

STATE OF IOWA  
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

---

IN THE MATTER OF:	)	DIA NO. 10DPHCE012
	)	
Carrie Lee Swender	)	FINDINGS OF FACT,
License No. 61018	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
Respondent	)	

---

On July 12, 2010, the Iowa Board of Cosmetology Arts & Sciences (Board) issued a Notice of Hearing and Statement of Charges against Carrie Lee Swender (Respondent), a licensed cosmetologist 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) 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), 65.2(30), and 64.2.

The hearing was held on October 4, 2010 at 1:45 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 2). 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 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 the witness and State Exhibits 1-4 (See Exhibit Index for description).

## FINDINGS OF FACT

1. Respondent Carrie Swender has been issued Iowa Cosmetology license number 61018. That license is current and will expire on March 31, 2012. When Respondent renewed her license in 2008, she verified that she had obtained the required eight (8) hours of continuing education between April 1, 2006 and March 31, 2008, including two (2) hours of continuing education pertaining to Iowa law and sanitation. (State Exhibit 1; Beth Jorgenson testimony)

2. The Board's records show that Respondent was actively licensed as both a cosmetologist and as an instructor when she submitted her renewal in 2008. (Jorgenson testimony) Respondent's 2008 license renewal was subjected to a random audit in May 2009. Respondent was sent audit notification letters in June and August 2009. (State Exhibit 3) Respondent has submitted a continuing education certificate indicating that she completed 4 hours of continuing education in cosmetology on September 22, 2008. She has also submitted a continuing education certificate indicating that she completed 8 hours of teacher training and 8 hours of advanced education from July 13-July 15, 2008. Respondent has not submitted any verification that she completed any continuing education in Iowa law for the renewal period from April 1, 2006 through March 31, 2008. (State Exhibit 4; Jorgenson testimony)

3. Respondent was served with the Notice of Hearing and Statement of Charges by restricted certified mail on August 27, 2010 but failed to appear for hearing. (Exhibit 2)

## 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.<sup>1</sup> Licensing boards are required to issue rules for continuing education requirements as a condition to license renewal.<sup>2</sup> The Board has established such rules at 645 IAC chapters 60 and 64.

---

<sup>1</sup> Iowa Code section 147.2(1)(2009).

<sup>2</sup> Iowa Code section 272C.2(1)(2009).

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.<sup>3</sup>

A licensee seeking renewal shall meet the continuing education requirements in rule 645-64.2.<sup>4</sup> 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. A licensee who is an instructor of cosmetology arts and sciences shall obtain 8 hours in teaching methodology in addition to meeting all continuing education for renewal of the instructor's practice license.<sup>5</sup>

The Board is authorized to audit licensees to review their compliance with the continuing education requirements.<sup>6</sup> Board rule specifies the information to be provided by the licensee for auditing purposes.<sup>7</sup> The information to be provided includes, in part: a course description, course outline, names and qualifications of instructors/speakers, and method of presentation.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup> The Board is also authorized to impose disciplinary sanctions for submission of a false report of continuing education.<sup>11</sup>

The preponderance of the evidence established that Respondent renewed her cosmetology license in 2008. At that time, Respondent claimed that she had completed the required hours of continuing education for the April 1, 2006-March 31, 2008 biennium. In order to renew her cosmetology license,

---

<sup>3</sup> Iowa Code section 60.8(1)"b"(2).

<sup>4</sup> 645 IAC 60.8(3)"a."

<sup>5</sup> 645 IAC 64.2(3)"b."

<sup>6</sup> 645 IAC 64.4.

<sup>7</sup> 645 IAC 64.4(2).

<sup>8</sup> 645 IAC 64.4(2)"a."

<sup>9</sup> Iowa Code section 147.55(3)(2009).

<sup>10</sup> 645 IAC 4.13.

<sup>11</sup> 645 IAC 65.2(3).

Respondent was required to have at least 8 continuing education hours of continuing education, 4 of which had to be in her prescribed discipline (cosmetology) and 2 of which had to be in the content areas of Iowa cosmetology law and rules and sanitation.<sup>12</sup> In order to renew her instructor license, Respondent had to satisfy the continuing education requirements for renewal of her cosmetology license *and* she had to obtain 8 additional hours in teaching methodology.<sup>13</sup>

Although Respondent submitted continuing education certificates for a total of 20 hours of continuing education, she failed to submit verification that any of those hours were in the required content areas of Iowa cosmetology law and rules and sanitation. Respondent was required to complete at least two hours in Iowa law and sanitation.<sup>14</sup> Therefore, Respondent failed to comply with the continuing education requirements for renewal of her license in 2008, in violation of 645 IAC 60.8(3)"a" and 65.2(13)[Count I]. In addition, by renewing her license and claiming that she met the continuing education requirements, Respondent has violated Iowa Code section 147.55 and 645 IAC 4.13(2), 4.13(3), and 65.2(30). [Count II]

#### DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent's cosmetology license number 61018 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 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.

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 \$27.50 for the court reporter fees. The total fees of \$102.50 shall be paid within thirty (30) days of receipt of this decision.

Dated this 16<sup>th</sup> day of December, 2010.

---

<sup>12</sup> 645 IAC 64.2(3)"a."

<sup>13</sup> 645 IAC 64.2(3)"b."

<sup>14</sup> 645 IAC 64.2(3)"a."