

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

---

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

**In Re: Michael Webber,  
Barber License #28318**

Docket No.: 22-BAR-005

**FINAL DECISION AND  
ORDER- 05/16/22**

---

**I. ATTENDEES:**

Kimberly A. Hannon, Board Member  
Kassie Dubois, Board Member  
Sarah Partridge, Board Member  
Jessica Kennedy, Administrator  
Tracey Pappas, Administrator and Witness  
Michael Webber, Licensee (via Zoom)  
Attorney Collin Phillips, Hearing Counsel  
Michael Haley, Board Counsel  
Nikolas K. Frye, Esq., OPLC Hearings Examiner and Presiding Officer

*\$ 550.00  
paid 6-10-22*

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

On or about 01/24/22, the Board of Barbering, Cosmetology and Esthetics (“Board”) denied a shop application filed by Michael Webber (“Licensee”) for change of ownership for D’Carlos Barbershop due to a failed inspection, which revealed 1) the barbershop changed ownership on 09/01/21 and did not close for business following the transfer of ownership prior to an inspection being conducted; 2) during the inspection, two apprentices were working without the barbershop having a license under new ownership; 3) the city of Manchester did not give final approval for the barbershop because it had failed a safety inspection. After conducting further investigation, the Board voted during its 03/28/22 meeting to schedule an adjudicative/disciplinary hearing in this matter. An adjudicative hearing was held on 05/16/22. This Final Decision and Order follows.

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

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

- a. Exhibits were submitted by Hearing Counsel, numbered as follows:
  1. Shop Application submitted by Licensee, dated 11/15/21
  2. Sales Agreement for D'Carlos Barbershop, dated 08/31/21
  3. New Shop Inspection Report for D'Carlos Barbershop, dated 12/30/21
  4. Board Letter to Michael Webber, dated 02/14/22
  5. MLO D'Carlos Barbershop Remark Note, dated 02/01/22 at 3:09 PM
  6. Apprenticeship Hour Sheet for Camilo Padilla #35111, dated 12/10/21
  7. Board Letter to Camilo Padilla, dated 02/23/22
  8. MLO D'Carlos Barbershop Remark Note, dated 03/08/22 at 1:35 PM
  9. MLO Francisco Paredes Feliz #34809 Remark Note, dated 03/03/22 at 3:30 PM
  10. Shop Inspection Report, dated 05/09/22
  
- b. Exhibits were submitted by Licensee, designated as follows:
  - A. Occupancy Letter Issued by City of Manchester, dated 03/28/22
  - B. Notice of Inspection issued by City of Manchester, dated 03/23/22
  
- c. Testimony was received from:
  1. Sandra Hodgdon, OPLC Inspector (called by Hearing Counsel)
  2. Tracey Pappas, OPLC Board Administrator (called by Hearing Counsel)
  3. Michael Webber, Licensee (called by Licensee)

At the beginning of the hearing, the Licensee was afforded an opportunity to object to the admission of any or all of Exhibits 1-10 as full exhibits and expressed no objection to them based on privilege, relevance, materiality or unduly duplicitousness. The Presiding Officer reviewed and admitted Exhibits 1-10 as full exhibits. Hearing Counsel expressed no objection to Licensee's Exhibits A and B, which were also admitted as full exhibits. All proposed witnesses testified at the hearing under oath.

### **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 credible evidence presented at the hearing allows the Board to find the following facts.

#### **Division of Enforcement's Case-In-Chief**

## **Sandra Hodgdon**

Sandra Hodgdon began by testifying that she is an inspector for OPLC Enforcement and has significant training and experience in conducting inspections for the Board, as well as working in one of the industries that the Board regulates. She explained that in her role as a Board Inspector she became acquainted with Licensee, who was applying for a change of ownership barbershop license in 2021. Inspector Hodgdon then discussed the general process for the application for a change of ownership of a barbershop license. She explained the first step is the applicant sending in the application to OPLC licensing, which, working on behalf of the Board, ensures it is correct. The application fee submitted with the application then goes into the OPLC Licensing system for the Board. In addition to the application and fee, Inspector Hodgdon indicated an applicant also provides to OPLC Licensing proof of purchase of a shop or a letter of intent to relocate a shop. Once OPLC Licensing has all the necessary documentation, it then assigns an inspector to conduct an inspection of the shop premises.

