

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

IN THE MATTER OF:)	
)	CASE NO. 07-093 & 08-032
Regal Nails)	
License No. 102058)	
and)	NOTICE OF HEARING
Thai Nguyen)	AND STATEMENT OF CHARGES
License No. 01658)	
)	
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. 102058 on September 27, 2007. The above named Respondent is the owner of Respondent salon, Regal Nails, located at 4154 4th St. SW, Mason City, Iowa 50401. Respondent's salon license is current and will next expire on December 31, 2008. Respondent owner was issued a nail technology license no. 01658 on December 7, 2005 and the license is current.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on July 14, 2008 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 526, 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 Iowa Code section 157.6 and 645 IAC 65.2(13) for engaging in unsanitary practices in violation of 645 IAC 63.12(1), 63.14 and 63.17(4).

COUNT II

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 Iowa Administrative Code 65.2(13) by failing to properly clean and

disinfect the whirlpool foot spas and maintain a cleaning record in violation of 645 Iowa Administrative Code 63.25(2) - (5).

COUNT III

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2 (3) and (13) for conditions that are harmful or detrimental to the public and for having a product containing liquid methyl methacrylate monomer or methylene chloride on its premises in violation of 645 IAC 63.18(1).

COUNT IV

Respondent is charged with violating a regulation, rule, or law of this state pursuant to 645 IAC 65.2(13) by failing to have hazardous waste bags available for use in violation of IAC 63.17(3) and for failing to post a copy of the most current sanitation rules in the reception area at eye level pursuant to 645 IAC 63.2.

D. FACTUAL CIRCUMSTANCES.

1. During the investigation, the whirlpool foot spas were not being cleaned and disinfected in accordance with 645 IAC 63.25(2)-(4), proper chemicals to disinfect the spas were not available in the salon and there was no record showing the date and time of cleaning and disinfecting of each foot spa.

2. During the investigation, two samples of liquid were obtained. The samples were tested for the presence of methyl methacrylate (MMA) at the University of Iowa Hygienic Laboratory. Test results revealed both samples of liquid taken from Respondent salon contained MMA. A customer reported that she observed an employee dipping the artificial nails in a purple liquid prior to application. Immediately after the nails were applied, she experienced a severe reaction, including burning,

blistering and peeling, and the substance left her natural nails very weak and brittle.

3. During the investigation, metal instruments were stored in dirty station drawers. A used orange stick which is a single-use item and must be discarded after use was observed in the instrument sterilizer.

4. During the investigation, no hazardous waste containers or bags were present at the salon and a copy of the most current sanitation rules was not posted in the reception area at eye level.

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 515-281-4419.

F. PROBABLE CAUSE FINDING

On the 25th day of February, 2008, 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 May 28, 2008.