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To:

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COURTNEY HAVEMAN AND
AMANDA SPILLANE,

Petitioners,

v.

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS,
STATE BOARD OF COSMETOLOGY OF
THE COMMONWEALTH OF
PENNSYLVANIA,

Respondent.

No.

NOTICE

You have been sued. If you do not file a written response to the enclosed Petition for Review within thirty days of service, a judgment may be entered against you without further notice. You may lose important rights.

/s/ William N. Clark

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THE COMMONWEALTH OF
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Respondent.

No.

**PETITION FOR REVIEW IN THE NATURE OF A
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This is a constitutional challenge to Pennsylvania’s requirement that applicants for cosmetology licenses have “good moral character.” Petitioners, Courtney Haveman and Amanda Spillane, are two women who want to become estheticians—cosmetologists focused on the care and beauty of the face. Although these women have criminal records from when they were younger and struggling with substance abuse, both have turned their lives around and have now been sober for years. Both

decided to become estheticians and underwent hundreds of hours of schooling. Amanda even went through a humiliating hearing to prove to the State Board of Cosmetology that she had been “rehabilitated.” But under the good-character requirement, the Board rejected Courtney and Amanda anyway. They were deemed not virtuous enough to be cosmetologists, even though their criminal histories have nothing to do with cosmetology. And denials like theirs are typical. Under the good-character requirement, the Board routinely denies cosmetology licenses because of irrelevant criminal convictions.

2. That is unconstitutional. Article I, Section 1, of the Pennsylvania Constitution guarantees women like Courtney and Amanda the right to pursue their chosen occupation free from irrational laws. Good character has nothing to do with waxing eyebrows, painting nails, or braiding hair. That is why good character is not required for occupations such as barbering. And if an applicant’s criminal background ever suggested a risk to customers, the Board would have other legal authority to deny a license.

3. In short, requiring women to have good character before they can work does nothing to protect the public. It just makes it harder for women to pull themselves up and provide for their families. Courtney and Amanda thus seek a judgment declaring that the good-character requirement for cosmetology licenses (specifically, for the limited licenses for estheticians, manicurists, and hair braiders) is unconstitutional on its face.

JURISDICTION

4. Petitioners are suing under the Pennsylvania Constitution and the Commonwealth's Declaratory Judgments Act, 42 Pa. C.S.A. § 7532.
5. Petitioners seek declaratory and injunctive relief against enforcement of the clause in the Commonwealth's Beauty Culture Law requiring applicants for limited cosmetology licenses (for estheticians, nail technicians, and natural-hair braiders) to "be of good moral character." 63 P.S. § 511(a). They also seek relief from all Board rules, regulations, practices, and policies implementing that requirement. All of those unconstitutionally burden the rights of Petitioners and others to engage in the occupation of their choosing and to the equal protection of the law.
6. This Court has original jurisdiction under 42 Pa. C.S.A. § 761(a)(1).

PARTIES

7. Petitioner Courtney Haveman is a stay-at-home mother who is raising her baby boy with her husband. She resides in Yardley, Pennsylvania, near Trenton and Philadelphia. She wants to become an esthetician.
8. Petitioner Amanda Spillane is a waitress residing in suburban Philadelphia. She wants to become an esthetician.
9. Respondent, the Bureau of Professional and Occupational Affairs, State Board of Cosmetology, is the Commonwealth agency that regulates the practice of cosmetology. In particular, the Board is responsible for enforcing the good-character

requirement for limited cosmetology licenses. *See* 63 P.S. § 507.1 *et seq.* The Board is located in Harrisburg, Pennsylvania.

STATEMENT OF FACTS

10. Pennsylvania’s Beauty Culture Law governs the issuance of cosmetology licenses. In addition to full licenses, *id.* § 510, there are three limited licenses, for estheticians, nail technicians, and natural-hair braiders, *id.* § 511. All three limited licenses require passing a written examination and hundreds of hours of instruction at a licensed school. *Id.* An esthetician license requires 300 hours of instruction, a nail-technician license requires 200 hours, and a natural-hair-braiding license requires 300. *Id.* These licenses also require applicants to have “good moral character.” *Id.*

11. Two women who applied for limited cosmetology licenses are Courtney Haveman and Amanda Spillane. Although they successfully completed their schooling, the Board rejected both.

