

**BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES  
OF THE STATE OF IOWA**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Posh Salon and Nail Spa</b>	)	<b>CASE NO. CO 10-004</b>
<b>License No. 102781</b>	)	
<b>and</b>	)	<b>NOTICE OF HEARING</b>
<b>Susan Allard, owner</b>	)	<b>AND STATEMENT OF CHARGES</b>
	)	
	)	
<b>Respondents</b>	)	
	)	

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The Iowa Board of Cosmetology Arts and Sciences files this Notice of Hearing pursuant to Iowa §§ 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) § 11.6. Respondent Posh Salon and Nail Spa was issued Iowa salon license no. 102781 on February 27, 2009 and the license is current. Respondent Susan Allard is the owner of Posh Salon and Nail Spa, located at 2781 Oakdale Blvd, Ste. 2, Coralville, Iowa 52241.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on April 5, 2010, before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 11:30 AM and shall be located in the Lucas State Office Building, Fifth Floor Conference Rooms 517/518, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Cosmetology Arts and Sciences, 5<sup>th</sup> Floor, Lucas State Office

Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC § 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Scott Galenbeck, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon

all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 157, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 157, and 272C and 645 IAC chapter 65.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) and 645 IAC § 11.21.

## **C. CHARGES**

### **Count I**

Respondent is charged under 645 IAC §§ 65.2(28) and 63.4(1) with permitting an individual to practice cosmetology arts and sciences without a current license.

### **Count II**

Respondent is charged under 645 IAC § 65.2(13) by failing to properly clean and disinfect its whirlpool foot spas and by failing to document the cleanings in violation of 645 IAC §§ 63.25(2) - (5).

### **Count III**

Respondent is charged under 645 IAC § 65.2(13) with failing to discard used instruments after use on a client in violation of 645 IAC §§ 63.14, 63.17(4) and 63.18(3), with failing to store

instruments as required in 645 IAC § 63.12(1), and with failing to have a hazardous waste container and bags available in the salon in violation of 645 IAC § 63.17(4).

#### **Count IV**

Respondent is charged under 645 IAC § 65.2(13) with failing to post the salon license and a copy of the most recent sanitation rules at eye level in the reception area pursuant to 645 IAC §§ 61.5(2) and 63.2.

#### **D. FACTUAL CIRCUMSTANCES**

1. During an investigation on October 7, 2009, an employee, Mike Manchester, who referred to himself as the manager of the salon, was providing services that require an active cosmetology license. Manchester's cosmetology license was not renewed prior to April 1, 2004, and was administratively placed on inactive status on October 5, 2005.

2. The investigation revealed that no record of whirlpool foot spa cleaning and disinfecting was available, foot spas had debris behind the screens and biweekly cleanings were not being performed.

3. During the investigation the investigator observed used nail buffers and files stored with clean supplies. Hair was observed in closed drawers where clean supplies were stored. Electric shavers contained hair clippings and clean brushes contained hair. Toe separators (single use items) were being re-used.

4. During the investigation, the salon license, employee professional licenses and sanitation rules were not displayed in the reception area at eye level.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Scott Galenbeck, Assistant Attorney General, at 515-281-6658.

#### **F. PROBABLE CAUSE FINDING**

On this 11th day of January, 2010, the Iowa Board of Cosmetology Arts & Sciences found probable cause to file this Notice of Hearing and Statement of Charges.

**This notice of hearing and statement of charges is approved by the board on March 4, 2010.**