STATE OF IOWA  
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES  

IN THE MATTER OF:  )  
Regal Nails and Spa  )  CASE NO. CO 11-197  
License No. 102418  )  
and  )  STATEMENT OF CHARGES,  
Diem Thi Pham  )  SETTLEMENT AGREEMENT AND  
License No. 01027  )  FINAL ORDER  
RESPONDENTS.  )  

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and Regal Nails and Spa, through its owner Diem Thi Pham (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 102418 to operate a salon in the State of Iowa on July 1, 2008. Respondents’ salon license will expire on December 31, 2014. Respondent Pham was issued nail technologist license number 01027 on April 23, 2001. Respondent Pham’s individual licenses are current and will next expire on March 31, 2015.  

2. Board records indicate that Respondents’ salon is located at 3101 Floyd Boulevard, No. 4, Sioux City, Iowa, 51108.  

3. The Board has jurisdiction over the parties and the matter pursuant to Iowa
Code chapters 17A, 157, and 272C.

COUNT I - EMPLOYMENT OF UNLICENSED INDIVIDUALS

4. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(26), with employing an unlicensed individual to provide services, in violation of 645 IAC § 65.2(28.)

COUNT II - SUBVERTING AN INVESTIGATION

5. Respondents are charged under Iowa Code §§ 147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with engaging in conduct intended to subvert a Board investigation, in violation of 645 IAC § 65.2(18).

COUNT III - FAILURE TO PROVIDE BIOHAZARD DISPOSAL

6. 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(3).

COUNT IV - INCOMPLETE FIRST AID KIT

7. Respondents are charged under Iowa Code §147.55 and 157.9 (2013), and 645 IAC § 65.2(13), with failing to maintain a complete first aid kit in violation of 645 IAC § 63.6(9).

COUNT V - FAILURE TO POST RULES AND REPORT

8. 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 VI - PRACTICE BEYOND SCOPE OF LICENSE

Respondents are charged under Iowa Code §§ 147.55 and 157.13(1) (2013), 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) and 65.2(29).

COUNT VII - UNSANITARY PRACTICES

9. 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 §§ 63.11(6), 63.11(7), 63.11(8), 63.13(2), and 63.14.

COUNT VIII - MMA ON PREMISES

10. 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 IX - CLEANING AND DISINFECTING SPA TUBS

11. 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(2-5).
FACTUAL CIRCUMSTANCES

12. During an investigation of Regal Nails and Spa on October 18, 2013, investigators documented the following violations:

13. An employee emptied liquid from a glass container into the garbage can.

14. No biohazard bag was on the premises.

15. First aid kit was absent of eyewash and antibiotic ointment.

16. Sanitation rules were not posted in the front entrance area.

17. The absence of disinfectant at each manicure station.

18. Used non-sanitizable nail files and buffers located throughout the salon.

19. The whirlpool spa cleaning record was not up to date. Entries did not indicate the employees’ license number.

20. Used sandpaper bands and bits were located at manicure stations.

21. Nail clippers, nippers, and unused sandpaper bands were intermixed with money, pens, paper receipts, etc.

22. 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 both samples.

SETTLEMENT AGREEMENT AND FINAL ORDER

23. Respondents Diem Thi Pham and Regal Nails and Spa agree to pay to the Board a civil monetary penalty of $1,000.00 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.

24. Respondent Diem Thi Pham and all employees of Regal Nails and Spa shall complete eight (8) hours of continuing education on Iowa law and sanitation; and cleaning and disinfecting pedicure spas within sixty (60) days of the date this Order is executed.

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

26. 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.

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

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

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

30. 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.

31. 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.
32. 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).

33. 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.

34. 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)**

![Signature]

By: [Signature]

Date: 4/28/2014

**Iowa Board of Cosmetology Arts & Sciences**

![Signature]

By: Chairperson

Date: 7/7/14

cc: Diem Thi Pham
Regal Nails and Spa
3101 Floyd Boulevard
Sioux City, IA 51108