

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Patricia Gardiner, H.C.

Petition No. 2010-59

REINSTATEMENT CONSENT ORDER

WHEREAS, Patricia Gardiner of Meriden (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WHEREAS, respondent's license was revoked on April 28, 2008, and respondent has now applied to have said license reinstated by the Department pursuant to Chapter 368a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. Respondent's license was revoked as part of a Memorandum of Decision dated April 28, 2008 in Petition Number 2007-1128-020-030. Said Decision was based on findings that respondent violated a previous Consent Order in Petition Number 2004-0803-020-020. The Consent Order was based on respondent's alleged abuse and/or utilization to excess of alcohol.
2. That the conduct described above constitutes grounds for denial of respondent's application for reinstatement pursuant to §19a-14(a)(6) of the General Statutes of Connecticut.

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

1. She waives her right to a hearing on the merits of this matter.
2. Respondent's license to practice hairdressing and cosmetology shall be reinstated when she satisfies the requirements for reinstatement of her license, as set forth in §§ 19a-14-1 through 19a-14-5, inclusive, of the Regulations of Connecticut State Agencies, and this Reinstatement Consent Order is executed by all parties.
3. Immediately upon issuance, respondent's license shall be placed on probation for one (1) 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 Reinstatement 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 Reinstatement Consent Order within fifteen (15) days of the effective date of this Reinstatement 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 monthly for the duration of the probationary period, which shall address, but not necessarily be limited to, respondent's ability to practice hairdressing and cosmetology 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 probationary period, 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. Respondent shall inform said licensed health care professional of respondent's substance abuse history. 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 entire probationary period, respondent at her own expense, shall submit to monthly random observed urine screens for alcohol, controlled

substances, and legend drugs; 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 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 Reinstatement 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. Respondent shall provide her employer at each place where respondent practices as a hairdresser and cosmetologist throughout the probationary period, with a copy of this Reinstatement Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer every two months for the duration of the probationary period, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.
4. 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
5. All reports required by the terms of this Reinstatement Consent Order shall be due according to a schedule to be established by the Department of Public Health.

6. Respondent shall notify the Department of any change(s) in her employment within fifteen (15) days of such change.
7. Respondent shall notify the Department of any change in her home and/or business address within fifteen (15) days of such change.
8. Respondent shall comply with all state and federal statutes and regulations applicable to her licensure.
9. Respondent shall pay all costs necessary to comply with this Reinstatement Consent Order.
10. Any alleged violation of any provision of this Reinstatement 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 Reinstatement 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 Reinstatement Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 10a above to demonstrate to the satisfaction of the Department that she has complied with the terms of this Reinstatement 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 Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians (hereinafter "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 Reinstatement Consent Order.
11. In the event respondent violates any term of this Reinstatement Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of her license before the Board.
 12. Respondent understands this Reinstatement Consent Order may be considered as evidence of the above-alleged violations in any proceeding before the Board in which (1) her compliance with this Reinstatement Consent Order is at issue, or (2) her compliance with §20-263 of the General Statutes of Connecticut, as amended, is at issue.
 13. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
 14. This Reinstatement Consent Order is effective on the first day of the month immediately following the date this Reinstatement Consent Order is accepted and ordered by the Board.
 15. Respondent agrees that this Reinstatement Consent Order shall be deemed a public document, and the Department's allegations as contained in this Reinstatement Consent Order shall be deemed true in any subsequent proceeding before the Board in which her compliance with this Reinstatement Consent Order or with §20-263 of the General Statutes of Connecticut, as amended, is at issue.
 16. In the event respondent violates a term of this Reinstatement Consent Order, respondent agrees immediately to refrain from practicing as a hairdresser and cosmetologist, upon request by the Department, 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. 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 be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

17. 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.
18. This Reinstatement 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.
19. This Reinstatement 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.
20. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Reinstatement Consent Order and the factual basis for this Reinstatement Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Reinstatement Consent Order is approved or accepted.

21. Respondent understands and agrees that she is responsible for satisfying all of the terms of this Reinstatement Consent Order during vacations and other periods in which she is away from her residence.
22. Respondent has the right to consult with an attorney prior to signing this document.
23. 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. The purpose of this Reinstatement Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
24. This Reinstatement Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

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

Patricia Gardiner
Patricia Gardiner

Subscribed and sworn to before me this 8th day of April 2010.

[Signature]
Notary Public or person authorized
by law to administer an oath or affirmation
My Commission Expires: 01-31-2012

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 12th day of April 2010, it is hereby accepted.

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

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians on the 29 day of April 2010, it is hereby ordered and accepted.

[Signature]
Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians