

**BEFORE THE BOARD OF BARBERING
OF THE STATE OF IOWA**

IN THE MATTER OF:)	
)	
American College of Hairstyling)	CASE NO. 08-001
License No. 00002)	
)	
Owner: Terence Millis)	NOTICE OF HEARING
Barber license 12588)	AND STATEMENT OF CHARGES
Instructor license 00039)	
)	
)	
Respondent.)	

COMES NOW the Iowa Board of Barbering 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 holds a current barber school license, no. 00002. The above named Respondent is the owner of Respondent School, American College of Hairstyling. Respondent's school license is current and will next expire on June 30, 2009. The barber school is located at 603 E. 6th St., Des Moines, IA 50309. The school owner holds a current barber license and a current instructor license.

A. TIME, PLACE AND NATURE OF HEARING

1. **Hearing.** A disciplinary contested case hearing shall be held before the Board of Barbering on the 28th day of October 2008, at 9:00 a.m. at the Lucas State Office Building, 5th Floor Board Conference Room #526, Des Moines, Iowa.
2. **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 Barbering, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

3. **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.

4. **Hearing Procedures.** The procedural rules governing the conduct of the hearing are found at 645 Iowa Administrative Code Chapter 11. At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to present evidence on your behalf on issues of material fact, cross-examine witnesses present at 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.

5. **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.

6. **Prosecution.** The officer 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.

7. **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

8. **Jurisdiction.** The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 158, and 272C.

9. **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, 158, and 272C and 645 IAC chapter 25.

10. **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

11. Respondent is charged with failing to have a copy of the most current sanitation rules posted in a conspicuous place in the barber school for the information and guidance of all persons studying therein and the general public, in violation of 645 IAC 22.2 and 25.2(12).

COUNT II

12. Respondent is charged with failing to properly display the barber school license and the license for each licensee employed by the barber school in an area that is visible to the public in violation of 645 IAC 22.3(1) and (2) and 25.2(12).

COUNT III

13. Respondent is charged with failing to enforce personal cleanliness standards by failing to thoroughly wash hands with soap and water or any equally effective cleansing agent immediately before serving each client in violation of 645 IAC 22.9(2) and 25.2(12).

COUNT IV

14. Respondent is charged with unsanitary practices in violation of Iowa Code section 158.5 and 645 IAC 22.5(6) and (8), 22.11(2), (3) and (4), 22.12(2) and (3), and 22.16(3).

COUNT V

15. Respondent is charged with violating the attendance requirements by failing to give accurate and appropriate credit for all hours earned and for deducting earned hours as a penalty in violation of 645 IAC 23.11(5) and (6) and 25.2(12).

COUNT VI

16. Respondent is charged with failing to comply with records requirements in violation of 645 IAC 23.13 and 25.2(12).

D. FACTUAL CIRCUMSTANCES

17. During an investigation on February 14, 19, 20 and 27, 2008, it was discovered that the sanitation rules posted were from 1985 and 2002.

18. During the investigation, the barber school license and instructors' licenses were found posted in an office, an area that is not available for view by the public.

19. During the investigation, an instructor was observed assisting a student with client services without first washing her hands.

20. During the investigation, the school had no hazardous waste containers or bags, a large hole in the ceiling of the customer area was observed, soiled towel containers were not covered or closed as required, dirty implements were found in drawers at the workstations and had not been placed in a proper receptacle as required, the barbicide in containers at some workstations were cloudy and dirty, the barbicide in containers at some workstations had evaporated, customer chairs had not been cleaned and were covered with a layer of old hair clippings, implements were kept on dirty surfaces or in dirty drawers, clean towels were not being kept in a clean, closed area, and chunks of dirt were found in one sink and several others were extremely dirty.

21. During the investigation, Mr. Millis admitted to taking the number of hours and minutes a student is tardy, adding fifteen minutes, and deducting the time from a student's earned hours as a punishment when a student is late. Additionally, it was discovered that Respondent was deducting penalty hours from students' earned hours as a penalty for missing Saturdays. Student records obtained from Respondent revealed hours recorded were not being properly calculated to accurately reflect the number of hours earned.

22. During the investigation, Mr. Millis admitted that he does not keep a daily class record for each student, record of the number of hours devoted to each subject or time devoted by a student to each subject, stating that he believed that was too much record-keeping.

E. SETTLEMENT

23. 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 515-281-7175.

F. PROBABLE CAUSE FINDING

On this 29th day of July 2008, the Iowa Board of Barbering found probable cause to file this Notice of Hearing and Statement of Charges.



Barbara Martin, Chair
Iowa Board of Barbering
Lucas State Office Building, 5th Floor
Des Moines, IA 50319

Copies to:

Julie Bussanmas
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover Building
Des Moines, IA 50319