After providing a basic context of how the application process works for a change of ownership, Inspector Hodgdon addressed the Licensee's particular situation in applying for a shop license. Inspector Hodgdon testified that she conducted the inspection related to the Licensee's application for change of ownership and had reviewed his application and supplemental documentation. She explained Exhibit 1 is a copy of Licensee's shop application and Exhibit 2 is a copy of the proof of ownership documentation that was submitted by Licensee with his application. Inspector Hodgdon indicated that Exhibit 1 was received by Licensing in November of 2021. Exhibit 2 is a document titled "Sale agreement" identifying Carlos Abreu as the "Seller" and Licensee as the "Buyer". The "Sale agreement" is dated 08/31/21. *Id.* Exhibit 2 purports to "sell D'Carlos Barbershop located at 370 Union street" and "release remaining lease agreement between CJJ Property Investments LLC". *Id.* It also says "Utility bills and property insurance

are responsibilities of new owners as of September 1, 2021". *Id.* The document is signed by both the seller and Licensee. The Licensee's signature is acknowledged by a New Hampshire Notary Public.

Inspector Hodgdon testified that the first inspection she attempted to conduct in relation to Licensee's application for shop change of ownership was on 12/28/21. She explained that when she arrived at the shop address at 370 Union Street in Manchester, New Hampshire, she found two apprentices working, Camilo Antonio Padilla and Francisco Philip Feliz. The Licensee, however, was not present. As she could not perform the inspection without the Licensee, she contacted him and rescheduled it for 12/30/21. Inspector Hodgdon also stated that she told the two apprentices who were present that day they could not work unsupervised at the shop.

Inspector Hodgdon next testified that she showed up at the shop on 12/30/21 and this time the Licensee was present, along with the two apprentices, who were again working. Inspector Hodgdon said that she had learned from the city of Manchester that the Licensee had not passed a safety inspection relative to the shop. Consequently, she explained to the Licensee during the inspection that she had to fail the shop because Board rules required that the shop comply with federal, state, and local laws, rules, and regulations. Inspector Hodgdon testified that the Licensee said he understood, was working with the city of Manchester to resolve the issue, and needed to stay open for money. In addition to the issue with the city of Manchester, Exhibit 3, which Ms. Hodgdon identified as her 12/30/22 inspection report of the Licensee's business, states that the shop also failed inspection because it changed ownership on 09/01/21 and never shut down for business and there were two apprentices working at the shop on 12/30/21 without proper supervision. Inspector Hodgdon also stated that the Licensee informed her at this time that if he could not have clients at his shop then he would perform services at home. As the Board record reflects, the Licensee's application for a change in shop ownership was denied by the Board on 01/24/22. *See* Exh.

4.

Lastly, the Board's record reflects that the Licensee submitted another application for opening the shop after the 01/24/22 denial of his first application. According to the Board's record this application was received on 02/14/22. Inspector Hodgdon explained during her testimony that she conducted a shop opening inspection in relation to the Licensee's second application on 05/09/22. At this inspection she found Francisco Phillip Paredes Feliz working on a client without supervision or anyone else in the shop. *See* Exh. 12. The Board's record reflects that the Licensee's second application was denied by the Board on 3/21/22 due to the shop continuing to operate prior to being licensed.

The Board had no questions for Ms. Hodgdon. The Licensee inquired why the focus of the investigation into this matter was on him and not the former owner. Ms. Hodgdon explained that as a Board Inspector her concerns with respect to Licensee's involvement in this disciplinary matter were twofold: he, as a licensed barber, had been operating a barbershop without a shop license and had allowed apprentices to work in his shop without required supervision. Ms. Hodgdon's testimony also indicated that just because the Board had initiated a disciplinary action against the Licensee did not mean that it had not (or would not) take any sort of action against other parties.

### **Tracey Pappas**

Hearing Counsel next called Tracey Pappas. Ms. Pappas explained that she is one of the Board's Administrators at OPLC. As part of her job, she is familiar with the MLO system which OPLC uses to maintain licensing records. Ms. Pappas reviewed and authenticated screenshots of notes entered into MLO and labeled Exhibits 5, 7, 10, and 11. Ms. Pappas also reviewed and authenticated Apprenticeship Hour Sheets for Camilo A. Padilla, Exhs. 6 and 8, a letter from OPLC to Licensee dated 02/14/22, Exh. 4, and a letter from OPLC to Camillo Padilla dated 02/23/22, Exh 9. As Ms. Pappas explained, these Exhibits show and/or document 1) communication from OPLC to both apprentices that their current apprenticeship arrangement was invalid because the shop was not licensed; 2) communication from OPLC to the Licensee

that the shop application was denied and the reasons why; and 3) work hour sheets for Camillo Padilla submitted in December of 2021 and January of 2022.

