

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

IN THE MATTER OF:)	
)	
Top Nails, Des Moines)	CASE NO. 06-022; 06-082
License No. 010947)	
And)	
Tam Ta, owner)	NOTICE OF HEARING
License No. 01428)	AND STATEMENT OF CHARGES
)	
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 license no. 01428. The above named Respondent is the owner of Respondent salon, Top Nails, and holds a license to operate a salon no. 010947. All licenses are now current.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held before the Board of Cosmetology Arts and Sciences on the 7th day of November 2007, at 9:00 a.m. at the Lucas State Office Building, 5th Floor Board Conference Room #526, Des Moines, Iowa.

2. 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 & Sciences, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

3. **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.

4. **Hearing Procedures.** The procedural rules governing the conduct of the hearing are found at 645 Iowa Administrative Code Chapter 11. At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to present evidence on your behalf on issues of material fact, cross-examine witnesses present at 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.

5. **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.

6. **Prosecution.** The officer 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: Emily Kimes-Schwiesow, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa.

7. **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

8. **Jurisdiction.** The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 157, and 272C.

9. **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. .

10. **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

11. Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by having a product containing liquid methyl methacrylate monomer on its premises in violation of 645 IAC 63.18(1).

COUNT II

12. Respondent is charged with employing an individual(s) to practice cosmetology arts and sciences without a license in violation of Iowa code section 157.13(1) and 645 IAC 65.2(28).

COUNT III

13. Respondent is charged with violation of 645 IAC 65.2(3) for engaging in practices that are harmful or detrimental to the public.

D. FACTUAL CIRCUMSTANCES

14. Samples of liquid taken from Respondent salon on August 22, 2006 contained methyl methacrylate.

15. Two unlicensed persons were engaged in activities requiring a license at Respondent salon. The owner is responsible for allowing unlicensed persons to practice pursuant to 645 IAC 63.4(1).

16. A sanitation inspection of Respondent salon was conducted on May 8, 2006. The inspection revealed that hazardous waste container bags were not available, unsatisfactory evidence of whirlpool foot spas meeting biweekly cleaning and disinfecting requirements, and no records regarding cleaning were available.

E. SETTLEMENT

17. 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 Emily Kimes-Schwiesow, Assistant Attorney General, at 515-281-5637.

F. PROBABLE CAUSE FINDING

18. On this 1 day of August , 2007, 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 1, 2007.