

March 1, 2011

Shelly Ann Barnes
301 Estina Ave
Leshara, NE 68064

Dear Ms Barnes:

This letter is written to notify you that you have completed all terms and conditions of your "Probation" as specified in the Authority to Practice Letter dated August 10, 2010. Our records were changed February 28, 2011 to reflect the probation completion as being February 18, 2011.

Please find enclosed an Original Wall License and a current License Card No. 1040 which do not have the term "Probation" imprinted on them. You may discard the licensing documents previously issued to you, which had the term "Probation" imprinted on them.

Please contact Ruth Schuldt, Compliance Monitor, at (402) 471-0313, if you have any questions.

Sincerely,



Helen L. Meeks, Administrator
Licensure Unit

HLM/dcp

Enclosures: Original Wall License
License Card No. 1040, Exp. Date 09/30/2012

cc: Ruth Schuldt, Compliance Monitor

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

RECEIVED
FEB 28 2011

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

v.

SHELLY BARNES, EST,


Defendant.

11-368

ORDER OF DISMISSAL

This matter came for consideration upon motion of the Counsel for Plaintiff to dismiss the above captioned case. The Hearing Officer being fully advised orders this matter DISMISSED without prejudice.


DATED this 25th day of February, 2011.



Susan Knabe
Hearing Officer

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 25th day of February, 2011, a copy of the foregoing **ORDER OF DISMISSAL** was sent by certified United States mail, postage prepaid, return receipt requested, to **Shelly Barnes, 301 Estina Avenue, Leshara, NE 68064** and by interagency mail to **Julie L. Agena, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**



Keith B. Roland
DHHS Legal Services
P.O. Box 98914
Lincoln NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

FILED
FEB - 7 2011
DHHS
Legal and Regulatory Services

STATE OF NEBRASKA ex rel.)
JON BRUNING, Attorney General,)
)
Plaintiff,)
)
v.)
)
SHELLY BARNES, EST,)
)
Defendant.)

**PETITION TO REVOKE
PROBATION**

The Plaintiff alleges as follows:

1. On August 18, 2010, the Defendant was issued a Probationary Esthetics License (#1040).
2. The Defendant's probationary license was issued due to her conviction history and her failure to report all of her convictions on her Application for Licensure by Reciprocity.
3. Condition 1 of said probation required the Defendant to successfully pass the Board-developed jurisprudence examination relating to Esthetics within the first 90 days after issuance of the license. The examination may be taken on-line, printed and mailed to the Department for scoring. The web address was provided to the Defendant. The Defendant was also instructed that she could contact the Department if she wished to receive a paper copy of the examination.
4. On October 15, 2010, the Defendant was notified that she failed the jurisprudence examination and was sent another copy of the examination and answer sheet.

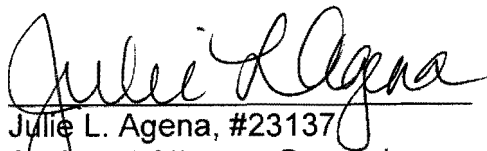
5. To date, the Defendant has failed to successfully complete the Board jurisprudence examination relating to esthetics.
6. The Defendant violated condition 1 of said probation as stated above and this is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition to Revoke Probation for hearing pursuant to Neb. Rev. Stat. § 38-183 (Reissue 2008), and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Julie L. Agena, #23137
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-1815

Attorneys for the Plaintiff.



Division of Public Health

State of Nebraska

Dave Heineman, Governor

August 10, 2010

Shelly Ann Barnes
301 Estina Ave
Leshara NE 68064

Dear Ms Barnes:

This letter provides notification that the Department of Health and Human Services, Division of Public Health, based upon the recommendation of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art is offering to issue to you a **Probationary License**, to practice as an **Esthetician** in the State of Nebraska.

If you accept this offered license, the probation would be effective for **6 months** starting on the date the license would be issued. The following are the terms and conditions of the probationary license:

- 1) Successfully pass the Board-developed examination related to Esthetics within the first 90 days after issuance of the license.

You may obtain a copy of the examination by contacting our office at 402-471-2117 or by e-mail to kris.chiles@nebraska.gov.

- 2) Refrain from conduct which would constitute a misdemeanor or felony which has a rational connection to your fitness to practice as an **Esthetician**. To comply with this condition, you must, 30 days prior to the ending date of the probationary period, submit:

- An attestation that you have not had any misdemeanor or felony convictions since the date of the probationary license.

