

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

IN THE MATTER OF:)	Case No. 04-066 (Judy Tiernan)
)	
Judy Tiernan)	COMBINED STATEMENT OF
License No. 847-00190)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
RESPONDENT)	AND CONSENT ORDER

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Judy Tiernan (Respondent), enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

1. Respondent presently possesses license number 847-00190 to practice esthetics in the state of Iowa. Board records indicate that Respondent was first licensed on August 13, 2003 and the license presently is up for renewal on March 31, 2005.

2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C. Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

STATEMENT OF CHARGES

COUNT I

3. Respondent is charged with negligence due to inadequate training in violation of 645 IAC rule 65.2(11).

CIRCUMSTANCES

4. During an Investigation of Respondent's services to a customer on September 12, 2004, it was determined that Respondent, at the request of her employer, used an electrical device, Intense Pulsed Light, on a customer.

5. Ms. Tiernan had not been adequately trained on the device but nevertheless used the device at her employer's request on the skin of salon customers.

SETTLEMENT AGREEMENT

6. Respondent agrees not to contest the above stated charge before the Board.

7. Respondent has a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waives its right to notice and a hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case.

8. 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.

9. This Agreement shall be part of the permanent record of 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.

10. Any failure by Respondent to comply with the terms and conditions of this Agreement shall subject 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.

11. This Agreement is subject to approval by the Board:
 - (a) If the Board does not 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.
12. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).
13. This Agreement shall not be binding as to any new complaints received by the Board.

CONSENT ORDER

IT IS THEREFORE ORDERED:

14. Respondent's license to practice esthetics shall be placed on probation for a period of one (1) year.
15. This Agreement shall not restrict or otherwise limit Respondent's practice in the state of Iowa except as expressly stated by the terms of this Agreement. During the probationary period, Respondent shall comply with the following terms.
 - (a) Respondent shall comply with all relevant statutes and administrative rules in the course of her professional practice.
 - (b) Respondent shall file quarterly reports with the Board listing each type of service performed by her during the quarter. The quarterly employee reports shall be typewritten.
 - (c) Upon request of the Board, Respondent shall appear before the Board to report on the status of Respondent's services and to answer any questions or concerns the Board may have regarding Respondent's compliance with this Agreement.

The Board shall provide Respondent with reasonable notice of the date, time, and place of any requested appearance. Respondent agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 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.

- (d) Respondent will cooperate with the Board's investigator or attorney concerning the use of the Intense Pulsed Light device at Ultimate Reflections and will appear at the Board's request at any hearing concerning Ultimate Reflections or its owner.

16. Respondent agrees to pay to the Board a civil monetary penalty of \$500.

Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the date this Agreement is executed by the Board.

17. Upon full compliance with the above terms and conditions, Respondent's license to practice esthetics in the state of Iowa shall be restored to its full privileges free and clear of all probationary restrictions.

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

This Combined Statement of Charges, Informal Settlement Agreement, and Consent Order is approved by the board on May 4, 2005.