

**BEFORE THE BOARD OF Cosmetology Arts and Sciences
OF THE STATE OF IOWA**

IN THE MATTER OF)	
)	NO. 06-178
Fancy Nails)	
License No. 101947)	NOTICE OF HEARING
and)	AND STATEMENT OF CHARGES
Billy K. Dinh, Owner)	
License No. 001940)	
)	
RESPONDENTS)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 101947 on July 9, 2007. Respondent's salon license is current and will next expire on December 31, 2008. Respondent's address as reported to the Board is 5717 Elmore Ave. Ste. H, Davenport, IA 52807. Owner of Respondent salon was issued a nail technology license on July 9, 2007, and that license will next expire on March 31, 2009.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on February 26, 2008, before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 11:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, 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, 5th 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: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd 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 Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged with employing individuals to practice cosmetology arts and sciences without a license in violation of Iowa Code section 157.13(1) and 645 IAC rules 65.2(28).

Count II

Respondent is charged with violating a regulation, rule, or law of this state

pursuant to 645 Iowa Administrative Code 65.2(13) by failing to document the date and time of each cleaning and disinfecting of the whirlpool foot spas in violation 645 Iowa Administrative Code 63.25(5).

Count III

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 Iowa Administrative Code 65.2(13) by having a product containing liquid methyl methacrylate monomer on its premises in violation of 645 Iowa Administrative Code section 63.18(1).

D. FACTUAL CIRCUMSTANCES

1. During the investigation on August 7, 2007, a witness identified an individual sitting in the pedicure chair as an employee of the salon who had earlier given her a pedicure. The owner is responsible for allowing unlicensed persons to practice pursuant to 645 IAC 63.4(1).
2. The salon did not have a whirlpool cleaning schedule at the time of the inspection.
3. During the investigation, three samples of liquid were obtained. The samples were tested for the presence of methyl methacrylate at the University of Iowa Hygienic Laboratory. Test results revealed that two of the samples of liquid taken from Respondent salon contained methyl methacrylate.

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 Julie Bussanmas, Assistant Attorney General, at 515-281-4419.

F. PROBABLE CAUSE FINDING

On this 7th day of November, the Iowa Board of Cosmetology Arts and 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 November 7, 2007.