

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

IN THE MATTER OF:)	
)	NO: 04-002
NAIL SPA)	
License No. 002-009057,)	CONSENT AGREEMENT AND
)	ORDER
RESPONDENT)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Nail Spa (Respondent), through its owner Jenny Huynh-Le, enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code sections 17A.10(1) (2003) and 272C.3(4) (2003).

1. Respondent currently possesses license number 002-009057 to operate a nail technology salon in the state of Iowa.
2. The Board has jurisdiction over the licensee disciplinary action pending against the Respondent.
3. After an inspection of Respondent salon revealed several deficiencies in sanitation and the use of cosmetic products containing methyl methacrylate, the Board instituted formal disciplinary proceedings by the filing of a Statement of Charges on August 4, 2004.
4. The Statement of Charges erroneously identifies the owner of Respondent salon as Jenny Juynh-Le. Upon the execution of this Agreement, the Statement of Charges shall be amended to correctly identify the owner of Respondent salon as Jenny Huynh-Le.
5. Respondent salon has not filed an answer to the Statement of Charges.
6. Respondent has a right to hearing on the charges but waives its right to hearing and all attendant rights by freely and voluntarily entering into this Agreement. The Agreement is the final agency order in the contested case.
7. Respondent agrees that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.
8. This Agreement shall be part of the permanent record of Respondent salon and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of future violations.
9. Any failure by Respondent salon to comply with the terms and conditions of this Agreement shall subject Respondent salon to further licensee disciplinary action

which could be initiated by the Board through the filing of a statement of charges with a hearing to be held on the merits.

10. This Agreement is subject to approval by the Board:
 - a. If the Board fails to approve this Agreement it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter;
 - b. If the Board approves this Agreement, it shall fully dispose of all issues in this case.

11. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4) (2003).

12. This Agreement shall not be binding as to any new complaints received by the Board.

IT IS THEREFORE ORDERED:

A. Probation

13. Respondent's salon license shall be placed on probation for a period of one (1) year from the execution date of this Agreement, the execution date being the date which accompanies the Board Chairperson's signature. Upon notification of the Board's approval of this Agreement, the Respondent shall immediately remit its salon license certificate to the Board so that a probationary license may be issued. During the probationary period, Respondent salon shall comply with the following terms:

- (1) Respondent shall comply with all relevant statutes and administrative rules in the course of its operations as a nail technology salon;
- (2) Respondent shall not have on its premises any cosmetic products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products, including, but not limited to, any product containing methyl methacrylate monomer and methylene chloride. The presence of any such product in Respondent salon shall be prima facie evidence of its use in Respondent salon;
- (3) Respondent shall ensure that the salon and all workstations are maintained in a clean and sanitary manner;
- (4) Respondent shall monitor and ensure its employees' compliance with all applicable health and sanitation standards; and

(5) Upon request of the Board, the owner of Respondent salon shall appear before the Board to report on the status of Respondent's operations as a nail technology salon and to answer any questions or concerns the Board may have regarding Respondent's compliance with this Agreement. The Board shall provide Respondent with reasonable notice of the date, time, and place of any requested appearance. Respondent agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that it waives any and all objections to the members of the Board both participating in the appearance and later participating as decision makers in a contested case proceeding.

B. Civil Monetary Penalty

Respondent agrees to pay to the Board a civil monetary penalty of \$300. Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the execution date of this Agreement.

C. Future Compliance

Respondent shall in the future adhere to all relevant statutes and administrative rules in the course of operating a nail technology salon.

D. Amendment to Statement of Charges

The Statement of Charges is amended to reflect ownership of Respondent salon by Jenny Huynh-Le.

WHEREFORE, the terms of this Consent Agreement and Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Respondent.

This Consent Agreement and Order was approved by the board on November 3, 2004.