COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and Pretty Nails, through its owner Duy Quang Dau (Respondents), and hereby enter into this combined Statement of Charges, Settlement Agreement, and Final Order (Agreement & Order) pursuant to Iowa Code sections 17A.10, 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

STATEMENT OF CHARGES

1. Respondents were issued license number 103429 to operate a salon in the State of Iowa on September 21, 2010. Respondents’ salon license will expire on December 31, 2014. Respondent Dau was issued nail technologist license number on March 17, 2008. Respondent Dau’s individual license is current and will next expire on March 31, 2016.

2. Board records indicate that Respondents’ salon is located at 520 N. Adams Street, Carroll, Iowa, 51401.

3. The Board has jurisdiction over the parties and the matter pursuant to Iowa
COUNT I - UNSANITARY PRACTICES

4. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with engaging in unsanitary practices, in violation of Iowa Code § 157.6 (2013) and 645 IAC §§ 63.6(9), 63.11(1), 63.13(2), 63.14.

COUNT II - FAILURE TO PROVIDE BIOHAZARD DISPOSAL

5. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to provide for biohazard disposal in violation of 645 IAC §§ 63.11(2) & (3).

COUNT III - FAILURE TO POST RULES AND REPORT

6. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly post a copy of the most recent sanitation rules in the reception area at eye level in violation of 645 IAC § 63.2.

COUNT IV - MMA ON PREMISES

7. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), 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 V - CLEANING AND DISINFECTING SPA TUBS

8. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to properly disinfectant and record the cleaning of spa tubs in violation of 645 IAC § 63.25(1-3).

COUNT VI - PRACTICE BEYOND SCOPE OF LICENSE

9. Respondents are charged under Iowa Code §§ 147.55 and 157.13(1) (2013), and 645 IAC §§ 63.4(3) and 65.2(13), with permitting licensed individuals to practice outside the scope of their license in violation of 645 IAC § 60.3(6) (facial waxing) and 65.2(29).

COUNT VII - PROHIBITED EQUIPMENT

10. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with having a chamois buffer on its premises in violation of 645 IAC § 63.18(4).

FACTUAL CIRCUMSTANCES

11. During an investigation of Pretty Nails on March 11, 2014, investigators documented the following violations:

12. No biohazard bag or container was on the premises.
13. Sanitation rules were not posted in the front entrance area.
14. No whirlpool spa cleaning record was observed in the salon.
15. Clean instruments were intermixed with money, paper, pens, etc.
16. A separate room contained a heated wax pot and evidence of eyebrow waxing was observed.

17. Non-sanitizable implements including emery boards, sandpaper bands, buffers and large brushes were present throughout the salon.

18. Investigator observed an employee disregard universal precautions by failing to wash their hands prior to providing nail services.

19. Two samples of nail liquid were taken by investigators and submitted to the University of Iowa Hygienic Laboratory. Testing confirmed high concentration levels of methyl methacrylate acid (MMA) in one sample.

**SETTLEMENT AGREEMENT AND FINAL ORDER**

20. Respondents Duy Quang Dau and Pretty Nails agree to pay to the Board a civil monetary penalty of $500.00 total. The funds shall be payable to the State of Iowa. Respondents shall remit full payment of the civil monetary penalty within 60 days of the date this Order is executed.

21. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

22. By entering into this Agreement and Order, Respondents voluntarily waive any rights to a contested case hearing on the allegations contained in the Agreement and Order and voluntarily waives any objections to the terms of the Agreement and Order, including the right to appeal.

23. This combined Agreement and Order, is voluntarily submitted by Respondents
to the Board for consideration.

24. Respondents acknowledge they have a right to be represented by counsel in this matter.

25. Respondents agree that counsel for the State may present this Agreement and Order ex parte to the Board.

26. This Agreement and Order is subject to approval of the Board. If the Board fails to approve this Agreement and Order it shall be of no force or effect to either party.

27. This Agreement and Order shall be part of the Respondents’ permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violation.

28. In the event Respondents violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondents’ licenses or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

29. This Agreement, and Order is a public record available for inspection and copying upon execution of the Agreement and Order in accordance with the requirements of Iowa Code chapter 22 and 272C.

30. The Board’s approval of this Agreement and Order shall constitute a FINAL ORDER of the Board.

Wherefore, the terms and conditions of this Statement of Charges, Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts & Sciences and the Respondents.
Respondent(s)  

Iowa Board of Cosmetology Arts & Sciences

Duy Dau  
By:

Date 8-18-2014

cc: Duy Quang Dau, Owner  
Pretty Nails  
520 N. Adams Street  
Carroll, IA 51401

David VanCompernolle  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, IA 50319

By: Chairperson

Date 10-13-14