



# STATE OF IOWA

CHESTER J. CULVER  
GOVERNOR  
PATTY JUDGE  
LT. GOVERNOR

IOWA DENTAL BOARD  
CONSTANCE L. PRICE, EXECUTIVE DIRECTOR

February 15, 2008

Nevaeh Spa  
1731 Boyson Road  
Hiawatha, IA 52233

## ***CEASE AND DESIST***

To Whom It May Concern:

The Iowa Dental Board has reviewed information that indicates that you are engaging in acts that constitute the practice of dentistry through your "BrightWhite Teeth Whitening system" service being offered at your Spa. You are not licensed in the state of Iowa to practice dentistry. Therefore, the Board advises you to **CEASE AND DESIST** from this illegal activity.

The Board considers aspects of your business to be the practice of dentistry under the provisions of Iowa Code Section 153.13 (2007). That section provides that the following persons are deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.
2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry. (emphasis added)

The Board understands that the general public may purchase tooth whitening agents over the counter. However, the Board also understands that your business involves more than the sale of a tooth whitening kit, and includes the offering of services in using that product in a manner that constitutes the practice of dentistry.

It appears that you are "publicly professing to assume the duties incident to the practice of dentistry", in violation of Section 153.13(1), when you offer not simply a product that may be sold over the counter, but when you offer to provide the services related to applying the tooth-whitening agent to customers' teeth. These services constitute the practice of dentistry and are properly offered only by licensed dentists.

First, you offer customers a location within which services are provided, and have personnel present to instruct and assist the customer in the use of the product. While the Board recognizes whitening agents may be purchased over the counter, it further believes that the purchase of tooth-whitening services is qualitatively more significant than the purchase of over the counter agents to be used directly by the purchaser. Further, most over the counter products use a 10% concentration of carbamide peroxide, a concentration that has been approved by the ADA Council of Therapeutics as safe and effective. According to your manufacturer, you use a 30% solution, a concentration that is not accepted by the ADA as safe and effective. The product literature states that the solution does not contain hydrogen peroxide. According to the manufacturer it contains carbamide peroxide. The primary ingredient in carbamide peroxide is hydrogen peroxide. This could be misleading to the general public. Further, your customers are purchasing not only a product, but the services you offer, which they presumably understand to be provided by a person with greater expertise than your own.

Second, the scope of the services you offer raise public health and safety concerns. There is a serious question as to whether you are following appropriate infection control measures regarding hand washing, glove changing, and other measures as you provide services to your customers. It appears that you have no protocol for identifying persons with allergies, to latex gloves, for instance. You do not appear to have any protocol for how emergencies or allergic or other adverse reactions will be addressed; you have not demonstrated training in CPR and basic life support; and you do not appear to have an emergency kit or oxygen for addressing emergencies. You are in customer's mouths using hand polishers. You do not replace or sterilize prophylaxis tips of polishers between customers. You use barbicide disinfectant which is not to be used internally. The MSDS states that if this product is ingested a physician should be contacted. You have received no training from the manufacturer of this product. The manufacturer states that they currently have no systems in the state of Iowa. Further, when a person sees a dentist for tooth whitening, a dentist is able to diagnose whether the tooth discoloration is due to factors that bleaching will not affect. You are not dentists and you are not educated to make this diagnosis. Finally, you do not have the professional education to provide these services; you do not know when over-bleaching can occur, which could result in tooth sensitivity and gum irritation.

Based on these facts, the Board believes that you are publicly professing to assume the duties incident to the practice of dentistry, in violation of Section 153.13(1). The Board further believes you are performing "treatment" and "attempt[ing] correction" by an "appliance" or "other appropriate method" of a "condition. . . of the oral cavity," "including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry."

A person who engages in the practice of dentistry is required to obtain a license for that purpose. See Iowa Code Section 147.2. In the event a person engages in the practice of dentistry without a license issued by the Iowa Dental Board, the office of the Iowa Attorney General may file a civil action in a state district court to obtain a permanent injunction prohibiting that person from engaging in the unauthorized practice of dentistry. See Iowa Code Section 147.83. Further, the unlicensed practice of dentistry subject you to criminal prosecution, as Iowa Code Section 147.86 provides that any violation of Chapter 147, which includes the prohibition against the unlicensed practice of dentistry, constitutes a serious misdemeanor.

You are hereby warned that you must immediately **CEASE AND DESIST** from practicing dentistry without a license. If the Iowa Dental Board receives information that you have engaged in the unauthorized practice of dentistry after the date you receive this letter, the Board will refer this case to the Linn County Attorney's office for criminal prosecution, and will further refer this case to the Attorney General's office for prosecution of a civil injunction action against you.

I would strongly advise you to contact your attorney to seek advice or answer any questions you have regarding this matter.

Sincerely,



Constance L. Price  
Executive Director



Deena R. Kuempel, D.D.S.  
Chairperson of the Board