Courtney Haveman

Courtney’s Recovery from Alcohol Abuse

12. Courtney Haveman, 26, is a stay-at-home mother who is raising her baby boy with her husband.

13. Five years ago, however, Courtney was living a different life. At that time, she had a drinking problem.

14. Courtney’s drinking problem started when she was around 17.

15. Between 2011 and 2013, Courtney pleaded guilty to several misdemeanors stemming from three incidents.
16. In one of these incidents, Courtney drove while intoxicated and was sentenced to three days in jail. In another, she illegally possessed paraphernalia for smoking marijuana. In a third, she hit a security guard while drunkenly resisting arrest at a casino. Because of this last incident, Courtney was sentenced to two years' probation.
17. After the third incident, Courtney realized that her drinking was destroying her life and hurting others. She joined Alcoholics Anonymous.
18. After much hard work, Courtney has now been sober for more than five years. She has turned her life around.
19. During her recovery, Courtney became spiritual and close with her family.
20. Also during her recovery, Courtney met the man who would become her husband. They married in 2015. In 2017, Courtney gave birth to their baby boy.
21. Courtney considers herself living proof that recovery is possible.

Courtney's Interest in Esthetics

22. Courtney now wants to have a career. She decided to pursue esthetics because she has a longstanding interest in skin care and loves helping women look their best.
23. In 2016, Courtney successfully completed a six-month esthetician program at the Bucks County School of Beauty Culture, in Feasterville, Pennsylvania. As required by law, the program included at least 300 hours of instruction. 63 P.S. § 511(b)(1). It cost about \$6,000.

24. Courtney was excited to finally apply for her license. She was excited that she would have a satisfying career, financial independence, and flexibility in setting her hours so that she could spend time with her then-planned baby.

25. A salon in Penndel, Pennsylvania, even offered Courtney an esthetician job for when she was licensed.

The Board Denies Courtney a License Because of Her Misdemeanor Record

26. Courtney had no idea, however, that the Board could deny her the right to work based on her past.

27. In January 2016, Courtney applied to sit for the esthetician exam and to receive a license. (Applying to sit for the exam and applying for a license is done in a single application.)

28. In response, Courtney received a letter dated March 7, 2016, informing her that her application could not be processed until she submitted “CERTIFIED COPIES of ALL documents related to” her criminal convictions. That meant “[c]ertified copies of the Criminal Complaint, Affidavit of Probable Cause, Information or Indictment and any Verdict or Plea documents.”

29. In response, Courtney paid for certified court records and immediately submitted them.

30. The Board met on July 11, 2016, and considered license applications, including Courtney’s. The Board voted to provisionally deny Courtney’s application.

31. In a letter to Courtney dated July 25, 2016, the Board explained that her misdemeanor record from 2011 to 2013 “suggest[ed] that [she] may not be of sufficient good moral character” and thus that she was not fit to be an esthetician. This was the first Courtney had ever heard of the good-character requirement.

32. The Board made this determination even though Courtney’s convictions and past behavior had nothing to do with cosmetology.

33. The Board explained that Courtney could appeal its determination by requesting a “formal hearing,” at which she would “have the burden of proving that [she] possess[ed] the qualifications for licensure and fitness to practice.” The Board also explained that “[a] prosecutor for the Commonwealth [might] elect to participate.”

34. The Board’s provisional denial left Courtney shocked, hurt, and overwhelmed.

35. Courtney considered hiring a lawyer to help her, but she could not afford one.

36. Courtney was too intimidated to undergo a formal hearing on her own. She was also humiliated and demoralized by the idea of undergoing a hearing to prove that she is a good person. Courtney thus never requested a hearing.

37. On October 7, 2016, the Board issued a final order denying Courtney’s application. (The denial was docketed as number 1869-45-16 in file 16-45-11109.)

38. Courtney was eventually able to find a lawyer friend to help her for free.

39. With the help of this lawyer, she wrote the Board a letter dated October 19, 2016, asking the Board “take another look.” As Courtney explained:

Becoming an esthetician has always been a dream of mine. Over the past several years I have worked extremely hard to overcome my past and not allow it to be a burden to me. I have learned from my mistakes and have been working diligently at taking the proper steps forward to achieve my goals. I have been sober and an active member of Alcoholics Anonymous for over three years. I take on commitments within the fellowship and remain humble to the life this program has given to me. I strive at remaining honest and not causing any harm. I did not lie or fraudulently claim that I have not been convicted of any misdemeanors in my past, when asked this question on the application to take the esthetician examination. I have also submitted the requested documentation of a court certified background history. I have moved forward with my life in a wonderful, positive way. I am not on any probation or oversight by the state. I have paid all of the dues necessary to put those mistakes behind me. A lack of moral character should not be judged upon the person of whom I was in the past, but on the person of whom I have become.

