

**State of New Hampshire
Board of Barbering, Cosmetology, and Esthetics
Concord, New Hampshire 03301**

In the Matter of:
**Amy's Nails,
Shop Lic. #4071**

Docket No.: 22-BAR-0017

**Ngoc Nguyen,
Manicurist Lic. #13547
Esthetician Lic. #13547**

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of Barbering, Cosmetology, and Esthetics, the New Hampshire Board of Barbering, Cosmetology, and Esthetics ("Board") and Amy's Nails, a nail salon currently licensed by the Board, and Ngoc Nguyen, a Manicurist and Esthetician currently licensed by the Board (together as "Respondents"), do hereby stipulate and agree to resolve certain allegations of violations of rules and laws regulating the profession now pending before the Board according to the following terms and conditions:

1. The parties stipulate that Board inspectors have jurisdiction to conduct inspections of shops and schools pursuant to NH RSA 313-A: 21 and N.H. Code Admin. R Bar ("Bar") 404.01.
2. The parties further stipulate the Board has the authority to issue administrative fines for violations of statutes pursuant to NH RSA 313-A and Bar 404.04.
3. Pursuant to RSA 310-A:1-k, III, RSA 541-A, V, and Bar 217.02, the Board may, at any time, dispose of such allegations by settlement.
4. The Board first granted Ngoc Nguyen an esthetician license #13547 on 12/06/2004. Ngoc Nguyen's esthetician license expires on 10/31/2023.

5. The Board first granted Ngoc Nguyen a manicurist license #13547 on 09/13/2001. Ngoc Nguyen's manicurist license expires on 10/31/2023.
6. The Board first granted Amy Nails at 449 Amherst St., Nashua, NH 03063 shop license #4071 on 08/08/2016. Amy Nails shop license expires on 10/31/2023.
7. On 06/17/2022, a Board inspector conducted a routine inspection of Respondents. As a result of the inspection, the inspector alleged multiple violations totaling 421 points (including violations related to health and sanitation) and that the Respondents had failed to comply with terms of a previously entered settlement agreement by failing to pay an administrative fine.
8. After review of the inspection report, the Board immediately suspended the Respondents' licenses beginning 08/19/2022 and scheduled a show cause adjudicative hearing.
9. On 08/26/2022, the Respondents subsequently paid the administrative fine and the Board reinstated the Respondent's licenses.
10. On 09/01/2022, the Board lifted the suspension on the Respondents' license.
11. Respondents stipulate that if a show cause adjudicative hearing were to take place, Hearing Counsel could prove that Respondents violated RSA 313-A:22, II(c), (d), and (g) by the following facts:
 - A. Respondents paid a fine for violations found during a routine inspection on 07/15/2017.
 - B. Respondents paid a fine for violations found during a routine inspection on 11/28/2018.
 - C. On 12/20/2021, Respondents entered a *Settlement Agreement* ("2021 Settlement") with the Board settling allegations of violations that were found during a routine

inspection on 07/14/2021 and during a follow-up inspection on 09/16/2021.

- D. In the paragraphs 9.B., C. and D. of the 2021 Settlement, Respondents agreed to pay administrative fines totaling \$1,500.00 with a \$250 suspended for a period of two years provided the Respondents did not accumulate additional health and safety violations and \$250 suspended for a period of two years provided the Respondents did not possess MMA.
- E. In the 2021 Settlement, all fines were payable within thirty (30) days being due 01/19/2021.
- F. As of 01/20/2021, Respondents had not paid the required \$1,000.00 administrative fine.
- G. On 06/17/2022, a Board inspector conducted a routine inspection finding violations totaling 421 violation points including 346 points related to health and safety violations, 75 points related to apprentice violations, and failed to display licenses as required.
- H. On 08/26/2022, Respondent paid \$1,500.00 for administrative fines related to the 2021 Settlement.
12. Respondents acknowledge that this conduct constitutes grounds for the Board to impose disciplinary sanctions against their license to operate as a nail salon in the State of New Hampshire.
13. Respondents consent to the Board imposing the following discipline, pursuant to RSA 313-A:22, III.
- A. Respondent is **REPRIMANDED**.

- B. Respondent is **SUSPENDED** for a period of fourteen (14) days, time-served for the period the Respondents were suspended from 08/19/2022 to 09/01/2022.
- C. Respondents' owner and manager (if different from the owner) shall participate in twelve (12) hours of program(s) of **CONTINUING EDUCATION** in the areas of sanitation, sterilization, and disinfection control within sixty (60) days of the signed date of this order. At least (2) hours of the above referenced continuing education shall be in sterilization. Such hours shall be in addition to the hours required for licensure. To document successful completion of the program(s), the Respondents shall provide the Board with written documentary proof of issued/authored by the program offering the course(s). **Whether any program(s) meets the requirements of this section shall be determined by the Board. Therefore, the Respondents are strongly encouraged to seek the Board's pre-approval of program(s) before taking them.** The Board has authorized the Board Chair to pre-approve courses on its behalf, so that the Respondents does not have to wait until a meeting to learn whether coursework he wishes to take is acceptable. The Respondents can submit information about proposed programs to the Board's Administrator, who shall present same to Board Chair for determination.
- D. Respondents are assessed an **ADMINISTRATIVE FINE** in the amount of six hundred and seventy-one dollars (\$671.00) where \$421.00 is assessed for 421 violation points found during the June 2022 inspection, and \$250.00 is assessed for the suspended fine for violating terms of paragraph 9.C. of the 2021 Settlement Agreement. Respondent shall pay this fine in full within forty-five (45) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering

a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 7 Eagle Square, Concord, New Hampshire, 03301. The \$500.00 paid on 08/26/2022 is accepted as partial payment for this fine. One hundred and seventy-one dollars (\$171.00) is still due and payable. **No separate invoice shall issue.** Payment shall include a copy of this *Settlement Agreement* and/or the following note with the check or money order: **Enclosed please find a check in the amount of \$171.00 for the administrative fine assessed by the Board of Barbering, Cosmetology, and Esthetics ("Board") in resolution of In the Matter of Amy's Nails as agreed to with the Board.**

- E. Respondents are subject to **PROBATION** for three years commencing from the signed date of this *Settlement Agreement*. Any violation of the Board's rules relating to sanitation and hygiene over 100 points within the probationary period or an inspection resulting in more than 750 points for any violation of Board's rules whichever occurs first shall constitute misconduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board against the Respondent including an order of immediate suspension of license. The Board is putting the Respondents on notice that it may enforce this order specifically using unannounced inspections.
- F. Respondents are assessed reasonable **COST OF INVESTIGATION AND PROSECUTION** in the amount of five hundred dollars (\$500.00). Respondent shall pay this fine in full within forty-five (45) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's

office at 7 Eagle Square, Concord, New Hampshire, 03301. **No separate invoice shall issue.** Payment shall include a copy of this *Settlement Agreement* and/or the following note with the check or money order: **Enclosed please find a check in the amount of \$500.00 for the cost of investigation and prosecution assessed by the Board of Barbering, Cosmetology, and Esthetics ("Board") in resolution of In the Matter of Amy's Nails as agreed to with the Board.**

- G. Respondents, specifically the shop owner, shall bear all costs required by this *Settlement Agreement* and shall be responsible for ensuring all payments are made, but Respondents shall be permitted to share such costs with third parties.
- H. The Board may consider Respondents' compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondents' licenses.
14. Respondents' breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 313-A:22, and a separate and sufficient basis for further disciplinary action by the Board.
15. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondents in the future.
16. This *Settlement Agreement* shall become a permanent part of Respondents' file, which is maintained by the Board as a public document.

17. Respondents voluntarily enter into and signs this *Settlement Agreement* and states that no promises or representations have been made other than those terms and conditions expressly stated herein.
18. The Board agrees that in return for Respondents executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
19. Respondents understand that Respondents' action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
20. Respondents has had the opportunity to seek and obtain the advice of an attorney of Respondents' choosing in connection with the decision to enter into this agreement.
21. Respondents understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondents specifically waives any claims that any disclosures made to, or by, the Board surrounding its review of this *Settlement Agreement* have prejudiced Respondents' right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
22. Respondents' are not under the influence of any drugs or alcohol and are otherwise of sound mind at the time of signing this *Settlement Agreement*.
23. Respondents certify that he/she has read this document titled *Settlement Agreement*. Respondents understands that he/she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he/she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his/her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts.


Further, Respondents fully understand the nature, qualities and dimensions of these rights. Respondents understand that by signing this *Settlement Agreement*, he/she waives these rights as they pertain to the misconduct described herein.

24. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

[Signatures on next page.]

FOR RESPONDENT

Date: 10-17-22



Ngoc Nguyen (Owner)
Amy's Nails
Respondent

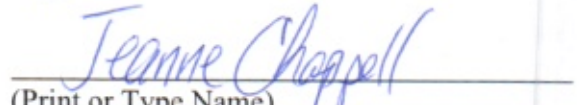
FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 10-17-22



(Signature)



(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Barbering,
Cosmetology, and Esthetics

/*Board members, recused: