

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BUREAU OF HEARINGS**

In the matter of

Docket No. 2001-1299

**Bureau of Commercial Services,
Petitioner**

Agency No. 27-00-4164-00

v

Agency: Bureau of Commercial Services

**Dmaes Styling Salon,
Dorothy Standokes, Owner,
Respondent**

Case Type: Sanction

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**Issued and entered
this 18th day of September, 2001
by Robert H. Mourning
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

This matter commenced with the issuance of a Notice of Hearing dated July 31, 2001, scheduling a contested case hearing for September 12, 2001, at 9:00 a.m. The Notice of Hearing was issued pursuant to allegations by the Petitioner that the Respondent violated the Occupational Code, 1980 PA 299, as amended (Code), MCL 339.101 *et seq.*; MSA 18.425(101) *et seq.* The hearing in this matter was held on September 12, 2001.

Attorney Tracey L. Hampton appeared on behalf of Bureau of Commercial Services, the Petitioner. Dorothy Standokes, the Respondent, appeared on her own behalf at the hearing.

ISSUES AND APPLICABLE LAW

The general issue in this matter is whether the Respondent violated the Code.

The specific issues in this case are whether the Respondent has acted contrary to Sections 604(c) and (h) and 1204(6) of the Code and 1999 AACS, R 338.2179(2)(B).

Section 604(c) and (h) of the Code provides that:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

* * *

(c) Violates a rule of conduct of an occupation.

* * *

(h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

* * *

Section 1204(6) of the Code provides that:

The license of the establishment and of each individual working in the establishment shall be displayed in a prominent place which is visible to the public at all times. The license of an individual working in the establishment may be posted at the individual's work station.

1999 AACS, R 338.2179 provides that:

Rule 79. (1) The licensee shall place a clean towel, neck strip, or other protection around the patron's neck when using a cape or hair cloth on a patron, to prevent the cape or hair cloth from touching the skin.

(2) The licensee or owner of an establishment or school shall ensure all of the following:

(a) A towel or linen is laundered after being used on a patron.

(b) Clean towels and linens are stored in a closed cabinet or drawer.

(c) Soiled towels and linens are stored in a covered container until laundered.

FINDINGS OF FACT

The Petitioner admitted that she committed the violations set forth in the Formal Complaint. As a result of her admissions, the factual allegations contained in the Petitioner's Formal Complaint are deemed true.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice, (2d ed.), §60.48, p 230. The burden of proof is upon the Petitioner to prove, by a preponderance of the evidence, that grounds exist for the imposition of sanctions upon the Respondent. Under Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.272; MSA 3.560 (172), there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v Lansing School Dist., 428 Mich. 248, 406 NW2d 825 (1987). Based upon the facts described herein, the Petitioner has proven, by a preponderance of the evidence, that the Respondent violated Sections 604(c) and (h) and 1204(6) of the Code and Rule 79(2)(B).

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge recommends that the Board finds and concludes that:

1. The Respondent be assessed a civil fine in the amount \$500.00.
2. In the event that the civil fine has not been paid within 60 days following

the issuance of the final order of the Board of Cosmetology, the Respondent's Article 12 licenses should be suspended. No new or renewal licenses should be issued to the Respondent until the civil fine is paid in full.

Robert H. Mourning
Administrative Law Judge