40. The Board did not respond.

41. Because of the good-character requirement, Courtney cannot now legally work in her chosen occupation. If she worked as an unlicensed esthetician, she could be imprisoned for three months. 63 P.S. § 526(a).

42. The good-character requirement is the only thing preventing Courtney from becoming an esthetician. If the good-character requirement were ruled unconstitutional, Courtney would re-apply for, and be granted, an esthetician license.

Amanda Spillane

43. Courtney is not the only woman denied a cosmetology license for lacking good character. The same thing has happened to many other women, including Amanda Spillane.

Amanda's Recovery from Drug Abuse

44. Amanda Spillane, 33, works as a waitress in a steakhouse. She lives in a quiet apartment in the Philadelphia suburbs with her kitten, Sophie.
45. Like Courtney, years ago, Amanda was living a different life.
46. Amanda suffered from depression, anxiety, and bipolar disorders. In high school, she began to self-medicate and developed a drug habit.
47. Between 2005 and 2011, Amanda pleaded guilty to a series of crimes including drug possession, driving while under the influence, and thefts and burglaries to fund her drug use.
48. At age 26, Amanda went to prison for two years. She was released from a halfway house in 2013 and remains on probation until 2020.
49. While incarcerated, Amanda participated in intensive therapy. She also participated in several classes, including ones about resocialization and overcoming domestic abuse.
50. Since going to prison, Amanda has turned her life around.
51. After being released from prison, Amanda worked the 4:45 a.m. shift at McDonald's for several years, where her manager evaluated her as "outstanding." She now works as a waitress in a steakhouse.
52. Amanda became deeply religious and close to her parents.
53. Amanda now relies on regular exercise, medication, and a healthy diet to maintain her mental health, which is well managed.

54. In addition, Amanda has donated to multiple charities, including the Red Cross and the Humane Society, even though she does not earn much as a waitress.

55. Amanda has now been sober for more than eight years. She accepts responsibility for her crimes and is remorseful about her youth, which she sees as wasted.

56. With her parents' blessing and support, Amanda recently moved out of her parents' home to live her new life independently.

Amanda's Interest in Esthetics

57. Amanda wants to have a career. She decided to pursue esthetics because she finds skin care peaceful and calming.

58. In September 2014, while also working, Amanda successfully completed a yearlong esthetician program at the Bucks County School of Beauty Culture, in Feasterville, Pennsylvania. As required by law, the program included at least 300 hours of instruction. 63 P.S. § 511(b)(1). The program cost more than \$6,000.

59. A nail salon in Fairless Hills, Pennsylvania, even offered Amanda a job for when she was licensed.

60. Amanda was excited to apply to sit for the exam and receive her license. She looked forward to a satisfying career in which she could set her own hours.

The Board Denies Amanda's Application

61. Amanda had no idea, however, that the Board could deny her the right to work based on her past.

62. Amanda applied for an esthetician license in November 2014.
63. At its May 4, 2015 meeting, the Board provisionally denied Amanda's application.
64. As with Courtney, the Board sent a form letter (dated May 7, 2015) explaining that Amanda's "convictions suggest[ed] that she may not be have sufficient good moral character" and thus that she was unfit to be an esthetician.
65. The Board decided this even though none of Amanda's convictions or past behavior was related to cosmetology.
66. Amanda decided to undergo an administrative hearing to challenge the Board's decision. That hearing occurred on June 29, 2015. Amanda and her parents drove from the Philadelphia suburbs to Harrisburg to testify about Amanda's history. Amanda considered hiring a lawyer but decided she could not afford one.
67. Amanda was humiliated to have to explain to a government official that she is a good person. Amanda and her father both cried during the hearing.
68. The Board's provisional denial letter had said that she could "present written or testimonial evidence" at the hearing "if [she] desire[d]." Amanda brought pages of evidence, including reference letters from family, a friend, and her beauty school. But the hearing examiner found it was not enough.
69. On July 23, 2015, the hearing examiner issued a proposed order denying Amanda's application. He concluded that Amanda had not proved that she was "rehabilitated":

Although Appellant's ability to maintain employment, complete esthetician training, and refrain from committing additional crimes since being released from prison is laudable, such accomplishments do not serve to negate the record of poor moral character Applicant developed over the course of several years so as to establish her current good moral character. Nor does the fact that Applicant purportedly contributes money to charities sufficiently overcome Applicant's repeated acts of moral turpitude or establish that she now possesses good moral character.

