

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

IN THE MATTER OF:)	
)	
Kourtney Flenker)	CASE NO. CO 09-058
License No. 000798)	
)	NOTICE OF HEARING
Respondent)	AND STATEMENT OF CHARGES
)	

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 a cosmetology license on November 16, 2007. Respondent's license will next expire on March 31, 2010. Respondent's address as reported to the Board is 203 West 1st St., Long Grove, Iowa 52756.

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 9:30 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, 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 practicing outside the scope of the cosmetology profession, in violation of 645 Iowa Administrative Code 65.2(5), 645 IAC 60.5(1), 645 IAC 60.5(4), and 645 IAC 60.5(5).

D. FACTUAL CIRCUMSTANCES

1. During an investigation into the Skin Solutions Laser Enhancement Center and Spa, the Board received information indicating that Respondent performs tasks outside the scope of her practice as an esthetician.

2. During an investigation into the Skin Solutions Laser Enhancement Center and Spa, the Board received information indicating that Respondent performs treatments using the Cutera Titan laser.

3. The Board also received information indicating that Respondent performs treatments using the Fraxel laser.

3. The Board has information indicating that both the Cutera Titan and Fraxel lasers

treat the skin below the epidermis.

4. Treating the human dermis or performing any treatment in which human tissue is cut, shaped, vaporized, or otherwise structurally altered is outside the scope of the practice of cosmetology.

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 515-281-7175.

F. PROBABLE CAUSE FINDING

On the 6th day of August, 2009, the Iowa Board of Cosmetology Arts and 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.