

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

_____)	
IN THE MATTER OF)	
)	NO: CO 99-001; CO 00-002
HENRY'S NAILS,)	
License No. 002-002104)	
)	SETTLEMENT AGREEMENT
RESPONDENT)	AND CONSENT ORDER
_____)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Henry's Nails (Respondent) enter into this Settlement Agreement and Consent Order (Agreement) pursuant to Iowa Code Sections 17A.10(1), 272C.3(4) (2001), and Chapter 645 Iowa Administrative Code Section 12.1.

1. The Respondent presently possesses license number 002-002104 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 the Respondent's place of business revealed that products used in the Respondent salon contained methyl methacrylate (MMA), the Board instituted formal disciplinary proceedings by filing a Statement of Charges.
4. Respondent has a right to a hearing on the charges, but waives its right to hearing and all attendant rights, including the right to seek judicial review of the Board's actions in this matter, by freely and voluntarily entering into this Agreement. The Consent Order is the final agency order in the contested case.
5. 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.
6. This Agreement shall be part of the permanent record of the Respondent 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.
7. Any failure by the Respondent to comply with the terms and conditions of this Agreement shall subject the Respondent 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.

8. 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.

9. This Agreement is public record pursuant to Iowa Code Sections 272C.3(4) and 272C.6(4) (2001).

10. This Settlement Agreement and Consent Order shall not be binding as to any new complaints received by the Board.

IT IS THEREFORE ORDERED:

A. PROBATION

Respondent's salon license shall be placed on probation for a period of one year from the execution date of this Agreement. The execution date is that date which accompanies the Board Chairperson's signature. Upon notification of the Board's approval of this agreement, the Respondent shall remit its salon license certificate to the Board so that a probationary license may be issued.

During the probationary period, the Respondent shall comply with the following terms:

- (1) The Respondent shall comply with all relevant statutes and administrative rules in the course of its operations as a nail technology salon. Within its salon, the Respondent shall only permit nail technology services to be performed by persons who are properly licensed by the State of Iowa. The Respondent salon shall be maintained in a clean and sanitary manner as required by Board rules.
- (2) The Respondent shall file quarterly reports with the Board listing the salon's nail technicians. The quarterly employee reports shall be

typewritten and shall attest to the following information for each and every person who performed nail technology services within the Respondent salon during the three month period immediately preceding the report:

- a) The name of the employee who performed nail technology services
- b) The license number and expiration date for the employee's Iowa cosmetology and/or nail technology license.
- c) The employee's date of hire
- d) If applicable, the employee's date of termination.

The failure of the Respondent salon to provide complete and truthful information in the quarterly employee reports shall constitute a violation of this order. The first report required by this Agreement shall be submitted to the Board by January 1, 2002, and each report thereafter by the first day of every subsequent third month (April, July, October).

- (3) The Respondent shall provide all necessary supervision or oversight over its employees who provide nail technology services so as to prevent the use of any products or chemicals that contain Methyl Methacrylate (MMA) on consumers receiving nail technology services at the Respondent Salon. Respondent shall monitor and ensure its employees' compliance with all other applicable health and sanitation standards.
- (4) Upon request, the Respondent shall identify the brand name of the products or chemicals used in its salon while performing nail technology services and specify for what purpose each product is used. The Respondent shall make available for inspection by its consumers of nail technology services copies of the labels for the products or chemicals used in its salon while performing nail technology services and copies of the Material Safety Data Sheets (MSDS) for those products.
- (5) Upon the Board's request, the Respondent shall permit the Board or its designee to collect samples of all products or chemicals used in the Respondent Salon on consumers of nail technology services. The Respondent authorizes the Board to have all collected product and chemical samples analyzed to determine whether the samples

contain Methyl Methacrylate. The Respondent agrees to the designation of the University of Iowa Hygienic Laboratory in Iowa City, Iowa, as the entity to test whether the collected samples contain Methyl Methacrylate.

- (6) Upon request of the Board, the owner of the Respondent salon shall appear before the Board to report on the status of the Respondent's operations as a nail technology salon and to answer any questions or concerns the Board may have regarding the Respondent's compliance with this Agreement. The Board shall provide the Respondent with reasonable notice of the date, time, and place for any requested appearance. The Respondent agrees that any such appearance would be governed by 645 Iowa Administrative Code section 9.7 (June 2, 1999) 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.
- (7) The Board or its designee shall have the right to verify the Respondent salon's compliance with all provisions of this Order through established investigative protocols including, but not limited to, examination of Board records, interviews with persons identified as salon employees or clients, and by conducting unannounced inspections of the Respondent salon.

Upon full compliance with all terms and conditions prescribed under Sections A and B of this order, the Respondent's license to operate a nail technology salon shall be restored to its full privileges free and clear of all probationary restrictions.

B. TESTING COSTS

The Respondent agrees to reimburse the Board for the costs of chemically analyzing the product and chemical samples collected from the Respondent Salon. Upon completion of a chemical analysis authorized by this agreement, the Board shall assess the costs of the testing to the Respondent. Once assessed, the Respondent shall pay these costs in full to the Board within 60 days. The Respondent's combined maximum liability for chemical analysis shall not exceed five hundred dollars (\$500).

C. FUTURE COMPLIANCE

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

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

This settlement is approved by the Board of Cosmetology Arts and Sciences on September 25, 2001.