STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES 1/
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

Juan Reyes,
Hairdresser and Cosmetician
License No. 036512
1326 State Street
New Haven, CT 06511

Petition No. 921013-20-012

Reinaldo Reyes,
Hairdresser and Cosmetician
License No. 039088
1326 State Street
New Haven, CT 06511

Petition No. 921013-20-011

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND:

The Department of Health Services ("Department") presented the Connecticut Examining Board for Barbers, Hairdressers, and Cosmeticians ("Board") with a Statement of Charges brought against Juan Reyes, hairdresser and cosmetician, dated May 10, 1993. (Department Exhibit 3). The Department also presented the Board with a Statement of Charges brought against Reinaldo Reyes, hairdresser and cosmetician, dated May 10, 1993. (Department Exhibit 4). Each Statement of Charges alleged in one (1) count that Juan Reyes and Reinaldo Reyes

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1/ Previously, this agency was known as the Department of Health Services. Effective July 1, 1993, the Department of Health Services merged with the Connecticut Alcohol and Drug Abuse Commission to form the new Department of Public Health and Addiction Services. Public Act No. 93-381.

("Respondents") failed to comply with their Consent Orders from the Department and thereby violated Connecticut General Statutes §20-263.

Although the Department issued separate Statements of Charges to the Respondents, much of the evidence was to be used at both hearings. Accordingly, the Board decided to consolidate the hearings and issue this combined Memorandum of Decision.

Prior to the initiation of the instant charges, by letters dated November 9, 1992, the Department provided the Respondents with fifteen (15) days notice that they should either demonstrate compliance with their Consent Orders or cure the alleged violations. If such compliance or cure did not occur, the Respondents were each given the option of a three (3) year license suspension or a hearing. (Department Exhibits 1 and 2). Upon receipt of the November 9, 1992 letters, the Respondents each requested a hearing. (Department Exhibit 5).

The Department served the Notices of Hearing and Statements of Charges on the Respondents by certified mail, return receipt requested. (Department Exhibits 3 and 4). The Respondents did not file Answers to the Statements of Charges.

On September 20, 1993 the Board held an administrative hearing to adjudicate the Respondents' cases. The Respondents appeared without counsel; Ellen Shanley, Esq. represented the

Department. The Department and the Respondents presented evidence and were given the opportunity to cross-examine witnesses.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 and the Regulations of Connecticut State Agencies §19-2a-1, et seq. All Board members involved in this decision attest that they have either heard the cases or read the record in its entirety. The decisions are based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

FINDINGS OF FACT:

1. Juan Reyes is, and has been at all times referenced in his Statement of Charges, the holder of Connecticut hairdresser and cosmetician license number 036512. (Department Exhibits 3 and 7).

2. Reinaldo Reyes is, and has been at all times referenced in his Statement of Charges, the holder of Connecticut hairdresser and cosmetician license number 039088. (Department Exhibits 4 and 6).

With Regard to the First Count Against the Respondents:

3. The Board ordered and accepted Consent Orders for the Respondents on September 30, 1991. Both Consent Orders became effective on October 1, 1991. (Department Exhibits 3, 4, 8, and 9).

4. Both Respondents agreed to the terms of such Consent Orders. (Department Exhibits 8 and 9).

5. In the First Count against the Respondents, the Department alleged that in its 1991 Consent Orders, the Board ordered each of the Respondents to perform one hundred (100) hours of public service within one year of the effective date of such Orders. The public service was to be the donation of the Respondents' services as hairdressers and cosmeticians to New Haven County nursing homes. The Respondents did not perform such public service, failed to comply with their Consent Orders, and thereby violated Connecticut General Statutes §20-263. (Department Exhibits 3 and 4).

6. Lynne Hurley is a special investigator with the Department whose duties include monitoring probation requirements of consent orders. Ms. Hurley testified that she sent letters to the Respondents dated October 3, 1991 to indicate that their Consent Orders required them to complete one hundred (100) hours of public service at New Haven County nursing homes on or before October 1, 1992. (Transcript 9/20/93 pp. 16-21; Department Exhibits 10 and 11).

7. The Respondents offered no testimony to suggest that they did not receive Ms. Hurley's October 3, 1991 letters.

8. Ms. Hurley sent letters to the Respondents dated November 7, 1991 to indicate that the Department required written requests from them if the Respondents wished to alter their Consent Orders to allow each of them to perform public service at the Casa Otonal facility. Ms. Hurley advised them that this issue could not be presented to the Board for its approval unless the Department received such written requests. (Transcript 9/20/93 pp. 21-25; Department Exhibits 12 and 13).

9. The Respondents offered no testimony to suggest that they did not receive Ms. Hurley's November 7, 1991 letters.

10. Ms. Hurley testified that the Respondents never submitted written requests to the Department to let the Board review whether their proposed public service at Casa Otonal would have been acceptable to the Board. (Transcript 9/20/93 p. 27).

