

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

BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS

**In Re: Larrissa O'Reilly,
Cosmo. License #21622**

Docket No.: 21-BAR-0006

FINAL DECISION – 04/19/21

I. ATTENDEES:

Todd H. Prevett, Esq., Presiding officer
Holly Rodriguez, Board Chair
Kassie Dubois, Board Member
Kimberly Hannon, Board Member
Sarah Partridge, Board Member
Josh Craggy, Board Member
Jane Dussault, Applicant
Talia Wilson, Administrator

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 02/11/21, the New Hampshire Board of Barbering, Cosmetology, and Esthetics ("Board") received a memorandum from OPLC Enforcement alleging that Larrissa O'Reilly ("Licensee") had operated a salon without a shop license and that she had not disclosed several criminal convictions her applications for licensure/renewal. After investigation, an adjudicative proceeding was commenced by the Board and a final adjudicative hearing was held on 04/19/21 at 11:00. Pursuant to N.H. Code Admin. R., Bar 205.01(b) ("Rules"), Todd H. Prevett, Esq. was appointed by the Board as presiding officer.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 211.03:

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

1. Notice of Hearing dated February 27, 2021
2. OPLC's Investigator Hodgdon's Report of Investigation
3. MLO Page - Larrissa O'Reilly
4. Shop Inspection Form, dated February 10, 2021
5. Salon Advertisements for "Hair by Larrissa"
6. Application Questionnaires
7. O'Reilly - 2010 Guilty Plea to RSA 629:1 Attempt
8. O'Reilly- 2012 Guilty Plea to RSA 637:3-a Willful Concealment, Class B Misdemeanor
9. O'Reilly- 2015 Guilty Plea to RSA 265-A:2 DUI Driving While Intoxicated, Class B Misdemeanor
10. Certified Mail-Return Receipt Requested "Green Card" signed by Licensee, 04/01/21

b. Testimony was received from:

1. Sandy Hodgdon, Investigator
2. Attorney Collin R. Phillips (offer of proof)

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The Licensee has held a license as a cosmetologist in New Hampshire since 09/09/2009. After receiving a complaint and ordering an investigation, the Board conducted this adjudicative hearing on 04/19/21 where Licensee failed to appear, after receiving notice by certified mail, return receipt requested. Pursuant to Rule 208.10, Hearing Counsel has the burden of proving its case by a preponderance of the evidence. Hearing Counsel offered all its exhibits into evidence, and proceeded via offers of proof. The credible evidence presented at the hearing allows the Board to find the following facts.

OPLC Enforcement Investigator Sandy Hodgdon was sworn and testified in this matter. On or about 01/17/21, OPLC Enforcement received a complaint from Hester Health, indicating that Licensee was advertising her cosmetology services through a salon located in her home, without the proper shop license. On or about 01/20/21, Ms. Hodgdon attempted to physically locate Licensee at her old address, but was informed that she had moved. On or about 02/10/21, Ms. Hodgdon went to Licensee's new address in Swanzey, NH. Ms. Hodgdon observed and documented signage that Licensee was providing cosmetology services out of her home without a shop license. In addition, OPLC Enforcement provided documents from the New Hampshire Judicial Branch, indicating that Licensee had been convicted of criminal attempt (11/01/10), willful concealment (10/23/12), and DUI (05/18/15). Licensee submitted an initial application for licensure in 2009, and multiple subsequent applications for renewal on or about

07/23/13, 07/30/14, and 07/10/20. None of Licensee's renewal applications disclose her criminal convictions.

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

After reviewing all of the evidence, and taking into account the presentation and demeanor of the witnesses, the Board finds by a preponderance of the evidence that the Licensee has committed professional misconduct. Licensee did not obtain the appropriate salon license to offer her services out of her home. On a more serious note, Licensee has not been truthful on her renewal applications and omitted her criminal convictions, allowing her to retain her license without inquiry from the Board. By a preponderance of the evidence, Licensee has committed professional misconduct. As part of this decision, the Board makes the following findings of fact and conclusions of law pursuant to Rule 212.01(b):

- A. On or about January 2021, Licensee was a licensed cosmetologist.
- B. On or about January 2021, Licensee was offering cosmetology services out of her home located at 66 Wilson Pond Road, Swanzey, NH. Licensee did not have a shop license for this location as required under RSA 313-A:19(I).
- C. Pursuant to RSA 313-A:9(I) and 313-A:22(II)(c), Licensee engaged in professional misconduct by operating a salon out of her home without an appropriate license.
- D. Pursuant to RSA 313-A:22(II)(a) and Rule 301.02, there is insufficient evidence to show that Licensee engaged in professional misconduct by being untruthful on her initial application for licensure in 2009. There is no evidence that she had any applicable criminal convictions prior to 2010.
- E. Pursuant to RSA 313-A:22(II)(a) and Rule 401.02, Licensee engaged in professional misconduct by being untruthful on her subsequent applications for license renewal. Licensee failed to disclose her 2010, 2012, and 2015 criminal convictions.
- F. Pursuant to RSA 313-A:22(III)(b), and upon a finding of professional misconduct under section (II) above, the Board hereby SUSPENDS Licensee for a period of one year, or until she applies for reinstatement and otherwise complies with this disciplinary decision.
- G. Pursuant to RSA 313-A:22(III)(d), and upon a finding of professional misconduct under section (II) above, the Board orders that Licensee meaningfully participate in five (5.0) hours of additional continuing education related to licensure and risk management. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed

within one (1) year. Within fifteen (15) days of completing these hours, Licensee shall notify the Board and provide written proof of completion.

- H. Pursuant to RSA 313-A:22(III)(e), and upon a finding of professional misconduct under section (II) above, the Board hereby imposes an administrative fine of \$250.00, payable within 30 days of the effective date of this decision. The payments shall be made by certified bank check or postal money order payable to the "Treasurer, State of New Hampshire."
- I. Pursuant to RSA 313-A:22 and Rule 402.01(d), 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 particular case, both protect the public and deter Licensee and any other licensee from engaging in such misconduct in the future. The Board specifically considered the following factors in arriving at this decision: the mildly seriousness of Licensee's offense, the lack of Licensee's prior disciplinary record, but the repeated nature of her untruthfulness on her renewal applications; the Licensee's guilty state of mind at the time of the offenses; the Licensee's lack of acknowledgment of her wrongdoing; the Licensee's failure to cooperate or even appear before the Board; the purpose of the rule or statute violated, which is to ensure that practicing cosmetologists are licensed professionals; and the moderate potential harm to public health and safety of allowing unlicensed individuals to operate a salon.
- J. Hearing Counsel's Motion to Amend the Record is hereby GRANTED.
- K. Hearing Counsel's Proposed Statement of Fact is partially incorporated herein.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 313-A:22(II) and Rule 402, the Board hereby SUSPENDS Larrissa O'Reilly's license as a cosmetologist, and subjects her to further discipline as outlined above.

DATED: 04/19/21

_____/s/ Todd H. Prevett, Esq._____
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