

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

IN THE MATTER OF:)	
)	CASE NO. 07-038
Nails Envy)	
License No. 011289)	
and)	NOTICE OF HEARING
Aaron Le)	AND STATEMENT OF CHARGES
License No. 01676)	
)	
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. 0011289 on May 9, 2006. The above named Respondent is the owner of Respondent salon, Nails Envy, located at 894 Middle Rd., Bettendorf, Iowa 52722. Respondent's salon license is current and will next expire on December 31, 2010. Respondent owner was issued nail technology license no. 01676 on January 3, 2006 and the license will next expire on March 31, 2010.

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 9:30 AM and shall be located in the Lucas State Office Building, Fifth Floor 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: Jordan Esbrook, 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 violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by failing to properly clean and disinfect its whirlpool footspas and by failing to document the cleanings in violation of 645 IAC 63.25(2) - (5).

COUNT II

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by failing to change disinfectant solution and failing to

store instruments as required in 645 IAC 63.12(1).

COUNT III

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) for failing to post a copy of the most recent sanitation rules at eye level in the salon pursuant to 645 IAC 63.2.

COUNT IV

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) for failing to have hazardous waste containers available for use while services are being performed, in violation of 645 IAC 63.17(3).

COUNT V

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) for having on the premises a prohibited product containing liquid methyl methacrylate monomer, in violation of 645 IAC 63.18(2).

COUNT VI

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) 65.2(36).

COUNT VII

Respondent is charged with failure to comply with the terms of the settlement agreement entered into with the Board on February 26, 2008, in violation of 645 IAC 65.2(21).

D. FACTUAL CIRCUMSTANCES

1. On February 26, 2008, Respondent entered into a combined Notice of

Hearing, Settlement Agreement, and Final Order requiring the completion of four (4) hours of board-approved continuing education. Respondent has only completed two (2) hours.

2. On May 1, 2009, during an investigation of Respondent salon, it was discovered that sanitation rules were not posted, no biohazard bags were present, and instruments were stored in unclean drawers.

3. During the investigation it was discovered that no whirlpool cleaning schedule was posted, Respondent cleans the spas with Scrubbing Bubbles, and debris was located in the screens in three whirlpool spas.

4. During the investigation it was discovered that barbicide was cloudy and full of debris and that barbicide did not cover the instruments.

5. During the investigation, two individuals were observed performing services that require a license; however, the individuals had not been issued an Iowa nail technology license.

6. During the investigation on May 1, 2009, two samples of liquid were taken to test for the presence of methyl methacrylate monomer. The tests came back from the University of Iowa Hygienic Laboratory positive for methyl methacrylate monomer.

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 July, 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 31, 2009.