11. Ms. Hurley made several attempts to contact the Respondents to try to resolve this situation. (Transcript 9/20/93 pp. 27-28).

12. The Respondents indicated that they were not able to come to an agreement with personnel at Casa Otonal. The Respondents decided to try a different facility and contacted Carlos Gonzales of the Connecticut Mental Health Center. (Transcript 9/20/93 pp. 30-33).

13. By letter dated August 6, 1992, the Respondents wrote Ms. Hurley to request approval of public service work at the Connecticut Mental Health Center. They indicated that they had each completed thirty-five (35) hours of public service at such facility. (Department Exhibit 15; Respondent Exhibit A).

14. Ms. Hurley testified that she had not given approval on behalf of the Department for the Respondents to render public service to individuals at the Connecticut Mental Health Center. (Transcript 9/20/93 p. 29).

15. Juan Reyes testified "that's where we decided to work. And when we found out that our hours weren't approved, we got frustrated and got tired of looking for places and we just sat down and waited for a [h]earing." (Transcript 9/20/93 pp. 32-33).

16. The Respondents indicated that it would be easier for them to complete their public service responsibilities if they were not limited to hairdressing activities. (Transcript 9/20/93 pp. 47-53).

17. The Board finds that the Respondents did not perform the public service required in their 1991 Consent Orders.

DISCUSSION AND CONCLUSIONS OF LAW:

The Department sustained its burden of proof as to all elements of the First Counts of the Statements of Charges against the Respondents. As noted, the 1991 Consent Orders for the Respondents each specified that they were to donate one hundred (100) hours of hairdresser and cosmetician services in New Haven County nursing home facilities within one year. The Respondents did not perform the public service required in their Consent Orders and thereby failed to comply with such Consent Orders. Accordingly, both Respondents violated Connecticut General Statutes §20-263.

ORDER FOR JUAN REYES:

Pursuant to the authority vested in it by Connecticut General Statutes §19a-17 and §20-263, the Board orders the following in this case against Juan Reyes, Petition No.921013-20-012, hairdresser and cosmetician license No. 036512:

1. The license of Juan Reyes shall be placed on probation for a period of two (2) years.

2. Juan Reyes shall perform five hundred (500) hours of voluntary, community service at any non-profit organization(s) of his choosing.

3. This community service shall be satisfactorily completed within two (2) years of the effective date of this Order. If the community service work is not completed during this

two (2) year period, the Board shall (a) automatically revoke the license of Juan Reyes, and (b) impose a one thousand dollar ($1,000.00) penalty upon him.

4. The supervisor(s) or administrator(s) of the non-profit organization(s) at which Juan Reyes performs community service shall submit quarterly supervisory reports for the entire period of probation. Quarterly employer reports are due by the first business day of January, April, July, and October. Quarterly reports shall commence with the report due October 1994. These quarterly reports shall include documentation of Juan Reyes' satisfactory community service.

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

Lynne Hurley, Investigator
Public Health Hearing Office
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

6. This Order becomes effective on July 6, 1994.

ORDER FOR REINALDO REYES:

Pursuant to the authority vested in it by Connecticut General Statutes §19a-17 and §20-263, the Board orders the following in this case against Reinaldo Reyes, Petition No.921013-20-011, hairdresser and cosmetician license No. 039088:

1. The license of Reinaldo Reyes shall be placed on probation for a period of two (2) years.

2. Reinaldo Reyes shall perform five hundred (500) hours of voluntary, community service at any non-profit organization(s) of his choosing.

3. This community service shall be satisfactorily completed within two (2) years of the effective date of this Order. If the community service work is not completed during this two (2) year period, the Board shall (a) automatically revoke the license of Reinaldo Reyes, and (b) impose a one thousand dollar ($1,000.00) penalty upon him.

4. The supervisor(s) or administrator(s) of the non-profit organization(s) at which Reinaldo Reyes performs community service shall submit quarterly supervisory reports for the entire period of probation. Quarterly employer reports are due by the first business day of January, April, July, and October. Quarterly reports shall commence with the report due October 1994. These quarterly reports shall include documentation of Reinaldo Reyes' satisfactory community service.

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

Lynne Hurley, Investigator
Public Health Hearing Office
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

6. This Order becomes effective on July 6, 1994.

Connecticut Examining Board for
Barbers, Hairdressers, and Cosmeticians

6-6-94
Date

Reno Pelletier
by: Reno Pelletier, Chairperson

8785Q

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

July 9, 1996

Reinaldo Reyes
148 Monroe Street
New Haven, Connecticut 06513

Re: Memorandum of Decision
Petition No. 921013-20-011
License No. 0039088
[redacted]

Dear Mr. Reyes:

Please accept this letter as notice that you have successfully completed the terms of the above-referenced Memorandum of Decision, effective July 6, 1996.

Notice will be sent to our License and Registration Section to remove any restrictions from your license related to this Memorandum of Decision.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton

Bonnie Pinkerton
Nurse Consultant
Legal Office

cc: Debra Tomassone

Phone:
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # _____
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