To the extent Applicant referred to suffering from Bipolar Disorder, Applicant presented no medical evidence, either through medical testimony or documentation, from which to conclude that her criminal activity was attributed to her Bipolar Disorder, as opposed to moral turpitude. On the contrary, Applicant readily conceded that her criminal conduct was not entirely the result of her Bipolar Disorder. To the extent Applicant repeatedly attributed much of her criminal activities to her drug use, Applicant similarly failed to offer any evidence of her attempts to seek treatment for her chemical dependency until her incarceration, or that she lacked moral culpability for her actions because of her drug use. Despite Applicant's assertion that she has "found god" and, therefore, has been spiritually rehabilitated, Applicant produced no documentation or evidence of particular conduct demonstrating her purported spiritual rehabilitation. Applicant similarly failed to offer any testimony or documentary evidence demonstrating her compliance with her criminal parole and/or to confirm her abstinence from drugs and alcohol.

...

Applicant's lack of preparedness and her failure to present evidence to show that she is a person of good moral character suggests that she does not take the licensure process seriously and/or that she fails to recognize the moral implications of her prior conduct. Although the Hearing Examiner sympathizes with the fact that Applicant was unrepresented during her hearing, a lay person who chooses to represent herself in a legal proceeding must assume the risk that her lack of expertise and legal training may prove to be her undoing.

(footnote omitted)

70. On November 4, 2015, the Board adopted the examiner's findings and denied Amanda a license. (The denial was docketed as number 0905-45-15 in file 15-45-05231.) Amanda did not challenge the denial in court.

71. Because of the good-character requirement, Amanda cannot now legally work in her chosen occupation. If she worked as an unlicensed esthetician, she could be imprisoned for three months. 63 P.S. § 526(a).

72. Because of the good-character requirement, Amanda could not make money as an esthetician and had to rely on food stamps to supplement her income.

73. The good-character requirement is the only thing preventing Amanda from becoming an esthetician. If the good-character requirement were ruled unconstitutional, Amanda would re-apply for, and be granted, an esthetician license.

A Policy of Application Denials

74. License denials like Courtney's and Amanda's are not unique in Pennsylvania.

75. On information and belief, under the good-character requirement, the Board routinely denies applicants for both cosmetology and limited cosmetology licenses because of criminal convictions that have nothing to do with fitness to practice cosmetology.

76. For example, in the three years preceding January 31, 2018, about 71 applicants were provisionally denied cosmetology or limited cosmetology licenses based on character. Of those 71 applicants, 16 of them decided not to undergo a character

examination by government officials and then received a final denial. Of the remaining 55 who underwent the hearing, 11 were denied again.

77. Upon information and belief, nearly all these license denials were based on the applicant's criminal history, and *none* of those criminal histories had anything to do with cosmetology.

78. And even some of the applicants who were approved after a hearing were still put on a probationary license, which requires the licensee to apply again after the probationary period ends.

79. Upon information and belief, the good-character requirement discourages still more people from even applying for a license.

80. Upon information and belief, cosmetology applicants are disproportionately likely to be lower income and without a college education—women who are less able to afford a lawyer and less experienced with administrative mazes like the one here.

81. Upon information and belief, the Board has no evidence that applicants lacking what it deems to be good character would practice cosmetology improperly.

82. Upon information and belief, the good-character requirement does not advance any legitimate state interest. All these women are asking to do is facials, manicures, or hair braiding.

The Good-Character Requirement Does Not Protect the Public

83. There is another reason the good-character requirement does not protect the public. The Board already has separate authority to deny licenses for behavior indicating that an applicant might harm someone.

84. Under the Beauty Culture Law, the Board has authority “to refuse, revoke, refuse to renew or suspend licenses ... for dishonest or unethical practices” related to cosmetology. 63 P.S. § 519(a). *See also Bentley v. Bureau of Prof'l & Occupational Affairs, State Bd. of Cosmetology*, 179 A.3d 1196, 1202 (Pa. Commw. Ct. 2018).

