

STATE OF IOWA  
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

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IN THE MATTER OF:	)	
	)	
Kisten M. Smuck	)	<b>CONSENT AGREEMENT</b>
1212 Walnut St.	)	<b>AND ORDER</b>
West Des Moines, IA 50265	)	
	)	
APPLICANT	)	

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The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Kisten M. Smuck (Applicant) enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code sections 17A.10(1) 147.3, 157.3, 272C.3, and 645 Iowa Administrative Code rule 60.2.

1. On April 1, 2004, Applicant applied for Iowa licensure by examination. Applicant successfully completed the theory and Iowa law examinations on May 13, 2004.

2. On her application for licensure, Applicant indicates she has been convicted of a felony. Court documents show that on January 29, 1999, in the Iowa District Court for Polk County, Criminal Number 126066, Applicant was sentenced to a term not to exceed ten years. Her sentence was suspended and she was placed on two (2) years of formal probation. On September 10, 2002, Applicant's probation was revoked and her original sentence reinstated. On June 9, 2003, Applicant's sentence was reconsidered and the Court again suspended her sentence and imposed a formal probation period of two (2) years.

3. Upon approval of this Agreement by the Board, Applicant's nail technician's license shall be subject to a two (2) year period of probation. The probationary period shall commence on the execution date of this Agreement. The execution date is that date which accompanies the Board Chairperson's or designee's signature. During the probationary period, Applicant shall comply with the following terms:

a. Applicant shall fully comply with all relevant statutes and administrative rules in the course of her practice as a licensed nail technician including compliance with all license renewal and continuing education requirements;

b. Applicant shall fully comply with all conditions of probation by the Fifth Judicial District Department of Correctional Services;

c. Applicant shall work under the supervision of an individual who holds a current license issued by the Board and who is not subject to disciplinary action by and is in good standing with the Board. The Board shall have full and final authority

to accept or reject for any reason a licensed individual chosen by Applicant to provide supervision.

d. Within 15 (fifteen) days of the execution of this Agreement and on a quarterly basis thereafter, Applicant shall notify the Board in writing as to the status of her employment as a nail technician in the state of Iowa. All written notifications required by this provision shall include:

1. The period of time covered by the report;
2. The name and address of Applicant's places of employment as a nail technician;
3. The name and license number of Applicant's licensed worksite supervisor(s) at each place of employment that provides nail technology services;
4. A narrative written by Applicant's licensed worksite supervisor(s) describing Applicant's work habits as observed by the supervisor as well as any complaints, if there are any, regarding Applicant's conduct as a nail technician received by the supervisor;
5. The salon license number of each salon at which Applicant is employed and/or works;
6. Applicant's date of hire as a nail technician, and, if applicable, the date her employment terminated; and

e. Applicant shall notify the Board in writing within 15 (fifteen) days of the termination, either voluntarily or involuntarily, of her employment as a nail technician in the state of Iowa. Failure by Applicant to timely and truthfully notify the Board of her current employment status shall constitute a violation of this Agreement.

f. Upon request of the Board, Applicant shall appear before the Board to report on the status of her practice as a nail technician and to answer any questions or concerns the Board may have regarding her probation. The Board shall provide Applicant with reasonable notice of the date, time, and place for any requested appearance. Applicant agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that she 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.

4. Any failure by Applicant to comply with the terms and conditions of this Agreement shall subject Applicant to 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.

5. Upon full compliance with all terms and conditions of the probation prescribed by this Agreement, Respondent's license to practice as a nail technician in the state of Iowa shall be restored to its full privilege free and clear of all probationary restrictions.

6. This Agreement is subject to approval by the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party.

7. This Agreement is voluntarily submitted by Applicant to the Board for its consideration.

8. This Agreement is a public record available for inspection and copying in accordance with Iowa Code section 272C.3(4).

9. This Agreement shall be part of the permanent record of the Applicant 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.

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

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

**This Consent Agreement and Order is approved by the board on January 10, 2005.**