

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Anne C. Rominski, D.H.
License No. H9680

**FINDINGS OF FACT,
CONCLUSION, AND
FINAL ORDER**

The above-entitled matter came on for a prehearing conference on March 22, 2016, before Administrative Law Judge (“ALJ”) Jeffery Oxley at the request of the Minnesota Board of Dentistry (“Board”) Complaint Committee (“Committee”). The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Committee on February 11, 2016. Jennifer C. Middleton, Assistant Attorney General, represented the Committee. Anne C. Rominski, (“Respondent”), made no appearance.

On March 24, 2016, the ALJ issued Findings of Fact, Conclusions of Law, and Recommendation Upon Default (“ALJ’s report”), recommending the Board take disciplinary action against Respondent’s license. (A true and accurate copy of the ALJ’s report is attached hereto and incorporated herein as Exhibit A.)

The Board convened to consider this matter on April 15, 2016, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Ave. S.E., Minneapolis, Minnesota. Jennifer C. Middleton, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Complaint Committee. Respondent did not appear. Committee members Nancy Kearn, D.H.; Benjamin Neal, D.D.S.; Steve Sperling, D.D.S.; and Allen Rasmussen, did not participate or vote in the matter. Hans Anderson, Assistant Attorney General, was present as advisor to the Board. Based upon the affidavits submitted, the arguments presented, and upon all the files and the record herein, the Board makes its order and decision as follows:

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the March 24, 2016, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 9 of the ALJ's Findings of Fact states, "Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing . . . are taken as true, deemed proven without further evidence, and incorporated by reference into these Findings of Fact."

The allegations contained in the Notice and Order of Hearing are as follows:

1. On July 8, 2014, Licensee was licensed to practice dental hygiene in the State of Minnesota.
2. On November 10, 2014, Licensee left a voicemail message with the Board stating that her CPR certificate had expired in September 2014. In the voicemail message, Licensee requested information about whether a particular CPR course was acceptable to the Board.
3. Subsequent to Licensee's November 10, 2014, call to the Board, a Board staff member attempted to contact Licensee on five occasions, either by telephone or e-mail, regarding Licensee's lapsed CPR certification.
4. On November 25, 2014, the Complaint Committee sent a letter of inquiry to Licensee regarding her failure to maintain a consecutive and current CPR certificate as required for licensure renewal, administering nitrous oxide inhalation analgesia, and professional development. The Complaint Committee requested that Licensee provide, in writing, a full and complete explanation of the matter within fourteen days of the date of the letter.
5. Between December 11 and 16, 2014, a Board staff member unsuccessfully attempted to contact Licensee on four occasions, either by telephone or e-mail, about Licensee's failure to respond to the Complaint Committee's previous letter of inquiry.

6. To date, Licensee has not responded to the Board's attempts to communicate with her.

7. Licensee's CPR certification expired in September 2014. To date, Licensee has not submitted documentation to the Board to update her CPR certification.

8. On December 1, 2015, Licensee was served with a Notice of Conference With Board of Dentistry Complaint Committee, scheduling a conference for January 8, 2016. Licensee failed to attend the conference or notify the Board she would be unable to attend.

CONCLUSION

The Board accepts the March 24, 2016, ALJ's report and accordingly adopts and incorporates the Conclusions therein.

ORDER

Based on the foregoing Findings of Fact and Conclusions and upon the recommendation of the ALJ, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent's license as a dental hygienist in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of dental hygiene as defined in Minnesota Statutes section 150A.05, subdivision 1a, and shall not imply or suggest to any persons by words or conduct that Respondent is authorized to practice dental hygiene in the State of Minnesota.

3. IT IS FURTHER ORDERED that if Respondent is in possession of her dental hygiene license, Respondent shall surrender and personally deliver or mail the license to the Minnesota Board of Dentistry, c/o Bridgett Anderson, Executive Director, 2829 University Ave. S.E., Suite 450, Minneapolis, Minnesota 55414, within ten days of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her license at such time as she is willing to respond to the Findings of Fact set forth above and following twelve (12) months from the date of this Order. Her license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that she is capable of conducting herself in a fit and competent manner in the practice of dental hygiene. At the time of Respondent's petition, Respondent shall meet with a Board Complaint Committee to review her response to the Findings of Fact. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact set forth in the Findings of Fact.
- b. Any additional information relevant to Respondent's petition reasonably requested by the Board Complaint Committee.

5. IT IS FURTHER ORDERED that Respondent shall meet all licensure requirements in effect at the time of her petition, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

6. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of her license and her meeting with a Board Complaint Committee, take any of the following actions:

- a. Issue a license to practice dental hygiene to Respondent.
- b. Issue a license to practice dental hygiene to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Continue the suspension of Respondent's license upon her failure to meet the burden of proof.

