

BEFORE THE IOWA BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)
) **CASE NO. 10-099**
La'James International College,)
Johnston)
License No. 00105) **NOTICE OF HEARING AND**
and) **STATEMENT OF CHARGES**
Cynthia Becher, owner,)
License No. 30430)
)
RESPONDENTS.)

The Iowa Board of Cosmetology Arts and Sciences files this Notice of Hearing pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) (2011), and 645 Iowa Administrative Code (IAC) § 11.6. La'James International College was issued Iowa school license no. 00019 on October 2, 2003, and operates a school located at 8805 Chambery Boulevard, Johnston, Iowa, 50131. Respondent-La'James International College license is current and will next expire on June 30, 2014. Respondent-Cynthia Becher, the owner of La'James International College, holds a cosmetology and instructor's license no. 30430 which next expires March 31, 2014.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on, **July 7, 2014**, 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, 5th 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 Van Compernelle, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State

Office Building, Des Moines, Iowa 50319 or at 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 (2011).

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 (2011) 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) (2011) and 645 IAC § 11.21.

C. CHARGES

COUNT I

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with engaging in unsanitary practices, in violation of Iowa Code § 157.6 (2011) and 645 IAC §§ 63.2, 63.6, 63.13, 63.14, 63.25 and 63.26.

COUNT II

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with failing to properly post a copy of the most current inspection report, in violation of 645 IAC § 63.2.

COUNT III

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with failing to have a complete first-aid kit, in violation of 645 IAC § 63.6(9).

COUNT IV

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with failing to disinfect instruments and equipment in violation of 645 IAC §§ 63.13(1) and 63.13(5).

COUNT V

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with failing to properly dispose of instruments and supplies that cannot be disinfected, in violation of 645 IAC §§ 63.14.

COUNT VI

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3

(2011), and 645 IAC § 65.2(13), with failing to clean and fully document cleanings of pedicure spas; failing to keep paraffin wax pots free of debris, in violation of 645 IAC §§ 63.25(1-3) and 63.26(4)

COUNT VII

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with employing unlicensed instructors; employing instructors that do not hold a license in a specific discipline; failing to be in direct charge of classrooms and clinics in violation of 645 IAC §§ 61.15, 61.15(1), and 61.15(4)(a).

COUNT VIII

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), for failing to supervise students at all times and requiring students to perform janitorial duties, in violation of 645 §§ 61.17(2)(b) and 61.17(2)(h).

COUNT IX

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(13), with failing to post notice to the public services are performed by students in violation of 645 §§ 61.24(1) and 61.24(2).

COUNT X

Respondents are charged under Iowa Code §§ 147.55, 157.9 and 272C.3 (2011), and 645 IAC § 65.2(2)(a) for failing to exhibit professional competency within the scope of practice.

D. FACTUAL CIRCUMSTANCES

1. La'James International College in Johnston is owned and operated by Cynthia Becher.
2. During an investigation of the La'James Johnston campus on September 6, 2012, investigators observed an incomplete first-aid kit; wet rollers and permanent rods were found in the clinic dispensary with hair and end wraps still attached. Random inspection of the student stations found remnants of hair on clippers; instruments in drawers were integrated with cigarettes, lighters and pens; instruments stored in containers were covered with hair clippings. Multi-use instruments were not fully immersed in disinfectant solution.
3. The manicure and pedicure room contained evidence of single use, disposable items such as used buffers and nail files.
4. The suction covers of the hydrotherapy tubs were crusty with debris and the log was not updated. Several of the pedi-spa screens contained debris and staff could not locate a completed log schedule. Paraffin wax pots contained debris and hair on the wax applicator.
5. Professional licenses were posted at the far end of the wall and were not

in prominent view to the public.

6. During the investigation, the investigator documented all current instructors at the La'James Johnston campus. Employee KL does not hold an instructor's license. Employee RV was employed by La'James from March 8, 2010 until October 13, 2010, and taught cosmetology and esthetics. Employee RV did not hold a license in cosmetology. Employee MM was listed as an instructor on a "*La'James College Administrative Staff & Faculty*" roster dated April 15, 2010. Employee MM does not hold an instructor's license.

7. Students were left unsupervised in the classrooms and assigned to sweep and mop restrooms.

8. The school did not have a sign at the entrance designating services are performed by students under the supervision of instructors and some advertisements on the internet fail to denote services are supervised by instructors.

9. The respondents have demonstrated a repetitive failure to follow board rules in operating a school of cosmetology. A high turnover in staff produced inconsistencies in the teaching methodology and curriculum. The lack of classroom instructors and leadership created an unstable educational environment for students.

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 Van Compernelle, Assistant Attorney General, at 515-281-7262 or at David.VanCompernelle@iowa.gov.

F. PROBABLE CAUSE FINDING

On November 25, 2013, 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:

Jess W. Vilsack
Nyemaster Goode, P.C.
700 Walnut Street, Suite 1600
Des Moines, IA 50309

David VanCompernelle
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319

