

**STATE OF CONNECTICUT
CONNECTICUT EXAMINING BOARD FOR BARBERS,
HAIRDRESSERS AND COSMETICIANS**

Kendra J. Diacri

Petition No. 990908-020-012

MEMORANDUM OF DECISION

Procedural Background

The Department of Public Health (“the Department”) presented the Connecticut Examining Board For Barbers, Hairdressers And Cosmeticians (hereinafter “the Board”) with a Statement of Charges (“the Charges”) brought against Kendra J. Diacri (“respondent”) dated April 19, 2000. Dept. Exh. 2. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on May 5, 2000. Dept. Exh. 2. The Notice of Hearing scheduled a hearing for June 12, 2000, and notified the respondent that the hearing would be held before the Board. Dept. Exh. 2.

The Hearing date was thereafter continued to September 18, 2000. Respondent received Notice of that hearing. Dept. Exh. 1.

On September 18, 2000, the Board held an administrative hearing to adjudicate respondent’s case. Although the Department made sufficient and reasonable efforts to effectuate notice, respondent neither appeared nor was represented; Stephen Miltimore, Esq. represented the Department. At the hearing, the Department moved orally to deem the charges admitted because of respondent’s failure to file an Answer. The Board granted the motion. Tr. pp. 4 and 5.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and the Regulations of Connecticut State Agencies §19a-9-1, *et seq.* All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have heard the case or read the record in its entirety. This

decision is based entirely on the record. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

1. In paragraph 1 of the Charges, the Department alleges that on or about January 6, 1995, respondent was issued license number 046469 to practice hairdressing and cosmetology.
2. In paragraph 2 of the Charges, the Department alleges that on or about May 31, 1996, license number 046469 lapsed due to nonrenewal.
3. In paragraph 3 of the Charges, the Department alleges that on or before August of 1999, respondent provided hairdressing and cosmetology services in that she was an owner and operator of Designers Edge Salon in Branford.
4. The Department requests that the Board, as authorized in §19a-11 and §19a-17 of the Connecticut General Statutes, order that respondent cease and desist practicing as a hairdresser and cosmetician.

Findings of Fact

1. The Department provided adequate, reasonable, and actual notice of the hearing in this matter by sending such notice to respondent. Respondent received the Notice of Hearing. Dept. Exhs. 1, 2.
2. Respondent did not file an Answer to the allegations contained in the Statement of Charges.
3. All of the factual allegations contained in the Statement of Charges are deemed admitted. In particular,
 - a. On or about January 6, 1995, respondent was issued license number 046469 to practice hairdressing and cosmetology;
 - b. On or about May 31, 1996, license number 046469 lapsed due to nonrenewal;
 - c. On or before August of 1999, respondent provided hairdressing and cosmetology services in that she was an owner and operator of Designers Edge Salon in Branford.

Discussion and Conclusions of Law

The Board finds that the Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 9333 (1981); *Swiller v. Commissioner of Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

Section 19a-10 of the Connecticut General Statutes provides in pertinent part: “Any board . . . , may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health.”

Section 19a-11 of the Connecticut General Statutes provides in pertinent part: “Any board . . . may, in its discretion, issue an appropriate order to any person found to be violating an applicable statute or regulation, providing for the immediate discontinuance of the violation.”

Section 19a-14 of the Connecticut General Statutes provides in pertinent part: “The [D]epartment shall . . . conduct any necessary investigation and follow-up in connection with complaints regarding persons subject to regulation or licensing by the [D]epartment” and “perform any other function necessary to the effective operation of a board . . .”

Section. 20-252 of the Connecticut General Statutes provides in pertinent part: “No person shall engage in the occupation of registered hairdresser and cosmetician without having obtained a license from the department. . . .”

Section. 20-258 of the Connecticut General Statutes provides in pertinent part: “No person, other than a person operating a hairdressing shop on May 17, 1982, may operate any hairdressing shop unless such person has been licensed as a registered hairdresser and cosmetician for not less than two years.”

The Board finds that the Department has sustained its burden of proof with regard to all of the allegations in the Charges. Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations of Connecticut State Agencies.

Accordingly, the Board finds that respondent violated sections 20-252 and 20-258 of the Connecticut General Statutes.

Order

Pursuant to the authority vested in it by §19a-11 of the Connecticut General Statutes, the Board orders that respondent immediately cease and desist from practicing as a hairdresser and cosmetician unless and until respondent is properly licensed.

Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians

12/11/00
Date

Kathleen F. Kiernan
By: Kathleen F. Kiernan, Chairperson
Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians