

**STATE OF VERMONT
BOARD OF BARBERS AND COSMETOLOGISTS**

In re: Huong Thi Conn
a/k/a Tina Conn
Preliminary Denial of Licensure

APP-CO24-0602
APP-CO25-0602

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

This matter came before the Board on the request for hearing by applicant Huong Thi Conn, also known as Tina Conn. By letter of June 6, 2002 the Board denied Ms. Conn's application for licensure as a manicurist because of alleged violation of 26 V.S.A. §272(a). The letter quoted from the statute. **"No person shall practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title or insignia indicating or implying that the person is a barber or cosmetologist unless the person is licensed in accordance with this chapter."** (emphasis added in letter)

On August 19, 2002 the Board held the hearing which Ms. Conn requested through her counsel. The State was represented in this matter by Assistant Attorney General George C. Haegele IV. Ms. Conn was represented by Rick Sharp. Because this preliminary denial was based on an allegation of statutory violation, unauthorized practice, the State of Vermont had the burden of proving the violation.

Findings of Fact:

1. Testimony presented at the hearing conflicted on certain aspects of Ms. Huong's alleged unauthorized practice. It was uncontested that at no time relevant did Ms. Conn hold a Vermont manicurist license.
2. Ms. Conn worked as a manicurist at Magic Nails, a salon in Burlington for some period of time in 2001. She practiced on many clients. Magic Nails had been the subject of prior Board disciplinary action including action regarding improper apprenticeships, Ms. Conn's included. No prior Board action against Magic Nails or its apprentices is a part of the Board's consideration in this matter.
3. Ms. Conn claims that she did not understand the licensing requirements or apprenticeship requirements for licensing in Vermont. The Board finds that in her "apprenticeship" attempt Ms. Conn signed "Apprenticeship For Manicurist" forms which were not made contemporaneously with any claimed working hours. The forms indicated that Ms. Conn worked in an apprenticeship capacity nine hours per day, six hours per week for a total of fifty-four hours

apprenticeship per week for the following weeks:

June 18-23, 2001
June 25-30, 2001
July 2-7, 2001
July 9-14, 2001
July 16-21, 2001
July 23-28, 2001¹

October 1-6, 2001
October 8-13, 2001
October 15-20, 2001
October 22-27, 2001
October 29-Nov. 3, 2001
November 5-10, 2001
November 12-17, 2001.

4. All the apprenticeship forms were filled in and signed on one day. They do not accurately reflect hours worked. There is no competent substantiation for any claimed apprenticeship hours. Despite any claimed language barrier, Ms. Conn knew that the forms she was signing were not accurate.
5. Ms. Conn's "apprenticeship," if it existed at all, was with Mr. Nguyen who did not have adequate licensed experience to permit him to be her apprenticeship sponsor. Mr. Nguyen's wife's signature appears on the forms. This fact is not part of the Board's decision in this matter.
6. Ms. Conn worked as an unlicensed manicurist over a period of time at Golden Nails at the University Mall. On May 25, 2002 she worked on a client's hands. This occurred during the pendency of Ms. Conn's application for licensure. There is no indication or claim of any apprenticeship occurring at that time.
7. On June 9, 2002 Ms. Conn was working as a manicurist at a licensed business, Golden Nails in the University Mall. Ms. Conn opened the shop up that day, cleaned, and set up the shop for business. Witness Christine Terry testified that on that date she and Pamela Boyer went to Golden Nails so that she and Ms. Boyer could have their nails done. She testified that Ms. Boyer asked for "Tina" to do her nails, as Tina had done them in the past. Ms. Conn had been practicing in the establishment over a period of time, sufficient for people to ask for her by name. Ms. Terry and Ms. Boyer (testimony by affidavit) both said that while Ms. Conn was

¹ Ms. Conn provided via Respondent's Exhibit B a fax copy of a document showing that Huong Conn of Dorchester Mass. attended the California Nails Academy of Worcester, MA from August 1, 2001 through September 28, 2001. The document shows hours completed. It does not indicate the quality of Ms. Conn's work there. The Board makes no judgment about Ms. Conn's training from California Nails Academy.

working on Ms. Boyer's nails, Ms. Boyer was injured. Ms. Conn testified that she did not "do" Ms. Boyer's nails. Ms. Conn maintained that Ms. Boyer was insistent on service and that she (Ms. Conn) accommodated her by providing a solution in which Ms. Boyer could soak her hands while waiting for someone licensed to treat her.

8. It is not necessary for this decision for the Board to find the exact manner in which Ms. Boyer's injury occurred. The Board does find that Ms. Conn actively worked on Ms. Boyer's hands. Ms. Conn's advice to Ms. Boyer about how to care for her manicure injury shows the extent of her involvement in the practice of manicuring.

Conclusions of Law:

Ms. Conn's admissions that she provided a hand soaking bowl, and provided solutions for Ms. Boyer to soak her hand in before actual hands-on work is itself sufficient to find that Ms. Conn practiced without a license. See, 26 V.S.A. §271(7) manicuring includes, "...the use of cosmetic preparations or appliances."

The Board concludes that Ms. Conn's actions on June 9, 2002 constitute practicing manicuring without a license. The Board concludes that Ms. Conn practice manicuring over a period of time, as found above, without a license.

Order:

Ms. Conn's application for licensure as a manicurist is denied because she had been practicing without a license as found above.

The Board Orders as follows:

Ms. Conn shall not engage in the practice of manicuring or cosmetology as defined in 26 V.S.A. § 271 within the State of Vermont until granted a license by this Board, or granted permission by this Board to engage in an apprenticeship in Vermont;

Ms. Conn shall not work in any capacity, for compensation or otherwise, in a licensed establishment in which cosmetology is practiced within the State of Vermont until March 1, 2003.

Ms. Conn may not apply for licensure for until March 1, 2003. The Board will not accept the "apprenticeship" hours claimed in the documents referred to above.

Should Ms. Conn apply for licensure on or after March 1, 2003, she should be mindful of the legislative and rules in effect at the time of any new application. Her "apprenticeship" hours claimed above may not be used to satisfy any licensing requirements.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Barbers and Cosmetologists. You may appeal this decision by sending a Notice of Appeal, in writing, to:
The Director of the Office of Professional Regulation, Vermont Secretary of State,
26 Terrace Street, Drawer 09, Montpelier, Vermont 05609-1106 within 30 days of the entry of this order.

BOARD OF BARBERS AND COSMETOLOGISTS

By:

Janice Crossman
Janice Crossman, Acting Chair

Dated: 8-29-02

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/5/02