

Final Order No. BPR-2006-09851 Date: 12/28/2006  
FILED

Department of Business and Professional Regulation  
AGENCY CLERK

STATE  
BOARD OF

Sarah Wachman, Agency Clerk

By: Sarah Wachman

IN RE:

REGAL NAILS SALON & SPA, L.L.C.  
PETITION FOR DECLARATORY STATEMENT

**DS 2006-032**

**FINAL ORDER**  
**DECLARATORY STATEMENT**

On July 17, 2006, Petitioner filed a Petition for Declaratory Statement with the Board of Cosmetology, pursuant to Section 120.565, Florida Statutes, and Chapter 28-105 of the Florida Administrative Code. The Petitioner inquired whether the Florida Cosmetology Act, Chapter 477, Florida Statutes, regulates the application of false eyelashes, and if so, whether a nail specialist is permitted to apply the eyelashes.

THIS MATTER came before the Board for final action at a duly-noticed public meeting on November 20, 2006 in Orlando, Florida. Petitioner was present at the hearing.

**Findings of Fact**

1. Petitioner owns and operates over 800 salons throughout the United States. Petitioner's salons are primarily located within Walmart and K-Mart stores.

2. Petitioner employs registered nail specialists in its stores who are, or would be, at the time of providing services, trained in the application of eyelash extensions through an 8-hour course conducted by a franchise representative.

3. Eyelash extensions are a single-use product. The product does not contact the eye or eyelid. The product is applied with a glue and falls off within a month to a year.

4. The application process requires sanitation procedures, dexterity, and

focused attention to apply the eyelashes. Such requirements are similar to those of a nail specialist.

**Conclusions of Law**

1. The Board of Cosmetology has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

2. The Board determined that the definitions of Cosmetology and Facials in section 477.013, Florida Statutes apply to the application of false eyelashes and such services are regulated by Chapter 477, Florida Statutes.

3. The Board determined eyelash application is not within the scope of practice for nail specialists, pursuant to section 477.013, Florida Statutes.

4. Therefore, in order to apply false eyelashes for compensation one must be licensed as a cosmetologist or registered as a facial specialist or full specialist in the State of Florida.

4. This Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 26<sup>TH</sup> day of December, 2006.

  
Robyn Baineau, Executive Director  
Florida Board of Cosmetology

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: Regal Nails Salon and Spa, L.L.C., c/o H. Brook Hopkins, 11456 South Choctaw Drive, Baton Rouge, Louisiana 70815 ; and to Daniel Biggins, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 on or before 5:00 p.m., this 28<sup>th</sup> day of Dec, 2006.

David Washman

**PETITION FOR DECLARATORY STATEMENT  
BEFORE THE FLORIDA BOARD OF COSMETOLOGY**

IN THE MATTER OF:  
Regal Nails, Salon & Spa, L.L.C.

Case No.: **DS 2006-032**

**PETITION FOR DECLARATORY STATEMENT**

Petitioner, Regal Nails, Salon & Spa, L.L.C., a NV LLC doing business in FL, pursuant to Section 120.565 Florida Statutes, Rule Chapter 28-105, Florida Administrative Code, and Chapter 477, Florida Statutes, requests a declaratory statement from the Florida Board of Cosmetology and as grounds therefore states the following: that the current Florida Cosmetology Act does not require a specialty license to apply false eyelashes to the general public and, therefore, that licensed nail specialists may apply false eyelashes to the general public; and/or in the alternative, that the current Florida Cosmetology Act does not require a specialty license to apply false eyelashes to the general public and, therefore, that licensed cosmetologists may apply false eyelashes to the general public; and if licensed nail specialists and/or licensed cosmetologists at this time cannot apply false eyelashes to the general public, that they may be able to do so after taking a set minimum of hours at a training workshop to apply false eyelashes.

**1. Petitioner's Name and Address:**

Name: Regal Nails, Salon & Spa, L.L.C.