Neither the Board nor the Licensee had any questions for Ms. Pappas that she could answer.

### **Licensee's Case-in-Chief**

#### **Licensee**

The Licensee testified on his own behalf. He admitted he had two unlicensed apprentices in his shop that were working. He stated that Francisco, one of the apprentices, never mentioned any concern from Ms. Hodgdon about this practice. He testified that there were communication issues between the apprentices and himself because he did not speak Spanish and they did not speak English.<sup>1</sup> He claimed that he had not worked much if at all at the shop since September of 2021 because he had had multiple bouts with COVID-19. The Licensee explained that he did not understand why the focus of this matter was not on the seller of the business, who he testified informed him of none of these issues.

Upon cross examination he admitted that he listed himself as the manager and owner of the shop on the shop application. He testified that he told the apprentices not to work at the shop but that he did not take keys from them. He described them as part owners of the shop and assumed that they were not working. Board questioning revealed that he no longer would be going into business with the two apprentices. He described the people he has been dealing with at the shop as a "big headache".

The Presiding Officer took administrative notice of the Board's licensing file for the Licensee's application.

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

After reviewing all the documentary evidence, drawing all reasonable inferences therefrom, and taking into account the presentation and demeanor of all the witnesses, the Board finds that Hearing

---

<sup>1</sup> The Board notes at a prior hearing the Licensee translated Spanish for the seller of the shop.

Counsel has met his burden of proof that the Licensee has committed professional misconduct. The issues of misconduct before the Board were 1) whether or not the Licensee committed misconduct as defined at RSA 313-A:22, II(c), RSA 313-A:22, II(g) and/or RSA 313-A:22, II(i) by receiving clients without a shop license since 09/01/21 in violation of the requirements of Rule 301.09 et seq. and/or RSA 313-A:19; and 2) whether or not the Licensee committed misconduct as defined at RSA 313-A:22, II(c), RSA 313-A:22, II(g) and/or RSA 313-A:22, II(i) by allowing two apprentices to work in an unlicensed shop since 09/01/21 in violation of Rules 301.04(d), 301.04(n), and the requirements of Rule 301.09, et seq. and/or RSA 313-A:19. **Not. Hear. at Par. II.c.** The central facts of this case are clear: the Licensee purchased the shop on 08/31/21 and assumed responsibility for it on 09/01/21. Not until on or about 11/15/21 did Licensee first apply for a shop ownership license with the Board. Between 09/01/21 and as recently as 05/09/22 the shop has been found by the Board's Inspector on three separate occasions to be operating, despite having no license, with one or more unsupervised apprentices. As part of this decision, the Board makes the following specific findings of fact and conclusions of law:

- A. The Board finds, by a preponderance of the evidence, that between 08/31/21 and 05/09/21, Licensee has held a personal license as a New Hampshire barber through the Board. *See* Exh. 1 and Board's record.
- B. The Board finds, by a preponderance of the evidence, that the Licensee purchased the barbershop business at 370 Union Street, Manchester, New Hampshire on 08/31/21 and assumed responsibilities for it on 09/01/21 as its owner. *See* Testimony of Sandra Hodgdon and Exh. 2.
- C. The Board finds, by a preponderance of the evidence, that the Licensee, as owner and proposed manager, first applied to the Board for a shop license for his barbershop business located at 370 Union Street, Manchester, New Hampshire on or about 11/15/21. *See* Testimony of Sandra Hodgdon and Exhs. 1 and 4.
- D. The Board finds, by a preponderance of the evidence, that the Licensee did not hold a shop license for the shop located at 370 Union Street, Manchester, New Hampshire between 08/31/21 through 05/16/22. *See* Testimony of Sandra Hodgdon and Exhs. 1, 3, 4, and 12.
- E. The Board finds, by a preponderance of the evidence, that Licensee's shop was regularly open for business between 08/31/21 and 05/09/22, including on 12/28/21, 12/30/21, and 05/09/21. *See*

