

DIVISION OF LICENSING SERVICES

STATE OF NEW YORK
DEPARTMENT OF STATE
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SECRETARY OF STATE

September 11, 2023

Via Email Only
New York Committee for
Occupational Safety and Health
Attn: [REDACTED]

Re: Article 27 of the NY
General Business Law

Dear [REDACTED]:

Thank you for understanding the delay in responding to your email of August 16, 2023. As discussed, you have asked whether a licensed appearance enhancement owner may: 1) charge prospective nail specialist trainees for providing their Unique Identification Number (UID) to complete a necessary application for licensure; and 2) whether an appearance enhancement business owner may keep physical custody of a license issued to a nail trainee specialist.

Section 401(2) of the NY General Business Law (NY GBL) states: “[n]o person shall own, control or operate, whether as a sole proprietor, partner, shareholder, officer, independent contractor or other person, an appearance enhancement business without having received a license for such business in the manner provided in this article.” To remain in good standing, as an appearance enhancement business owner, such owner must, in part, demonstrate competency and trustworthiness. NY GBL § 410(c). Moreover, failure to comply with Article 27 of the NY GBL or any regulation issued thereunder is grounds for discipline. NY GBL 410(e). As to making available information regarding an appearance enhancement business license, Department regulations state: “[a]n owner **shall conspicuously post its business license at:** the entrance or reception area of the establishment; or, the public business desk or counter of the establishment; or, the area where the licensed activities are performed.” N.Y. Comp. Codes R. & Regs. tit. 19, § 160.10(c) (emphasis added). The Department of State (the “Department”) maintains a searchable public database to allow the public to confirm the validity of posted licenses. See, [Accela Citizen Access \(ny.gov\)](https://accela.dos.ny.gov) (last accessed, September 11, 2023). From the foregoing provisions, it is clear that an owner is legally required to make available their business license. By reason of the above, it is my



Department
of State

opinion that an owner that fails to publicly provide information regarding an appearance enhancement business license and/or demands compensation to provide a license number, demonstrates untrustworthiness and/or incompetency. Where substantial evidence exists that an owner is refusing to post or provide their license information, such owner may be disciplined by the Department. See generally, [DLS v. Cleary et al., 58 DOS 17.](#)

You have also asked whether an appearance enhancement business owner may take physical custody of another licensee's license. Generally, licenses are issued to individuals based on such person's skills, training, qualifications, and application. NY GBL § 406. Accordingly, an owner that demands another licensee to surrender physical custody of their license, without lawful justification, could also be subject to discipline.

I hope you found the above information helpful. If you have any additional questions or concerns, please do not hesitate to contact our office.

Respectfully,

/s/

David Mossberg
Supervising Attorney

Cc:
WAC
JD