Address: 11456 South Choctaw Drive, Baton Rouge, LA 70815

Telephone Number: 225-906-0583

Facsimile Number: 888-422-4608 (attn: Book Hopkins)

e-mail address (if any): book@regalnails.com

**FILED**

Department of Business and Professional Regulation  
DEPUTY CLERK

CLERK

*Brandon M. Nichols*

DATE

7-17-2006

**2. Name and Address of Petitioner's Attorney or Qualified Representative, if any:**

Name, (Attorney/Qualified Representative): H. Book Hopkins

Address: 11456 South Choctaw Drive, Baton Rouge, LA 70815

Telephone Number: 225-906-0583

Facsimile Number: 888-422-4608 (attn: Book Hopkins)

e-mail address (if any): book@regalnails.com

**3. Statute(s), Agency Rule(s), Agency Order(s) and/or Code Section(s) on which the Declaratory Statement is Sought (Please Include Specific Subsections, if any):**

Chapter 477, Florida Statutes (Florida Cosmetology Act)

**4. Description of How the Statute(s), Agency Rule(s), Agency Order(s), and/or Code Section(s) May Substantially Affect the Petitioner in the Petitioner's Particular Set of Circumstances:**

The petitioner is a franchisor of nails salons and wants to expand the type of services that its franchisees may offer to the general public to include the application of false eyelashes. The franchised nail salons are located in shopping centers open to the general public; the majority of them operate within Wal-Mart or Wal-Mart Supercenters.

Petitioner believes that licensed nail specialists have the necessary skills to apply false eyelashes to the general public. Both require sanitation of instruments, steady hands, and focused attention for safe and precise application. To apply acrylics to nails, the nail specialist must first trim and drill the nail. Glue is applied to a nail tip, which is then adhered to the nail. This layer is then also drilled. Acrylic is next mixed and applied to the layer quickly yet again carefully. The acrylic nail is then polished for a finished, refined look. To apply false eyelashes, the tips of the false eyelashes are dipped in a special glue which is safe for the eyes. Depending on the type, the eyelashes are either applied individually, a few strands at a time, or as a set to the eyelids using a tweezers-like tool. The false eyelashes are temporary and, depending on the type of glue used, fall off within a month to a year.

It is arguable that it takes more skill to apply acrylics to nails than it does to apply eyelashes to eyelids. Nevertheless, petitioner understands the importance of having trained and skilled individuals to apply false eyelashes to the general public. Even if nail specialists were allowed to apply false eyelashes, petitioner will require its franchisees attend a training workshop.

At the moment, the application of false eyelashes is not regulated by the state. The Florida Cosmetology Act does not require a specialty license to apply false eyelashes to the general public. Because the Florida Cosmetology Act is silent on the issue, the petitioner seeks a declaratory statement which will allow licensed nail specialists to apply false eyelashes to the general public. Or in the alternative, the petitioner seeks a declaratory statement that licensed cosmetologists may apply false eyelashes to the general public. And if licensed nail specialists and/or licensed cosmetologists at this time cannot apply false eyelashes to the general public, the petitioner seeks a declaratory statement that licensed nail specialists and/or licensed cosmetologists may be able to do so after taking a set minimum of hours at a training workshop to apply false eyelashes.

**5. Questions:**

**May licensed nail specialists apply false eyelashes to the general public?**

The Florida Cosmetology Act does not require a license or any training to apply eyelashes to the general public. Petitioner believes that licensed nail specialists have the training and skills to also apply false eyelashes.

**May licensed cosmetologists apply false eyelashes to the general public?**

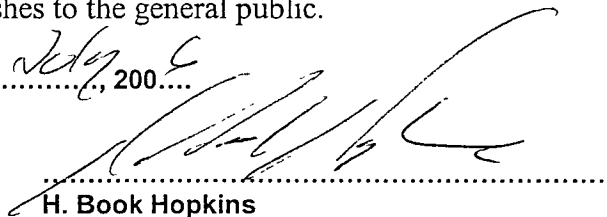
The Florida Cosmetology Act does not require a license or any training to apply eyelashes to the general public. Licensed cosmetologists at the very least have the necessary training and skill to apply false eyelashes to the general public.

**If answer to either of the above is a no, then may licensed nail specialists and/or cosmetologists apply false eyelashes after they attend a training workshop?**

Certain false eyelash retailers, such as Novalash™, offer workshops and certifications to apply false eyelashes. If at the moment, nail specialists and/or cosmetologists are not allowed to apply eyelashes to the general public because they are deemed to lack the training, these workshops and certifications will ensure that they receive the necessary training.

Even if licensed nail specialists are allowed to apply false eyelashes without any workshops, petitioner will set a standard for its franchisees in order to apply false eyelashes to the general public. Petitioner will require its franchisees to attend a training workshop and become certified before they can apply false eyelashes to the general public.

Respectfully submitted this 12<sup>th</sup> day of July, 2008

  
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H. Book Hopkins

Petitioner (or Attorney or Qualified  
Representative for Petitioner)