Dated: April 21, 2016

MINNESOTA BOARD
OF DENTISTRY

By:


JOHN MANAHAN
Board Vice President



MINNESOTA

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March 24, 2016

Joyce Nelson
Interim Executive Director
Minnesota Board of Dentistry
2829 University Ave SE Ste 450
Minneapolis, MN 55414

Re: *In the Matter of Anne C. Rominski, D.H.*
OAH 19-0902-33246

Dear Ms. Nelson:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION UPON DEFAULT** in the above-entitled matter. The official record is also enclosed. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact my legal assistant Denyse Johnson at (651) 361-7888 or denyse.johnson@state.mn.us, or facsimile at (651) 539-0310.

Sincerely,

JEFFERY OXLEY
Administrative Law Judge

JO:dj

Enclosure

cc: Jennifer C. Middleton
Anne C. Rominski



STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF DENTISTRY

In the Matter of Anne C. Rominski, D.H.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION
UPON DEFAULT**

This matter came on for a prehearing conference before Administrative Law Judge Jeffery Oxley on March 22, 2016.

Jennifer C. Middleton, Assistant Attorney General, appeared on behalf of the Minnesota Board of Dentistry, Complaint Committee (Board). There was no appearance by, or on behalf of, Respondent Anne C. Rominski (Respondent). The record in this matter closed on March 22, 2016.

STATEMENT OF THE ISSUES

1. Whether Respondent's conduct brings discredit to the profession under Minn. Stat. § 150A.08, subd. 1(6) (2014) and Minn. R. 3100.6200(A) (2015).
2. Whether Respondent failed to cooperate with the Board within the meaning of Minn. Stat. § 150A.08, subd. 1(6) (2014) and Minn. R. 3100.6200(J), .6350 (2015).
3. Whether Respondent failed to comply the CPR certification requirements pursuant to Minn. Stat. § 150A.08, subd. 1(13) (2014) and Minn. R. 3100.1700, subp. 2, .3600, subp. 4(C), .5100, subp. 3(A)(3) (2015).

SUMMARY OF RECOMMENDATION

The Administrative Law Judge concludes that Respondent is in default and recommends that the allegations in the Notice and Order for Prehearing Conference and Hearing be accepted as true and deemed proven.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On February 11, 2016, a Notice and Order for Prehearing Conference and Hearing (Notice and Order for Hearing) in this matter was mailed to Respondent at her last known address.¹

2. The Notice and Order for Hearing indicated that a Prehearing Conference would be held in this matter on March 22, 2016, at 9:30 a.m., by telephone conference.²

3. In conformity with Minn. R. 1400.5700 (2015), the Notice and Order for Hearing requires that any party intending to “appear at the prehearing conference and hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service” of the Notice and Order for Hearing.³

4. In conformity with Minn. R. 1400.6000 (2015), the Notice and Order for Hearing in this matter also includes the following statement:

Respondent's failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that the Respondent is in default, that the allegations contained in this Notice and Order for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.

5. Respondent did not file a Notice of Appearance with the undersigned.

6. No one appeared at the March 22, 2016 Prehearing Conference on behalf of Respondent. No request was made for a continuance, nor was any communication received by the undersigned from Respondent prior to the March 22, 2016 Prehearing Conference.

7. Respondent's failure to appear at the Prehearing Conference was without consent of the Administrative Law Judge.

8. Because Respondent failed to appear at the Prehearing Conference, Respondent is in default.

9. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing, a copy of which is attached as Attachment A, are taken as true, deemed proven without further evidence, and incorporated by reference into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

¹ See Attachment A at Affidavit of Kristine Fenton. Service dated February 11, 2016.

² *Id.* at 1.

³ *Id.* at 4.

CONCLUSIONS OF LAW

1. The Board and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 150A.08 (2014).

2. The Respondent received timely and proper notice of the Prehearing Conference in this matter when the Board sent the Notice and Order for Prehearing Conference and Hearing to her last known address.

3. The Minnesota Board of Dentistry has complied with all relevant procedural requirements of statute and rule.

4. Under Minn. R. 1400.6000, the Respondent is in default as a result of her failure to appear at the scheduled prehearing conference.

5. Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations to be true.

6. Minnesota Statutes section 150A.08, subdivision 1(13) provides that the Minnesota Board of Dentistry may discipline a licensee who engages in conduct that violates the rules or law applicable to a licensee.

7. The Board has grounds to take disciplinary action against the Respondent's license based upon the allegations set forth in the Notice and Order for Hearing.

8. An order by the Board taking disciplinary action against the Respondent's license is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Board take reasonable and appropriate disciplinary action against Anne C. Rominiski, D.H.

Dated: March 24, 2016



JEFFERY OXLEY
Administrative Law Judge

Reported: Default

NOTICE

This Report is a recommendation, not a final decision. The Board of Dentistry (Board) will make the final decision after a review of the record. Under Minn. Stat. § 14.61 (2014), the Board shall not make a final decision until this Report has been made available to the parties for at least ten calendar days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact Bridgett Anderson, Executive Director, Minnesota State Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, telephone (612) 548-2127, to learn the procedure for filing exceptions or presenting argument.

The record closes upon the filing of exceptions to the Report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and Administrative Law Judge of the date the record closes. If the Board fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a (2014). In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline imposed.

Under Minn. Stat. § 14.62, subd. 1 (2014), the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.