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

IN THE MATTER OF:	)
	) CASE NO. 08-082
Fashion Nails	)
License No. 102154	)
and	) NOTICE OF HEARING
Stephanie Larson	) AND STATEMENT OF CHARGES
License No. 01612	)
	)
RESPONDENT	)
·	)

COMES NOW the Iowa Board of Cosmetology Arts and Sciences and files this Notice of Hearing pursuant to Iowa Code Sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa salon license no. 102154 on December 18, 2007. Above named Respondent is the owner of Respondent salon, Fashion Nails, located at 5800 Merle Hay Road, Johnston, Iowa 50131. Respondent's salon license is current and will next expire on December 31, 2010. Respondent owner was issued nail technology license no. 01612 on August 19, 2005 and the license will next expire on March 31, 2011.

## A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on October 5, 2009 before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 10:00 AM and shall be located in the Lucas State Office Building, Fifth Floor Conference Room 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.

<u>Presiding Officer</u>. 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.

<u>Pre-hearing Conference</u>. 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.

<u>Prosecution</u>. 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: Jordan Esbrook, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

<u>Communications</u>. 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

<u>Jurisdiction</u>. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 157, and 272C.

<u>Legal Authority</u>. 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.

<u>Default</u>. 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 violating a regulation, rule, or law of this state pursuant to 645 Iowa Administrative Code 65.2(13) by failing to properly clean and disinfect the whirlpool foot spas and maintain a cleaning record in violation of 645 Iowa Administrative Code 63.25(2) - (5).

## **COUNT II**

Respondent is charged with violation a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by failing to properly post a copy of the most current sanitation rules and most recent inspection report in the reception area at eye level in violation of 645 IAC 63.2.

#### **COUNT III**

Respondent is charged with engaging in unsanitary practices in violation of Iowa Code section 157.6 and 645 IAC rules 63.12(1), 63.13(2), 63.14, 63.17(3) and (4), 63.18(3) and 65.2(13).

#### **COUNT IV**

Respondent is charged with violation of a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by possessing a razor-edged device, in violation of 645 IAC 63.18(2).

## **COUNT V**

Respondent is charged with the use of untruthful or improbable statements in advertisements in violation of 645 IAC 65.2(4).

# D. FACTUAL CIRCUMSTANCES

- 1. During an investigation of Respondent salon on November 21, 2008, it was discovered that a record of whirlpool foot spa cleaning and disinfecting was not being properly maintained. No cleanings were recorded after May 27, 2008. One of the foot spas had debris in the jets and another spa had a dirty screen.
- 2. During the investigation, Respondent did not have a copy of the sanitation rules posted in the reception area of the salon. An inspection report was located partially covered behind the nail stations.
- 3. During the investigation, biohazard bags were not available for use, used nail buffers and emery boards that could not be sanitized between uses on clients were not being disposed of properly, used sanding bits and bands, nippers and clippers were not being properly placed in a receptacle for cleaning and were not disinfected between uses on clients, workstations were dirty, and water was being used as a disinfectant at one of the stations.

- 4. During the investigation, four razor-edged devices were found.
- 5. During the investigation, waxing supplies were found and the salon was advertising eye brow waxing. No employee was licensed to perform eye brow waxing

## 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 Jordan Esbrook, Assistant Attorney General, at 515-281-7262.

## F. PROBABLE CAUSE FINDING

On the 13th day of October, 2009, 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 August 6, 2009.