

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

**IN THE MATTER OF:** )  
 )  
**Pretty Nails** ) **CASE NO. 11-163**  
**License No. 103429** ) **NOTICE OF HEARING AND**  
**and** ) **STATEMENT OF CHARGES**  
**Duy Quang Dau, owner,** )  
**License No. 065930** )  
 )  
**RESPONDENTS** )

The Iowa Board of Cosmetology Arts and Sciences files this Notice of Hearing pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) (2013), and 645 Iowa Administrative Code (IAC) § 11.6. Pretty Nails was issued Iowa salon license no. 103429 on September 21, 2010, and operates a salon located at 520 N. Adams Street, Carroll, Iowa, 51401. Respondent-Pretty Nails license is current and will next expire on December 31, 2014. Respondent Duy Quang Dau, owner of Pretty Nails, holds nail technician license no. 065930 which next expires March 31, 2014.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on **October 14, 2013**, before the Board of Cosmetology Arts and Sciences. The hearing shall begin at **1:00 p.m.** and shall be located in the Lucas State Office Building, Fifth Floor Conference Room 517/518, 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, 5<sup>th</sup> 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 of Iowa) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: David VanCompernelle, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319, or at [David.VanCompernelle@iowa.gov](mailto:David.VanCompernelle@iowa.gov).

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 (2013).

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 (2013) 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 § 17A.12(3) (2013) and 645 IAC § 11.21.

## **C. CHARGES**

### **COUNT I – UNSANITARY PRACTICES**

Respondents are charged under Iowa Code §§ 147.55 and 157.9, and 645 IAC § 65.2(13), with engaging in unsanitary practices, in violation of Iowa Code § 157.6 (2013) and 645 IAC §§ 63.13, 63.14, 63.15, 63.16 and 63.25.

### **COUNT II – FAILURE TO POST RULES**

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 III – MMA ON PREMISES**

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 IV – FAILURE TO CLEAN & DISINFECT PEDICURE SPAS**

Respondents are charged under Iowa Code § 147.55 (2013), and 645 IAC §§ 63.4(3), 63.25(3) and 65.2(13), with failing to clean and fully document cleanings of pedicure spas in violation of 645 IAC §§ 63.25(1-3).

### **COUNT V – FAILURE TO PROVIDE BIOHAZARD DISPOSAL**

Respondents are charged under Iowa Code § 147.55 (2009) and 645 IAC §§ 63.4(3) and 65.2(13) with failing to provide for biohazard disposal in violation of 645 IAC § 63.11.

### **COUNT VI – EMPLOYMENT OF UNLICENSED INDIVIDUALS**

Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with employing an unlicensed individual to provide services, in violation of 645 IAC § 65.2(28).

### **COUNT VII – PRACTICE BEYOND SCOPE OF LICENSE**

Respondents are charged under Iowa Code §§ 147.55 and 157.13(1) (2009), and 645 IAC § 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 shall only be done by a cosmetologist or esthetician).

#### **D. FACTUAL CIRCUMSTANCES**

On January 6, 2012, investigators inspected Respondents' salon and observed that current sanitation rules were not posted in the reception area at eye level, and the salon did not have a biohazard bag or container.

Additionally, used sandpaper bands, non-sanitizable emery boards and nail buffers and other used nail supplies were observed at the manicure stations, and throughout the salon, ready for re-use. Closed drawers contained pens and paper along with instruments. Unlicensed employees were performing services that require a license. Testing revealed the presence of MMA in two samples of nail liquid obtained by the investigators.

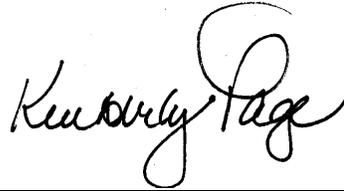
#### **E. SETTLEMENT**

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 David VanCompernelle, Assistant Attorney General, at 515-281-7262, or at [David.VanCompernelle@iowa.gov](mailto:David.VanCompernelle@iowa.gov).

#### **F. PROBABLE CAUSE FINDING**

On April 9, 2012, the Iowa Board of Cosmetology Arts & Sciences found

probable cause to file this Notice of Hearing and Statement of Charges.



\_\_\_\_\_, Chairperson  
IOWA BOARD OF COSMETOLOGY  
ARTS & SCIENCES

Copies to:

David VanCompernelle  
Assistant Attorney General  
Iowa Attorney General's Office  
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Des Moines, IA 50319

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520 N. Adams Court  
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