

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE QUALITY AND SAFETY BRANCH**

In re: Mario Diaz-Garcia

Petition No. 2012-78

PRELICENSURE CONSENT ORDER

WHEREAS, Mario Diaz-Garcia of Hartford, Connecticut (hereinafter "respondent") has applied for licensure to practice as a hairdresser and cosmetician by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 387 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. In or around October 2006, respondent was convicted of several drug related felonies, including possession of controlled substances with intent to sell. The Department has at no time issued respondent a license to practice the occupation of hairdressing or cosmetology under the General Statutes of Connecticut, Chapter 387.
2. The conduct described above constitutes grounds for the denial of respondent's application for licensure pursuant to §19a-14 of the General Statutes of Connecticut.

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

1. Respondent waives the right to a hearing on the merits of his application for licensure.
2. After satisfying the requirements for licensure as a hairdresser/cosmetician as set forth in Chapter 387 of the General Statutes of Connecticut, respondent's license to practice as a hairdresser/cosmetician will be issued.
3. Immediately upon issuance, respondent's license shall be placed on probation for a period of one (1) year under the following terms and conditions:

- a.. Respondent shall provide his employer, partner and/or supervisor at any place of business where respondent practices as a hairdresser or cosmetician throughout the probationary period, with a copy of this Prelicensure Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment as a hairdresser or cosmetician at a new location. Respondent agrees to provide reports from such employer, partner and/or supervisor quarterly 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.
 - b. During the period of probation, respondent shall only practice hairdressing or cosmetology in a business and practice setting that includes other licensed hairdressers, barbers or cosmetologists.
 - c. During the period of probation, respondent shall report to the Department any arrest within 15 days of such event.
 - d. Respondent shall submit to random observed urine drug screens if so requested by the Department.
 - e. Respondent shall obtain written approval from the Department prior to any change(s) in his employment as a hairdresser or cosmetician.
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 Prelicensure Consent Order shall be due according to a schedule to be established by the Department of Public Health.

6. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
7. Respondent shall notify the Department of any change in his home and/or business address within fifteen (15) days of such change.
8. Respondent shall pay all costs necessary to comply with this Prelicensure Consent Order.
9. Any alleged violation of any provision of this Prelicensure 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 Prelicensure 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 Prelicensure Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Prelicensure Consent Order or, in the alternative, that he 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, he 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 Prelicensure Consent Order.
10. If requested to do so by the Department, respondent further agrees to complete the following:

- a. Submit to and complete a medical, psychiatric/psychological evaluation and/or skills evaluation by a provider pre-approved by the Department. The results of such evaluation shall be submitted directly to the Department. Respondent further agrees to obtain a random urine screen for drugs and alcohol at the discretion of the Department.
 - b. Execute releases for any records requested by the Department including, but not limited to, employment records, treatment and disability records and monitoring and/or professional assistance program records. For purposes of this document, psychiatric/psychological care includes any substance and/or alcohol abuse treatment.
 - c. Submit a certified copy of his entire file, including all screens, therapy and employer reports and any other documents from any State other than Connecticut which impose conditions on respondent to maintain his license.
 - d. Attend and successfully complete coursework, remediation, and/or retraining pre-approved by the Department. Upon completion, respondent shall provide the Department with proof, to the Department's satisfaction, of successful completion.
11. If, during the period of probation, respondent practices as a hairdresser outside Connecticut, he shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Prelicensure Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Prelicensure Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to practice in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all

terms and conditions contained in paragraph 3 above.

12. In the event respondent is not employed as a hairdresser or cosmetician for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Prelicensure Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Prelicensure Consent Order. In the event respondent resumes the practice of hairdressing or cosmetology, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to practice of without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to practice.
13. In the event respondent violates any term of this Prelicensure Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
14. 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 Quality and Safety Branch of the Department.
15. This Prelicensure Consent Order is effective on the first day of the month immediately following the date this Prelicensure Consent Order is accepted and ordered by the Board.
16. Respondent understands this Prelicensure Consent Order is a matter of public record.
17. Respondent understands this Prelicensure Consent Order may be considered as evidence of the above- admitted violations in any proceeding before the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians in which (1) his compliance with this

Prelicensure Consent Order is at issue, or (2) his compliance with §20-263 of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Prelicensure Consent Order shall be reported to the National Practitioner Data Bank and is a public record.

18. In the event respondent violates a term of this Prelicensure Consent Order, respondent agrees immediately to refrain from practicing as a hairdresser or cosmetician, 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 Commission 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.
19. 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.
20. This Prelicensure Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Respondent understands that this Prelicensure Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards. Respondent assumes all responsibility for assessing such actions prior to

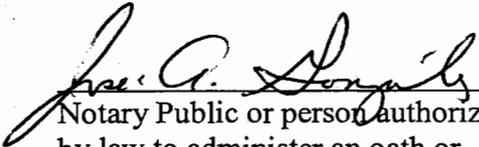
the execution of this document. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

21. This Preliminary 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.
22. Respondent permits a representative of the Legal Office of the Healthcare Quality and Safety Branch to present this Preliminary Consent Order and the factual basis for this Preliminary Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Preliminary Consent Order is approved or accepted.
23. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Preliminary Consent Order during vacations and other periods in which he is away from his residence.
24. Respondent has the right to consult with an attorney prior to signing this document.
25. 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 Preliminary 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.
26. This Preliminary 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, Mario Diaz-Garcia, have read the above Prelicensure Consent Order, and I agree to the terms and allegations set forth therein. I further declare the execution of this Prelicensure Consent Order to be my free act and deed.


Mario Diaz-Garcia

Subscribed and sworn to before me this 9 day of April 2012.


Notary Public or person authorized
by law to administer an oath or
affirmation

The above Prelicensure Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 13th day of April 2012, it is hereby accepted and ordered.


Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Quality and Safety Branch

JOSE A. GONZALEZ
NOTARY PUBLIC
STATE OF CONNECTICUT
MY COMMISSION EXPIRES JUNE 30, 2012



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

April 13, 2013

Mario Diaz-Garcia, H/C
60 Bodwell St, Floor 3
Hartford, CT 06114-2603

Re: Prelicensure Consent Order
Petition No. 2012-78
License No. 060505

Dear Mr. Diaz-Garcia:

Please accept this letter as notice that you have satisfied the terms of your license probation effective April 13, 2013.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Prelicensure Consent Order.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Thank you,

Olive Tronchin, HPA
Practitioner Licensure and Investigations Section

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J: Fillippone



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