85. And under the general Criminal History Records Information Act, the Board has separate authority to deny applications because of criminal convictions “related to” cosmetology. *Fulton v. Bureau of Prof'l & Occupational Affairs*, 169 A.3d 718, 725–26 (Pa. Commw. Ct. 2017) (discussing 18 Pa. C.S.A. § 9124(b)(5)).

86. Between these two laws, the Board has ample authority to reject an applicant for any dishonest, unethical, or criminal behavior related to cosmetology.

87. As a result, the good-character requirement necessarily empowers the Board only to reject applicants for conduct that has nothing to do with cosmetology.

Similar Jobs Do Not Require Good Character

88. Moreover, if “good character” were relevant to the practice of cosmetology, it would follow that similar positions would also bar applicants for supposedly lacking good character. But that is not the case.

89. For example, barbers and other salon employees can work without proving their good character.

90. Barbers and estheticians both touch the face, hair, and head. By statute, “barbering” means “[t]o shave or trim the beard; to cut, shape, trim or blend the hair with the proper tools or instruments designed for this purpose; to shape the eyebrows, to give facial and scalp massaging, facial and scalp treatment, with any preparations made for this purpose, ...; to singe and shampoo the hair or apply any makes of hair cream, hair lotions or hair tonics; to dye, color or bleach the hair [etc.]” 63 P.S. § 552.1.

91. Similarly, “esthetics” “means the practice of massaging the face, applying cosmetic preparations, antiseptics, tonics, lotions or creams to the face, removing superfluous hair by tweezers, depilatories or waxes and the dyeing of eyelashes and eyebrows.” *Id.* § 507.

92. There is no meaningful difference between, for example, applying skin cream and hair cream.

93. Indeed, these two practices are similar enough that the Beauty Culture Law needs an explicit exception for barbers, so that barbers can be governed by separate barbering laws. *Id.* § 523.

94. Yet there is no good-character requirement for barbers. 63 P.S. § 553. The Commonwealth requires good character to use tweezers but not straight razors.

95. Upon information and belief, the Board has no evidence that, because of the good-character requirement, customers of cosmetologists suffer fewer harms than customers of barbers.

96. If good character is not necessary for barbers, it is not necessary for cosmetologists of any kind.

97. Similarly, good character—or any sort of license—is not generally required for other workers in salons and spas.

98. For example, receptionists and cashiers do not need good character to work in salons and spas.

99. Yet they are the workers who most often have access to money and customer possessions.

100. And Board regulations appear to allow for unlicensed shampooers. 49 Pa.

Code § 7.97(b). If there is no reason to prevent someone with a criminal record from cleaning hair, there is no reason prevent someone with a criminal record from cleansing skin.

101. Upon information and belief, the Board has no evidence that, because of the good-character requirement, spa and salon customers suffer fewer harms from cosmetologists of any kind than from other spa and salon employees.

102. If good character is not necessary for other salon and spa employees, it is not necessary for cosmetologists of any kind.

Injury to Petitioners

103. As a result of the good-character requirement, Courtney and Amanda are unable to receive a license to practice their chosen occupation.

104. Courtney and Amanda both want to be estheticians. Both women want to pursue this career to support themselves and their families, and to have satisfying and flexible careers.

105. Both women spent months attending expensive beauty-school courses.

106. Both women satisfy all other requirements to be estheticians. They are over sixteen years of age; they have completed tenth grade educations; they can pay the applicable fee; and they have been certified by a duly licensed school as having satisfactorily completed the required course of study. 63 P.S. § 511.

107. But the Board denied their applications to take the exam and receive a license solely because of the good-character requirement.

108. If not for this requirement, the Board would have granted Courtney's and Amanda's applications to sit for the exam and to receive a license.

109. If not for the good-character requirement, both women would be working as estheticians.

110. Both women were offered jobs as estheticians, which they could not accept because of the good-character requirement.

111. Because of the good-character requirement, Courtney is unemployed and financially dependent on her husband.

112. Because of the good-character requirement, Amanda is working as a waitress when she would rather work in a salon.

113. Moreover, because of the good-character requirement, Amanda was forced to drive over 100 miles to Harrisburg to spend hours in a humiliating and fruitless hearing to prove to the government that she is a good person. This hearing degraded Amanda and her parents.