Testimony of Sandra Hodgdon, Tracey Pappas, Licensee and Exhs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

- F. The Board finds, by a preponderance of the evidence, that the Licensee's first application for a change of shop ownership was denied by the Board on 01/24/22. *See* Exh. 4.
- G. The Board finds, by a preponderance of the evidence, that two apprentices were working in the Licensee's shop without supervision on 12/28/21, 12/30/21, and 05/09/22 and that the Licensee was notified of each occasion. *See* Testimony of Sandra Hodgdon and Exhs. 3 and 12.
- H. The Board finds, by a preponderance of the evidence, that at least since 12/30/21, when Inspector Hodgdon notified Licensee of the issues written on her inspection report of 12/30/21, the Licensee knew that the shop was operating without a license with unsupervised apprentices working in it, and this was in violation of Board rules. *See* Testimony of Sandra Hodgdon.
- I. The Board finds, by a preponderance of the evidence that the Licensee's shop continued to operate without a license with unsupervised apprentices working in it after 12/30/21. *See* Testimony of Sandra Hodgdon and Exhs. 7, 8, 9, 10, 11, 12.
- J. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(c) by receiving clients at his shop without a shop license in violation of the requirements of Rule 301.09 et seq. and RSA 313-A:19.
- K. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(g) by receiving clients at his shop without a shop license in violation of the requirements of Rule 301.09 et seq. and RSA 313-A:19.
- L. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(i) by receiving clients at his shop without a shop license in violation of the requirements of Rule 301.09 et seq. and RSA 313-A:19.
- M. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(c) by allowing two apprentices to work in his unlicensed shop in violation of Rules 301.04(d), 301.04(n), the requirements of Rule 301.09, et seq. and RSA 313-A:19.
- N. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(g) by allowing two apprentices to work in his unlicensed shop in violation of Rules 301.04(d), 301.04(n), the requirements of Rule 301.09, et seq. and RSA 313-A:19.
- O. The Board concludes the Licensee committed professional misconduct as defined at RSA 313-A:22, II(i) by allowing two apprentices to work in an unlicensed shop since 09/01/21 in violation of Rules 301.04(d), 301.04(n), the requirements of Rule 301.09, et seq., and RSA 313-A:19.
- P. Pursuant to RSA 313-A:22(II)(c) and (i) and Rule 404.09, the Board, Licensee engaged in professional misconduct by, on 10/04/21, operating a shop with: 1) multiple health code violations; 2) an apprentice working without wearing a name tag; 3) an apprentice not being supervised; 4)



its last inspection report not displayed; and 5) no first aid supplies. The total assessed points for those violations is 1,397. *See* Exhibits 4, 5, 6 and testimony of Sandra Hodgdon.

- Q. Pursuant to Rule 404.09, the Board assesses the following violation points in relation to the Licensee's professional misconduct:
- a. 500 points for operating the business without an appropriate license;
  - b. 50 points for allowing two unsupervised apprentices to work in his unlicensed business.
- R. Pursuant to RSA 313-A:22(III)(e) and Rule 404, and upon a finding of professional misconduct under section (II), the Board affirmatively imposes an administrative fine of \$550.00, representing the cumulative point values for the violations noted in Paragraph Q.
- S. In determining what sanctions to impose, the Board considered RSA 313-A:22 and the factors enumerated in Rule 402.01(d).
- T. Pursuant to RSA 313-A:22 and Rule 402.01(d), the Licensee is subjected to the above-referenced discipline as the minimum sanction that the Board believes will, based on the facts and circumstances of this case, both protect the public and deter Licensee and any other licensees from engaging in such misconduct in the future.

The Board reminds the Licensee the these finding of misconduct do not prohibit him from applying for and potentially obtaining a valid shop license in the future. Since Licensee's shop license applications were previously denied by the Board on 01/24/22 and 03/21/22, he would need to reapply and resubmit all required materials, as that is what the law requires.

**VI. CONCLUSION AND DECISION:**

The Board hereby makes the findings of professional misconduct against the Licensee stated herein and subjects him to the disciplinary action stated herein.

DATED: 5/26/2022

\_\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
Nikolas K. Frye, Esq., Hearings Examiner  
Authorized Representative of the  
Board of Barbering, Cosmetology, and Esthetics-  
New Hampshire Office of  
Professional Licensure & Certification  
7 Eagle Square  
Concord, NH 03301