20- 029626

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH

In re: Patricia Gardiner, H.C. Petition No. 20004-0803-020-020

CONSENT ORDER

WHEREAS, Patricia Gardiner of Guilford (hereinafter "respondent") has been issued license number 029626 to practice hairdressing and cosmetology by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 387 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. During 2003-2004, respondent abused or utilized to excess alcohol.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-263.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-263 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14 and 19a-17 and 20-263 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.

2. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions:

   a. Respondent shall participate in regularly scheduled therapy at her own expense with a licensed or certified therapist pre-approved by the Department (hereinafter "therapist").

      (1) Respondent shall provide a copy of this Consent Order to her therapist.

      (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.

      (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.

      (4) The therapist shall submit reports quarterly for the one-year period of probation, which shall address, but not necessarily be limited to, respondent's ability to practice as a hairdresser and cosmetician in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.

      (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the

public, or if respondent discontinues therapy and/or terminates his or her services.

b. During the entire one-year probation, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.

(1) During the one year period of probation, respondent at her own expense, shall submit to a minimum of two random observed urine screens for alcohol, controlled substances, and legend drugs per month; in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens'). Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

(2) Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Board and the Department by the testing laboratory. All such screens shall be negative for alcohol,

controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.

(3) Respondent understands and agrees that if she fails to submit a urine sample when requested by her monitor, such missed screen shall be deemed a positive screen.

(4) Respondent shall notify each of his health care professionals of all medications prescribed for her by any and all other health care professionals.

(5) Respondent is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.

c. During the entire one year probation respondent shall attend "anonymous" or support group meetings on an average of ten times per month, and shall provide quarterly reports to the Department concerning her record of attendance.

d. During the period of probation, respondent shall report to the Department any arrest under the provisions of Connecticut General Statutes section 14-227a. Such report shall occur within fifteen (15) days of such event.

e. Respondent shall provide her employer and/or associate at any salon at which she is employed or with which she is affiliated or practices as a hairdresser and cosmetician throughout the probationary period, with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment/affiliation at a new facility. Respondent agrees to provide quarterly reports from such employer/associate for the one-year period of probation; stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.

f. During the period of probation, respondent shall only practice in a setting that includes other licensed hairdressers and cosmeticians.

g. Respondent shall obtain written approval from the Department prior to any change in Employment.

3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.

5. Respondent shall comply with all state and federal statutes and regulations applicable to her licensure.

6. Respondent shall pay all costs necessary to comply with this Consent Order.

7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:

   a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

   b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

   c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph7.a. above to demonstrate to the satisfaction of the Department that she has complied with the terms of this Consent Order or, in the alternative, that she has cured the violation in question.

   d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, she shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.

   e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an hairdresser and cosmetician, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric and/or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees

that failure to cooperate with the Department in its investigation during said 45-day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall constitute an admission that her conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).

9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of her license before the Board.

10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.

11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.

12. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which her compliance with this Consent Order or with §20-263 of the General Statutes of Connecticut, as amended, is at issue.

13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of

Connecticut, provided that this stipulation shall not deprive respondent of any rights that she may have under the laws of the State of Connecticut or of the United States.

15. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

16. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted.

17. Respondent understands and agrees that she is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which she is away from her residence.

18. Respondent has the right to consult with an attorney prior to signing this document.

20. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

I, Patricia Gardiner, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Patricia Gardiner

Patricia Gardiner

Subscribed and sworn to before me this 28th day of August 2006.

Janis K. Malec

~~Notary Public or person authorized~~ Commissioner of the Superior Court
~~by law to administer an oath or affirmation~~

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 14th day of September 2006, it is hereby accepted.

Jennifer Filippone

Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch

The above Consent Order having been presented to the duly appointed agent of the _____ on the 6th day of November 2006, it is hereby ordered and accepted.

Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians

EMS

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Attachment " A "

DEPARTMENT REQUIREMENTS FOR DRUG AND ALCOHOL SCREENS

Respondent: Patricia Gardiner **Petition No.** 2004-0803-020-020

Screening Monitor Information:

Name: _____

Address: _____

_____

_____

Phone: _____ FAX: _____

1. Each screen must test for the following substances: alcohol (breathalyzer tests are not acceptable), amphetamines, barbiturates, benzodiazepines, cannabinoids (THC metabolites), cocaine, meperidine, opiates, methadone, phencyclidine (PCP), propoxyphene, Stadol, hydrocodone, hydromorphone, and oxycodone. Additional substances such as Fentanyl and Sufentanil may also be required. Partial screens will not be accepted.

2. **Urine collections must be directly observed.** The urine monitor must be in the room with the respondent and directly observe the collection of the specimen by the respondent.

3. The frequency of screens is as follows: _____

4. Collections must be **random.** There must be no pre-arrangement between the respondent's thera pist, the respondent, the urine monitor, and/or the lab in scheduling drug and alcohol screens. There must be no pattern of times, dates, or identifiable sequence (i.e. every Monday or alternating Wednesdays). The specimen collection shall not be done on the same day as a therapy session. Screening will be done on weekends and holidays if possible and/or if required. Special arrangements will be made for periods of vacation (see #6, below).

Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
An Equal Opportunity Employer

5. Specimens will be collected as follows: the screening monitor (pre-approved by the Department) will call the respondent for collections. The respondent shall provide the monitor with her home and business phone numbers and carry a beeper if necessary. The monitor must speak directly with the respondent; the monitor may not leave a message on an answering machine. **The respondent must appear for specimen collections within 2 - 5 hours of the screening monitor's call. In the event the respondent does not show up for a collection, or arrives late, the urine monitor is to notify this Department immediately. A MISSED SCREEN IS CONSIDERED A POSITIVE SCREEN.**

6. Respondent will notify the screening monitor and the Department at least two weeks prior to scheduled vacations. Screens will be collected prior to and following periods of vacation. Screens will be collected prior to and following periods of vacation to make up for the screen missed.

7. Specimens are to be handled in such a manner as to maintain Chain of Custody. Chain of Custody documentation must accompany all laboratory reports and/or the laboratory reports shall indicate that the Chain of Custody procedure has been followed. Respondent must document all medications s/he is taking on each Chain of Custody form. **The *respondent* is responsible for Chain of Custody documentation being completed properly. In the event Chain of Custody is incomplete, the respondent may be called for a repeat screen.**

   PLEASE MAKE CERTAIN TO WRITE YOUR NAME ON EACH CHAIN OF CUSTODY FORM. SOCIAL SECURITY NUMBERS ALONE ARE NOT SUFFICIENT.

8. All positive results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing method.

9. Screens shall be conducted at:

   Bendiner & Schlesinger, Inc.
   140 58th. Street
   Brooklyn, New York 11220

   Contact: Mr. Francis Hartigan
   (212) 353-5108

   Respondent must obtain Department-approval for any lab s/he chooses to use other than Bendiner & Schlesinger. The proposed lab must be capable of conducting forensic screens and testing for each of the substances set forth in paragraph 1 of these Guidelines.

10. **POSITIVE SCREENS MUST BE REPORTED TO THE DEPARTMENT IMMEDIATELY,** by calling Bonnie Pinkerton at (860) 509-7651, and by fax sent to (860) 509-8368. Written documentation/confirmation of any positive screen must be received by the Department within 3 days of the screening monitor's n otification of such.

11. Correspondence and lab reports should be sent to the attention of:

Bonnie Pinkerton
Department of Public Health
410 Capitol Avenue, #12 H.S.R.
P.O. Box 340308
Hartford, Connecticut 06134

ALCOHOL/DRUG SCREENS AND REPORTS NOT CONFORMING TO THESE GUIDELINES <u>WILL NOT</u> BE CONSIDERED ACCEPTABLE FOR PROBATIONARY/REHABILITATION PURPOSES.

All screening monitors and alternates must sign below acknowledging their receipt of these Guidelines and indicating their agreement to conduct screens accordingly.

Signature:_____ Signature:_____

Print name:_____ Print name:_____

Date:_____ Date:_____

Signature:_____ Signature:_____

Print name:_____ Print name:_____

Date:_____ Date:_____

Please fax the signed signature page to (860) 509-8368.

Department Requirements for Drug and Alcohol Screens

Re: _____

Pet. No._____