114. As a result of the good-character requirement, if either woman were to again apply to sit for the esthetician exam and to receive a license, she would again be provisionally denied.

115. To attempt to overcome this denial, each woman would have to appeal to an administrative hearing. This hearing would require each woman to prepare for, gather character witnesses for, and drive for hours to Harrisburg to attend a time-consuming and humiliating hearing to prove she is a good person. Amanda would have to take off work. Courtney would have to get a babysitter.

116. Even after undergoing such a hearing, each woman would likely have her application denied again.

117. Neither Courtney nor Amanda is willing to reapply for an esthetician license while the good-character requirement is in place.

118. Each feels that having her character judged by government officials for no reason is invasive and degrading.

119. But for the good-character requirement, Courtney and Amanda would re-apply for esthetician licenses.

120. But for the good-character requirement, Courtney and Amanda would be granted esthetician licenses and would begin working as estheticians.

CONSTITUTIONAL VIOLATION

121. The good-character requirement for Pennsylvania's limited cosmetology licenses violates the Pennsylvania Constitution on its face.

122. To be clear, Courtney and Amanda are not challenging their initial license denials or seeking damages based on those denials. They are seeking relief only prospectively, based on the unconstitutional burden the good-character requirement is imposing on them now.

First Claim for Relief: State-Law Substantive Due Process

123. The good-character requirement is facially unconstitutional under the Pennsylvania Constitution's guarantee of substantive due process. Substantive due process protects individuals' right to pursue their chosen occupations free from arbitrary and irrational legislation.

124. This right is found in Article I, Section 1, of the Pennsylvania Constitution. This section declares that "[a]ll men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

125. The courts have interpreted Article I, Section 1 as protecting the substantive due process right of individuals to pursue their chosen occupations free from arbitrary and irrational legislation.

126. The good-character requirement is facially unconstitutional under this clause because it lacks a real and substantial relationship to the protection of the public health, safety, or welfare, or to any other legitimate government interest. It thus violates the right of Courtney, Amanda, and many others like them to pursue a limited cosmetology license free from arbitrary and irrational legislation.

127. The good-character requirement is also facially unconstitutional under this clause because it is unreasonable, unduly oppressive, and patently beyond the necessities of regulating cosmetology, or of any other legitimate government interest. It thus violates the right of Courtney, Amanda, and many others like them to pursue their chosen occupation free from arbitrary and irrational legislation.

128. The good-character requirement fails on its face to satisfy *any* standard of constitutional review for substantive due process rights, no matter how articulated.

129. Instead, the good-character requirement demonstrates the Board's elitism—its desire to exclude people with whom it deems not good enough to associate—and its desire to protect licensed cosmetologists from competition by new entrants to the field.

130. Neither elitism nor economic protectionism is a legitimate government interest.

131. Unless the Board is enjoined from enforcing the good-character requirement, Courtney and Amanda will suffer continuing and irreparable harm.

Second Claim for Relief: State-Law Equal Protection

132. The good-character requirement is also facially unconstitutional under the Pennsylvania Constitution's guarantee of equal protection of the law. Equal protection of the law means that the government cannot irrationally subject similarly situated people to different legal rules.

133. This means that applicants for limited cosmetology licenses cannot be treated differently from similarly situated people unless the difference in treatment meets constitutional scrutiny.

134. Applicants for limited cosmetology licenses are similarly situated to applicants for barber's licenses.

135. Applicants for limited cosmetology licenses are similarly situated to applicants for unlicensed jobs at spas and salons.

136. Requiring good character of applicants for limited cosmetology licenses but not of applicants for barber's licenses and unlicensed jobs at spas and salons facially violates equal protection because it bears no real and substantial relationship to the protection of the public health, safety, or welfare, or to any other legitimate government interest.

137. Requiring good character of applicants for limited cosmetology licenses but not of applicants for barber's licenses and unlicensed jobs at spas and salons facially

violates equal protection because it is unreasonable, unduly oppressive, and patently beyond the necessities of regulating cosmetology, or of any other legitimate government interest.

138. Requiring good character of applicants for limited cosmetology licenses but not of applicants for barber's licenses and unlicensed jobs at spas and salons facially violates equal protection because it bears no rational relationship to any legitimate government interest.

139. The good-character requirement fails on its face to satisfy *any* standard of constitutional review for equal protection, no matter how articulated.

140. Instead, the good-character requirement demonstrates the Board's elitism and its desire to protect licensed cosmetologists from competition by new entrants to the field.

141. Neither elitism nor economic protectionism is a legitimate government interest.

142. Unless the Board is enjoined from enforcing the good-character requirement, Courtney and Amanda will suffer continuing and irreparable harm.

REQUEST FOR RELIEF

Courtney and Amanda therefore respectfully request:

143. A judgment declaring that the good-character requirement, 63 P.S. § 511(a), and all rules, regulations, policies, and practices of the Bureau of Professional and Occupational Affairs, State Board of Cosmetology, implementing it violate on their face the substantive due process guarantee of the Pennsylvania Constitution.

144. A judgment declaring that those same provisions facially violate the equal protection guarantee of the Pennsylvania Constitution.
145. An order permanently enjoining the Board from enforcing these provisions against Courtney, Amanda, or anyone else.
146. An award of attorneys' fees, costs, and expenses.
147. Such further legal and equitable relief as the Court may deem just and proper.

Dated: December 11, 2018.

Respectfully submitted,

/s/ William N. Clark

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*Not admitted in Pennsylvania.
Pro hac vice motions to be filed.

Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2018, I am sending the foregoing Petition for Review to a third-party process server for service upon the persons and in the manner indicated below, which satisfies the requirements of Pa. R.A.P. 121:

Service in person as follows:

Bureau of Professional and Occupational Affairs,
State Board of Cosmetology
One Penn Center, 2601 North 3rd Street
Harrisburg, PA 17110

Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

/s/ William N. Clark
William N. Clark
Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellee and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: December 11, 2018.

Respectfully submitted,

/s/ William N. Clark
William N. Clark
Counsel for Petitioners

VERIFICATION

I, Courtney Haveman, hereby state that:

1. I am a petitioner in this action;
2. the statements made in the foregoing Petition for Review are true and correct to the best of my knowledge, information, and belief, and I expect to be able to prove the same; and
3. I understand that the statements in the Petition for Review are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

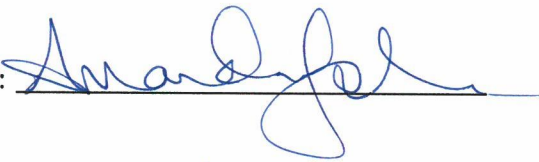
Signed: Courtney Haveman

Dated: 12/3/18

VERIFICATION

I, Amanda Spillane, hereby state that:

1. I am a petitioner in this action;
2. the statements made in the foregoing Petition for Review are true and correct to the best of my knowledge, information, and belief, and I expect to be able to prove the same; and
3. I understand that the statements in the Petition for Review are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Signed: 

Dated: 12/3/18

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Haveman, Courtney, et al., Petitioner v. Bureau of	:	New Case
Professional and Occupational Affairs, State Board of	:	
Cosmetology	:	

PROOF OF SERVICE

I hereby certify that this 11th day of December, 2018, I have served the attached document(s) to the persons on the date(s) and in the manner(s) stated below, which service satisfies the requirements of Pa.R.A.P. 121:

Service

Served: Attorney General
 Service Method: eService
 Service Date: 12/11/2018
 Address: Strawberry Square
 16th Floor
 Harrisburg, PA 17120
 Phone: (71-7) -787-3391

Served: Attorney General
 Service Method: Personal Service
 Third Party:
 Service Date: 12/11/2018
 Address: Office of Attorney General
 Strawberry Square, 16th Floor
 Harrisburg, PA 17120
 Phone: --

Served: Bureau of Professional and Occupational Affairs, State Board of Cosr
 Service Method: Personal Service
 Third Party:
 Service Date: 12/11/2018
 Address: One Penn Center
 2601 North 3rd Street
 Harrisburg, PA 17110
 Phone: --
 Representing: Respondent Bureau of Professional and Occupational Affairs, State Board of Cosmetology

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

/s/ William N. Clark

(Signature of Person Serving)

Person Serving: Clark, William N.
Attorney Registration No: 069739
Law Firm: Cozen O'Connor
Address: 1650 Market St Ste 2800
Philadelphia, PA 19103
Representing: Petitioner Haveman, Courtney
Petitioner Spillane, Amanda