

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)	CASE NO. C0 10-074
)	DIA NO. 11IBC005
)	
Jamie L. Kepner)	FINDINGS OF FACT,
License No. 00920)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
Respondent)	

On January 5, 2011, the Iowa Board of Cosmetology Arts & Sciences (Board) issued a Notice of Hearing and Statement of Charges against Jamie L. Kepner (Respondent), a licensed nail technician in the state of Iowa. Respondent was charged with two counts:

Count I: Failing to meet the continuing education requirement for licensure, in violation of Iowa Code section 147.55(2009) and 645 IAC 65.2(13),4.13(2) and 60.8(3)(a); and

Count II: Submitting a false report of continuing education, in violation of Iowa Code section 147.55(2009) and 645 IAC 4.13, 65.2(13), and 65.2(30).

The hearing was held on April 6, 2011 at 4:07 p.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondent was served with the Notice of Hearing and Statement of Charges by restricted certified mail but failed to appear for the hearing. (State Exhibit D). 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; Richard Sheriff; Jerry Talbott; and Karen Thomsen. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public and 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 Lalah McGowan and State Exhibits A-D (See Exhibit Index for description).

FINDINGS OF FACT

1. Respondent Jamie L. Kepner has been issued Iowa Nail Technician license number 00920. Respondent's license is current and will expire on March 31, 2012. When Respondent renewed her license in 2010, she verified that she had obtained the required eight (8) hours of continuing education between April 1, 2008 and March 31, 2010. Respondent signed the renewal application and attested that the information provided was true and correct. (State Exhibits A-C; Lalah McGowan testimony)
2. Respondent's 2010 license renewal was subjected to a post renewal continuing education audit. Respondent responded to the audit and submitted a continuing education certificate for 8 contact hours completed at Peels Spring Show on April 10, 2010. (State Exhibit A, pp. 2-3) On June 11, 2010, the Board's Executive Officer sent Respondent a letter notifying her that the audit was incomplete because the documentation that she submitted did not indicate that Respondent completed the required two hours in Iowa cosmetology law and rules or the required four hours in nail technology. Respondent was notified that if these required hours were included in the course she completed that she should send a copy of the program outline or schedule listing the program's subject matters. (State Exhibit A, p. 1) Respondent did not reply to the letter or submit any further documentation. (Lalah McGowan testimony)
3. On July 9, 2010, Respondent was sent an Audit Final Notice. The deadline to provide the Post Renewal Audit Continuing Education Form with the requested documentation was extended to July 24, 2010. Respondent was warned that if she did not submit the requested information by July 24, 2010, her case would be reviewed by the Board for possible disciplinary action. The Audit Final Notice was sent to Respondent by certified mail and received on July 14, 2010. (Exhibit A, pp. 4, 7-9; Lalah McGowan testimony)
4. Respondent did not respond to the Audit Final Notice. Respondent was also sent a letter and a form to voluntarily inactivate her license to avoid

disciplinary action by the Board. Respondent did not return the form to inactivate her license. (Exhibit A, p. 5; Lalah McGowan testimony)

5. Respondent was served with the Notice of Hearing and Statement of Charges by restricted certified mail on February 28, 2011 but failed to appear for hearing. (State Exhibits B, D)

CONCLUSIONS OF LAW

A person shall not engage in the practice of cosmetology arts and sciences unless the person has obtained a license from the Board.¹ Licensing boards are required to issue rules for continuing education requirements as a condition to license renewal.² The Board has established such rules at 645 IAC chapters 60 and 64. Iowa cosmetology licenses are currently renewed on a biennial basis. The renewal period begins on April 1 of one year and ends on March 31 two years later.³

A licensee seeking renewal shall meet the continuing education requirements in rule 645-64.2.⁴ A licensee in this state is required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the prescribed practice discipline. A minimum of two hours of the 8 hours shall be in the content areas of Iowa cosmetology law and rules and sanitation.⁵

The Board is authorized to audit licensees to review their compliance with the continuing education requirements.⁶ Board rule specifies the information to be provided by the licensee for auditing purposes.⁷ The information to be provided includes, in part: a course description, course outline, names and qualifications of instructors/speakers, and method of presentation.⁸ For auditing purposes, all licensees must retain the required documentation for two years after the biennium has ended.⁹

¹ Iowa Code section 147.2(1)(2009).

² Iowa Code section 272C.2(1)(2009).

³ Iowa Code section 60.8(1)"b"(2).

⁴ 645 IAC 60.8(3)"a."

⁵ 645 IAC 64.2(3)"a."

⁶ 645 IAC 4.11

⁷ 645 IAC 4.11(2).

⁸ 645 IAC 4.11(2)"a."

⁹ 645 IAC 4.11(3).

The Board is authorized to revoke, suspend, or otherwise discipline a licensee for knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession.¹⁰ In addition, the Board may take formal disciplinary action for failure to cooperate with a board audit, for failure to meet the continuing education requirement for licensure, and for falsification of continuing education information.¹¹ The Board is also authorized to impose disciplinary sanctions for submission of a false report of continuing education.¹²

The preponderance of the evidence established that Respondent renewed her nail technician license in 2010. At that time, Respondent claimed that she had completed the required hours of continuing education for the April 1, 2008-March 31, 2010 biennium. When Respondent was selected for a post renewal audit, she provided a certificate for an eight hour course, but the documentation did not establish that the course included the required two hours in Iowa cosmetology law and rules or the required four hours in nail technology. Respondent failed to provide any further documentation to show the content of the eight hour class that she attended or that she in fact completed the required hours of continuing education. Therefore, Respondent failed to comply with the continuing education requirements for renewal of her license in 2010, in violation of 645 IAC 60.8(3)"a" and 65.2(13)[Count I]. In addition, by renewing her license and falsely claiming that she met the continuing education requirements, Respondent has violated Iowa Code section 147.55 and 645 IAC 4.13(4) and 65.2(30). [Count II]

DECISION AND ORDER

IT IS THEREFORE ORDERED that Iowa Nail Technician license number 00920 issued to Respondent Jamie L. Kepner is hereby SUSPENDED, effectively immediately upon service of this Decision and Order. IT IS FURTHER ORDERED that Respondent's license shall remain suspended until she:

- a) Demonstrates that she has fully complied with all continuing education requirements applicable to her cosmetology license for the period from April 1, 2008 through March 31, 2010;

¹⁰ Iowa Code section 147.55(3)(2009).

¹¹ 645 IAC 4.13.

¹² 645 IAC 65.2(30).

- b) Submits verification of her completion of an additional two (2) hours of continuing education on Iowa law. Respondent must obtain Board approval before enrolling in any course taken for the purpose of satisfying this obligation. These two (2) hours of continuing education may not be used for license renewal; and

- c) Has paid the civil penalty and hearing fees assessed in this Decision and Order.

IT IS FURTHER ORDERED that Respondent shall pay a civil penalty of \$250.00 within thirty (30) days of the issuance of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent shall pay \$75.00 for fees associated with the disciplinary hearing and \$14.50 for the court reporter fees. The total fees of \$89.50 shall be paid within thirty (30) days of receipt of this decision.

Dated this 28th day of April, 2011.