

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

IN THE MATTER OF:)	
)	CASE NOS. 06-117, 06-118, 06-134
Secret Nails)	
License No. A00509)	NOTICE OF HEARING
and)	AND STATEMENT OF CHARGES
Amy Thanh Vu Hoang, Owner)	
License No. 00740)	
)	
)	
RESPONDENTS)	

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. A00509 on August 28, 1998. Above named Respondent is the owner of Respondent salon, Secret Nails, located at 2600 Edgewood Rd, SW, Cedar Rapids, Iowa 52402. Respondent's salon license is current and will next expire on December 31, 2010. Respondent owner holds a current technology license and an esthetic license, nos. 00740. The licenses will next expire on March 31, 2010.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on January 11, 2010 before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 1:30 PM 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, 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: Scott Galenbeck, 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 use an EPA registered 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

reception area of 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 having on the premises razor-edged tools in violation of 645 IAC 63.18(2).

COUNT V

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by having used emery boards and nail buffers on the premises, in violation of 645 IAC 63.17(4) and 63.18(3) and for failing to clean and disinfect electric nail bits in violation of 645 IAC 63.13(2).

Count VI

Respondent is charged with violating 645 Iowa Administrative Code 65.2(29) by permitting a licensed person under the owner's control to practice outside the scope of the employee's license.

COUNT VII

Respondent is charged with failure to comply with the terms of a board order pursuant to 645 IAC 65.2(21).

COUNT VIII

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

D. FACTUAL CIRCUMSTANCES

1. During an investigation on July 16, 2009, the investigators observed that sanitation rules from 1995 were posted, but no more recent rules were posted.

2. During the investigation, it was observed that the majority of the whirlpool spa filters contained black debris and nail clippings on the bottom of the basin. There was no cleaning schedule maintained for the whirlpool bowls.

3. Four boxes of corn blades were observed in the salon.

4. An employee did not wash hands before working on a customer.

5. Samples of nail liquid were taken from the salon and tested positive for methyl methacrylate acid (MMA).

6. Acetone was used to clean instruments.

7. Supplies were kept in boxes which contained dust and debris.

8. In 2007, Respondent salon was disciplined by the Board for the following violations: unlicensed individuals; practice harmful or detrimental to the public (client injured-razor-edged device); disinfecting substandard; foot spas not properly cleaned. Respondent's license was laced on probation for two years, and each owner was required to take 6 hours con ed. Finally Respondent was fined \$1,000.

9. In 2005, Respondent settled with the Board and paid a \$400 fine for a charge that Respondent had employed a person with a lapsed license.

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 Scott Galenbeck, Assistant Attorney General, at 515-281-6658.

F. PROBABLE CAUSE FINDING

On the 5th 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 November 23, 2009.