

BEFORE THE IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)	
)	CASE NOS. 09-038 & 09-68
ANGELA NAILS)	
License No. 102789)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
ANH NU HOANG, Owner)	
License No. 066832)	
)	
RESPONDENTS)	

The Iowa Board of Cosmetology Arts and Sciences and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) (2009), and 645 Iowa Administrative Code (IAC) § 11.6. Angela Nails was issued Iowa salon license no.102789 on March 10, 2009. Angela Nails' license will expire on December 31, 2010. Anh Nu Hoang is the owner of Angela Nails, located at 1273 4th St. SW, Waverly, Iowa 50677. Anh Nu Hoang's nail technology license, no.066832 will expire March 31, 2011. Angela Nails and Nnh Nu Hoang are jointly referred to herein as "Respondents."

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on October 4, 2010 before the Iowa Board of Cosmetology Arts and Sciences. The hearing shall begin at 10:30 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Conference Room 517, 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. 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, 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: Kristin Ensign, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact individual 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 (2009).

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 (2009), 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 § 17A.12(3)(2009) and 645 IAC §11.21.

C. CHARGES

COUNT I

Respondents are charged under Iowa Code § 147.55 (2009), and 645 IAC §§ 63.25(6) and 65.2(13), with failing to clean and fully document cleanings of pedicure spas in violation of 645 IAC §§ 63.25(1-5).

COUNT II

Respondents are charged under Iowa Code § 147.55 (2009), and 645 IAC § 65.2(13) (2009), with engaging in unsanitary practices in violation of Iowa Code § 157.6 and 645 IAC §§ 63.10(3), 63.12(1), 63.13(2), 63.14, 63.15, 63.17(3) and 63.18(3).

COUNT III

Respondents are charged under Iowa Code §§ 147.55 and 157.13(1) (2009), and 645 IAC §§ 65.2(13) and 65.2(28), with employing unlicensed individuals to practice cosmetology arts and sciences.

COUNT IV

Respondents are charged under Iowa Code § 147.55 (2009) and 645 IAC § 65.2(13) with failing to properly post a copy of the most recent sanitation rules and inspection report in the reception area at eye level in violation of 645 IAC § 63

COUNT V

Respondents are charged under Iowa Code § 147.55 (2009) and 645 IAC § 65.2(13) with having a product containing liquid methyl methacrylate (MMA) on its premises in violation of 645 IAC § 63.18(1).

COUNT VI

Respondents are charged under Iowa Code § 147.55 (2009) and 645 IAC § 65.2(13) with failing to provide for biohazard disposal in violation of 645 IAC § 63.17(3).

D. FACTUAL CIRCUMSTANCES

1. During a visit by an investigator on March 4, 2010, the investigator observed manager Johnny Thanh Do and employee Tri Minh Nguyen providing salon services; neither held an Iowa nail technology license.

2. The investigators observed that sanitation rules were posted at the back of the salon, not in the reception area at eye level.

2. A whirlpool cleaning log was not being maintained.

3. Employees did not wash hands before working on a customer.
4. The investigator obtained two samples of nail liquid for testing. One sample tested positive for methyl methacrylate acid.
5. Used non-sanitizable emery boards, nail buffers, sandpaper bands, toe separators, and disposable footwear were not disposed of immediately after use on a client. Manager Johnny Thanh Do stated he was not aware the items were single use items. Chamois buffers were coated with a waxy substance.
6. A sterilizer was being used; however, the implements were stacked on top of each other. Some nippers had a plastic sheath on top of them.
7. No biohazard bag or container was observed on the premises.

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 Kristin Ensign, Assistant Attorney General, at 515-281-6547.

F. PROBABLE CAUSE FINDING

On the 5th day of April, 2010, 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 August 24, 2010.