The reasons for **these probationary terms and conditions** are as follows:

1. Convictions

Date of Conviction
(On or About)

1)	Criminal trespass (Arizona)	3-24-03
2)	Theft (Arizona)	4-23-03
3)	DUI - 1 st (Nebraska)	4-29-03
4)	Intimidation by phone call (Nebraska)	4-29-03

2. Failure to Disclose Convictions

In Section E - Conviction and Licensure Information of your Esthetician Application by Reciprocity you failed to report the DUI and Intimidation by Phone Call convictions (#3 & 4 listed above).

Your convictions, along with your failure to report convictions # 3 and 4 above at the time you applied for your license, represent a disregard for the law and a lack of good character. Therefore, your serving a probationary period at the onset of licensure is justifiable from a public protection standpoint. Additionally, this letter serves as notification that future conduct of this nature could result in further disciplinary action, including the revocation of your license.

7008 1140 0003 6397 6863

These **probationary** terms and conditions are imposed pursuant to:

1. Neb. Rev. Stat. §38-178 which states that a credential to practice a profession may be denied, refused renewal, or have other disciplinary measures taken against it in accordance with section 38-185 or 38-186 for:(5) Conviction of (a) a misdemeanor or felony under Nebraska law or federal law, or (b) a crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession.
2. Neb. Rev. Stat. §38-129 which states that no individual shall be issued a credential under the Uniform Credentialing Act until he or she has furnished satisfactory evidence to the Department that he or she is of good character. As a licensed individual you are expected to demonstrate good character by complying with the laws and not engaging in criminal acts.

If you accept the **Probationary** License, you need to complete the enclosed Request Issuance of License form to inform us of your decision within 30 days of receipt of this letter. Your decision to accept this license:

- A. requires that you practice under and comply with the **Probationary** terms and conditions that are stated in this letter; and your failure to comply with the terms and conditions is a ground for further disciplinary action against your license
- B. will be entered in and shown on the public licensure records as a disciplinary action;
- C. will be reported to any data banks to which such information is required to be reported; and
- D. nullifies the right to appeal the issuance of a **Probationary** license.

Following issuance of this license, your compliance with the herein stated terms and conditions will be monitored by the person whose name appears below. Therefore, you are to submit all reports and direct all questions to this person.

Ruth Schuldt, RN, BS - Compliance Monitor
Licensure Unit
P. O. Box 94986
Lincoln, NE 68509-4986
Phone # 402-471-0313

If you notify the Department in writing you have discontinued practicing in Nebraska and do not practice any place else, the **Probationary** terms and conditions will not be in effect and we will discontinue monitoring your compliance with them. However if you do practice after such notification you will be practicing in violation of this authority and may be subject to discipline.

If you practice or reside in a jurisdiction other than Nebraska, such practice or residency shall not serve to reduce or satisfy the **Probationary** terms and conditions unless that jurisdiction adopts the **Probationary** terms and conditions that are on your Nebraska license. If this situation should occur, you may submit proof by certified record of the other jurisdiction that such **Probationary** terms and conditions have been met. This information shall be deemed sufficient to satisfy the Nebraska **Probationary** terms and conditions.

IF YOU DO NOT ACCEPT the issuance of a **Probationary** License, you may appeal this decision. Such appeal must be made in writing within thirty (30) days of receipt of this letter. If you request a hearing, you will be notified of the date, time and place of the hearing and other pertinent information as required by law. You may request a copy of the Department's Rules of Practice and Procedure that further explain your rights in relation to that hearing.

Such appeal voids the offer to issue a **Probationary** license. Therefore you are not authorized to practice during the course of the appeal.

If you do not respond by indicating an acceptance of the herein offered license or by requesting a hearing, we will close your application file and refund the license fee you submitted except for a \$25 administrative fee.

Please submit to the Licensure Unit any change of address so that information may promptly reach you. If you have questions, please contact Kris Chiles, Office Administrator, Office of Behavioral Health and Consumer Services, at (402) 471-2117.

Sincerely,

Joann Schaefer, M.D., Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services


By Helen L. Meeks, Administrator
Licensure Unit

JS/HLM:kc
Enclosures
Cc: Compliance Monitor
Office Administrator

Sent by Certified Mail