccurate statement was that she was nervous, surprised, and was concerned about the consequences. Ms. Moutlon clarified that the file was not for personal use and no metal rasp files have been available for employees to use on any customers.

---

<sup>4</sup> Sample agitators from Cozy Nails were provided to the Board which evidenced a varying degree of wear and polish.

Upon cross examination, Ms. Mountlon described the difference between cleaning and disinfecting and stated that cleaning occurs before disinfection. Ms. Mountlon described the purpose of the disinfection process is to kill germs, bacteria, and fungus.

**Huy V. Dinh, Licensee and Shop Owner**

Mr. Dinh was sworn in and testified, by and through the interpreter, that he is the licensee owner of Cozy Nails. He testified that he was not present during the 07/26/2022 inspection and was unaware that a “rasp file” was in his shop. He represented to the Board that employees are not permitted to use “rasp files” or make them available to customers. Mr. Dinh corroborated the cleaning process Ms. Mountlon, described to the Board is what is followed at Cozy Nails.

**V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:**

After reviewing all the evidence, accounting for the presentation and demeanor of all the witnesses, and drawing all reasonable inferences therefrom, the Board finds that Hearing Counsel has not met their burden of proof by a preponderance of the evidence that the Licensee/ Shop Owner has committed professional misconduct as defined at RSA 313-A:22, II(c), (d), and/or (i) (see Rule 404.09). The Board finds that the Mr. Dingh was not operating a shop with multiple hygiene-related violations as set out in an inspection report, dated 07/26/22. See Paragraph II (C), (2) (Issues Presented within the Notice of Hearing). Based upon the failure to sustain a finding regarding Issue Presented (2), the Board dismisses Issue Presented (1), (3), and (4) without further discussion.

The Board relied heavily on Ms. Moulton’s credibility which was corroborated by Ms. Roberts and the Licensee’s Exhibits. The Board finds that the “(3) foot spa agitators” found in the “Barbicide” by Inspector Hodgdon were still in the process of being “cleaned and disinfected” as articulated by Ms. Moulnton. The Board finds that the photograph of the foot spa agitators do not appear to be slimy or contain debris. See Exhibit 3. Ms. Moulnton clearly articulated to the Board she had an accurate

understanding of proper cleaning and disinfection processes which was consistent with the representations she made to the Board regarding Cozy Nail’s practices. Further, OPLC Inspector Hodgdon acknowledged that the shop did have everything available on the premises to clean and disinfect foot spa agitators properly.

The Board does find that there was credible evidence that a “rasp file” was present at the location identified by Inspector Hodgdon. However, there was no evidence that demonstrates that the file was “available for use” or had been used by any employee on a customer. See Rule 302.07 (g) 4. The testimony of Ms. Roberts, Ms. Moulnton, the Licensee’s Supporting Exhibit’s, and the prior disciplinary history of the Cozy Nail’s all rebut that conclusion.

**VI. CONCLUSION AND DECISION:**

The Board hereby **DISMISSES** the matter. The Board’s decision on this docket does not alter, amend, or absolve the Licensee of any prior obligation incurred by himself or his shop relative to pending probations, Settlement Agreements, or Board Orders.

DATED: 6/26/2023

/s/ Shane. D. Goulet, Esq.  
Shane D. Goulet, Esq. Hearings Officer  
Authorized Representative of the  
Board of Barbering, Cosmetology, and Esthetics-  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301