

**State of New Hampshire
Board of Nursing
Concord, New Hampshire**

In the Matter of:
Fine Lines Barber Shop
Shop License No.: 3294
Manuel Jaimes
Master Barber License No.: 17822
(Adjudicatory Proceedings)

Docket No. 2019-01

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

1. RSA 541-A:30, III, and New Hampshire Board of Barbering, Cosmetology & Esthetics Administrative Rule (“Bar”) 402.03 authorize the New Hampshire Board of Barbering, Cosmetology & Esthetics to suspend a license pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not 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. 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 and Bar 402.03. 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 and Bar 402.03(c)

2. Manuel Jaimes (“Respondent”) holds shop license number 3294. The Respondent is also licensed by the Board as a Master Barber and holds license number 17822.

3. The Board has received information indicating that the continued practice of Respondent and the operation of Fine Lines Barber Shop (“Fine Lines”) pose an imminent threat to public health, safety and/or welfare, which warrants the temporary suspension of Respondent’s license and the Fine Lines shop license pending a hearing on whether

permanent and/or temporary discipline sanctions should be imposed. A Report of Investigation was provided to the Board.

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

A. On or about January 24, 2019, Kristina Prescott (“Prescott”) reported to the Board that her son, aged six (6), had a haircut at Fine Lines on January 23, 2019. Prescott said that her son received razor burn and numerous cuts from the use of a straight edge razor at the shop.

B. Following Prescott’s complaint, Board Inspectors Beulah Green and Sandra Hodgdon conducted an inspection on January 25, 2019. Respondent and employee Kenneth Ferguson (“Ferguson”) were present at the inspection.

C. As they arrived for the inspection, the inspectors observed Ferguson using a straight edge razor on the neck of a customer. They observed that Ferguson did not have a license displayed and asked him about it. He admitted that he had an expired Cosmetology Temporary Work Permit.

D. Because he did not have a barbering license, Ferguson was not authorized by the Board to use a straight edge razor.

E. The inspectors also observed that there did not appear to be any disinfectants available to the barbers. When asked by an inspector where his Barbicide was, Respondent said that he did not have any and had been previously told that he was not allowed to use it. The shop did not appear to have disinfectant available to clean implements.

5. Based upon the above information, the Board finds that the case involves imminent danger to public health, safety and/or welfare. Further, the Board believes there is a reasonable basis for both immediately suspending Respondent’s individual Master Barber license and shop license on a temporary basis, and for commencing an expedited disciplinary proceeding pursuant to RSA 541-A:30, III and Bar 402.03.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 313-A:22, which warrants the

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

- A. Whether on or about January 25, 2019, Respondent committed professional misconduct by failing to use disinfectant to clean implements in violation of Board Rules Bar 302.02 (a); Bar 302.05 (g); and RSA 313-A:22, II (i); and/or
- B. Whether on or about January 25, 2019, Respondent hired or employed an unlicensed person to perform barbering services, or aided or abetted such and unlicensed person in violation of RSA 313-A:9; Bar 501.02 (h); or RSA 313-A:22, II (i); and/or
- C. Whether on or about January 25, 2019, Respondent failed to display the license of employee in violation of RSA 313-A:17 and RSA 313-A:9; and/or
- D. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 313-A:22.

7. While RSA 313-A:23 requires that the Board furnish Respondent 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 an adjudicatory hearing within ten (10) working days after the date of an immediate, temporary license suspension order.

8. The Board intends to complete this adjudicative proceeding within the ten (10) working day time period provided RSA 541-A:30, III and Bar 402.03. Accordingly, neither the date of the initial evidentiary hearing nor the date for the concluding this proceeding shall be postponed or extended unless Respondent 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 Respondent's New Hampshire Master Barber license and The Fine Lines Barber Shop license are 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 Respondent shall appear before the Board on **February 11, 2019 at 10:00 am**, at the Board's office located at 121 South Fruit St., Concord, N.H., to participate in an adjudicatory hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 313-A:22; and,

IT IS FURTHER ORDERED that if Respondent 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 Respondent's 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 John F. Brown, 33 Capitol Street, Concord, N.H., 03301 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 Attorney Jon Lavalley, 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 or as soon as possible upon 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 his exhibits with capital letters, and Hearing Counsel shall pre-mark his 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 or as soon as possible before the hearing or conference in question; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least ten (10) days or as soon as possible prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,


IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Kathryn Wantuck, Board Administrator, N.H. Board of Barbering, Cosmetology & Esthetics, 121 South Fruit St., Concord, New Hampshire 03301; and,

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Kathryn Wantuck, Board Administrator, N.H. Board of Barbering, Cosmetology & Esthetics, at (603) 271-3608, 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 Respondent by certified mail addressed to the address supplied to the Board in his 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: 1/30, 2019



Kathryn Wantuck
Board Administrator
Authorized Representative of the
New Hampshire Board of Barbering,
Cosmetology & Esthetics