

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

IN THE MATTER OF:)	
)	CASE NO. 08-088 & 08-103
Secret Nails)	
License No. 011229)	
and)	NOTICE OF HEARING
Duyen Thi Vu, Owner)	AND STATEMENT OF CHARGES
License No. 60473)	
)	
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. 011229 on March 27, 2006. The above named Respondent is the owner of Respondent salon, Secret Nails, located at 1644 Sycamore St., Iowa City, Iowa 52240. Respondent's salon license is current and will next expire on December 31, 2010. Respondent owner was issued a cosmetology license no. 60473 on June 19, 2001 and the license will next expire on March 31, 2011. Respondent was also issued a nail technology license on February 14, 1996 and an esthetic license on May 13, 1996. Both licenses are on inactive status.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on July 13, 2009 before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 10:00 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: Julie Bussanmas, 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 each whirlpool foot spa and by failing to maintain accurate record of cleaning and disinfecting of each

whirlpool foot spa in violation of 645 IAC 63.25(2) - (5).

COUNT II

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 III

Respondent is charged with violation of a regulation, rule or law of this state pursuant to 645 IAC 65.2(13) by failing to display licenses in the reception area at eye level in violation of 645 IAC 61.5(2) and (3).

COUNT IV

Respondent is charged with engaging in unsanitary practices in violation of Iowa Code section 157.6 and 645 IAC rules 63.12(1), 63.13(2), 63.14, 63.17(4), 63.18(3), 63.22 and 65.2(13).

D. FACTUAL CIRCUMSTANCES

1. On January 22, 2009, a record of whirlpool foot spa cleaning and disinfecting was not being properly maintained for any of the salon's foot spas. Investigators also found that bi-weekly cleanings were not being performed and five spas had debris within the jets and screens.

2. During the investigation, an individual was observed performing services that require a license. When the individual was asked for identification, she walked out of the salon and did not return.

3. During the investigation, the salon license and professional licenses were posted on the back wall of the salon.

4. During the investigation, used non-sanitizable emery boards and nail buffers

were not disposed of immediately after use on a client, used sanding bits and bands were not disposed of properly after use, dirty instruments were located within unclean drawers and containers and were not being properly disinfected prior to use on clients, workstations contained clippings, dust and other debris, and two chamois buffers were located.

5. Respondent was previously disciplined in case number 08-026 for unlicensed employees, failure to properly clean and disinfect whirlpool foot spas and failure to maintain accurate records, and unsanitary practices.

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 Julie Bussanmas, Assistant Attorney General, at 515-281-7175.

F. PROBABLE CAUSE FINDING

On the 6th day of April, 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 May 12, 2009.