

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)	DIA NO. 10DPHCE011
)	
Ashley Lake)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Applicant)	DECISION AND ORDER

On April 28, 2010, the Iowa Board of Cosmetology Arts & Sciences (Board) issued a Notice of Intent to Deny Licensure to Ashley Lake (Applicant). The hearing was held on October 4, 2010 at 9:00 a.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Applicant Ashley Lake appeared for hearing and was self-represented. The state was represented by Assistant Attorney General Kristin Ensign. The following Board members were present for the hearing: Becky J. Brockmann, Chairperson; Kimberly Setzer; Richard Mosley; Dana Atkins, Richard Sheriff, and Karen Thomsen. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was recorded by a certified court reporter. The Board convened in closed session following the hearing to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

THE RECORD

The record includes the testimony of the Applicant and State Exhibits 1-9 (See Exhibit Index for description).

FINDINGS OF FACT

1. Applicant Ashley Lake graduated from cosmetology school in January 2010. On January 15, 2010, Ms. Lake filed an initial application for a license to practice cosmetology arts and sciences in Iowa. Ms. Lake answered "yes" to the question asking if she had ever been convicted, found guilty, or entered a plea of guilty or no contest to a felony or misdemeanor crime. Applicants were required to explain all "yes" responses and to attach copies of all official court documents and court ordered evaluations. In an attached letter, Ms. Lake disclosed that she was arrested for 1st Degree Robbery on December 6, 2006, but the charges were

later reduced to assault and harassment. Ashley Lake explained that she had been in her parents' car with her sister, and her sister alleged that she stole the car and possessed a weapon. Ms. Lake further wrote that she sentenced to "in jail treatment," and released after 9 months. (Exhibits 1, 2)

2. On February 1, 2010, the Board asked Ashley Lake to provide further documentation concerning her criminal history, court ordered evaluation, and any recommendations. Ms. Lake provided further documentation of her criminal history (Exhibit 3). The hearing record (Exhibits 4, 9; Applicant testimony) established that:

a. On February 8, 2007, Ashley Lake entered a guilty plea and was convicted of Assault with Intent to Inflict Serious Injury (Aggravated Misdemeanor) and 2nd Degree Harassment (Serious Misdemeanor). Ms. Lake admits that on December 8, 2006 she threatened her sister and assaulted her. Ms. Lake was sentenced to a term of incarceration on both counts, but the sentence was suspended. Ms. Lake was placed on probation for two years.

As a condition of probation, Ms. Lake was required to complete a substance abuse evaluation and a psychological evaluation. The court required Ms. Lake to complete an in-jail treatment program and to follow all aftercare recommendations. Ms. Lake was released from jail on or about August 13, 2007. (Exhibit 4, pp 24-27) Ms. Lake reports that she completed four months of in-jail substance abuse treatment and another eight months of treatment following her release from jail. (Applicant testimony)

b. On May 24, 2008, Ms. Lake violated her probation by using methamphetamine. Her probation was revoked and she was ordered to serve 90 days in the Polk County Jail with credit for one day served. (Exhibit 4, p. 42) Ms. Lake reports that she completed 30 days of jail time and then wore an ankle bracelet for 60 days. (Applicant testimony)

c. On May 8, 2009, Ashley Lake pled guilty to 5th Degree Theft, a simple misdemeanor, in connection with a shoplifting incident. Ms. Lake served one day in jail for this offense. (Applicant testimony; Exhibit 4, pp. 20-23)

- d. On April 27, 2010, Ashley Lake's probation was revoked again for the 2009 5th Degree Theft (shoplifting) conviction. Ms. Lake served 60 days in jail for the probation violation. (Exhibit 9; Applicant testimony)
 - e. Ashley Lake has not yet paid all of her criminal fines and court fees. She still owes approximately \$3000. (Applicant testimony)
3. On April 28, 2010, the Board notified Applicant Ashley Lake that it was denying her application for an Iowa license to practice cosmetology based on her criminal history. (Exhibit 5).
4. At hearing, Ashley Lake apologized for the behavior that led to her criminal convictions. Ms. Lake assured the Board that her life and her health are both stable. She is currently living with her parents and has good family support. She has been applying for jobs that do not require a cosmetology license. Ms. Lake asked the Board to give her a second chance and permit her to practice as a cosmetologist. (Applicant testimony)

CONCLUSIONS OF LAW

Iowa Code section 147.4(2010) provides that a board may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended. Iowa Code section 147.55(5) (2010) authorizes the Board to revoke, suspend or otherwise discipline a licensee who is convicted of a crime related to the occupation or profession or the conviction of any crime that would affect the licensee's ability to practice within the profession. Ashley Lake's convictions for assault, harassment, theft, and probation violations are related to the practice of cosmetology. Ms. Lake concedes that her criminal violations were the result of her drug use, specifically methamphetamine and marijuana. The Board and the public must have confidence that persons licensed to practice cosmetology in this state are law abiding individuals who are not abusing drugs. The Board will not issue Ashley Lake a cosmetology license unless she verifies, through a recent drug screen, that she is not currently using illegal drugs. In addition, in order to ensure that she remains abstinent from drug use, Ms. Lake must enter into a contract with the Impaired Practitioner Review Committee (IPRC). If Ms. Lake complies with these two conditions, she may be issued a probationary license, subject to the terms established in this Decision and Order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Applicant Ashley Lake may be issued a probationary license to practice cosmetology after she has:

- A. Submitted a recent drug screen that is negative for illegal controlled substances (including methamphetamine and marijuana); and
- B. Executed a contract with the Impaired Practitioner Review Committee (IPRC).

Upon compliance with both of these conditions, Applicant Ashley Lake will be issued a license to practice cosmetology, and the licensee will immediately be placed on probation for a period of three (3) years. During the period of probation, Ms. Lake will be required to fully cooperate with the IPRC and to fully comply with all terms of her IPRC contract. All costs of compliance will be the responsibility of Ashley Lake. Any violation of the terms of the IPRC contract will constitute grounds for license discipline, up to and including license revocation.

Dated this 16th day of December, 2010.