

**BEFORE THE MINNESOTA  
BOARD OF DENTISTRY**

In the Matter of  
Darcy L. Hoops, L.D.A.  
License No. A7594

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

The above-entitled matter came on for a prehearing conference on October 25, 2012, before Administrative Law Judge (“ALJ”) Jeanne Cochran 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 September 12, 2012. Geoffrey Karls, Assistant Attorney General, represented the Committee. Darcy L. Hoops, L.D.A. (“Respondent”), made no appearance.

On November 30, 2012, the ALJ issued Findings of Fact, Conclusions, and Recommendation (“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 the matter on March 1, 2013, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Geoffrey Karls, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Complaint Committee. Respondent did not appear. Board members Joan Sheppard, D.D.S. and Terese M. Youngdahl, L.D.A. did not participate in deliberations and did not vote in the matter. Benjamin R. Garbe, Assistant Attorney General, was present as legal advisor to the Board.

## **FINDINGS OF FACT**

The Board has reviewed the record of this proceeding and hereby accepts the November 30, 2012, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 6 of the ALJ's Findings of Fact states, "The allegations contained in the Notice and Order for Hearing are deemed proven."

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

1. Respondent is subject to periodic designated professional development audits conducted by the Board pursuant to Minnesota Rules part 3100.5300.
2. Respondent failed professional development audits conducted for three consecutive cycle periods:
  - a. July 1, 2004 to July 31, 2007 (some submitted credit hours were earned outside of the cycle period);
  - b. August 1, 2007 to July 31, 2009 (most submitted credit hours were earned outside of the cycle period); and
  - c. August 1, 2009 to July 31, 2011 (Respondent failed to respond or cooperate with the Board's request to audit her professional development portfolio).
3. On May 17, 2012, Respondent failed to personally appear before the Committee for a conference regarding these allegations.

## **CONCLUSIONS**

The Board accepts the November 30, 2012, 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:

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

5. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of licensed dental assisting as defined in Minn. Stat. § 150A.10, subd. 2. and Minn. R. part 3100.8500 and shall not imply to former patients or other persons by words or conduct that Respondent is licensed to practice dental assisting.

6. IT IS FURTHER ORDERED that if Respondent is in possession of her dental assisting license, Respondent shall surrender and personally deliver or mail the certificate to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

7. 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. 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 licensed dental assisting. At the time of Respondent's petition, Respondent must 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.

8. 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.

9. 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.

10. 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 dental assisting license to Respondent.
- b. Issue a dental assisting license to Respondent with limitations placed upon

the scope of Respondent's practice and/or conditional upon further reports to the Board.

6. Continue the suspension of Respondent's license upon her failure to meet the burden of proof.

Date: March 2013

STATE OF MINNESOTA

BOARD OF DENTISTRY

Nancy Kearns D.H.  
NANCY KEARNS, D.H.  
Board President

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

In the Matter of Darcy Lynell Hoops,  
L.D.A., License No. A7594

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

This matter came on for a pre-hearing conference before Administrative Law Judge Jeanne M. Cochran on October 25, 2012 at the St. Paul offices of the Office of Administrative Hearings.

Geoffrey Karls, Assistant Attorney General, appeared on behalf of the Minnesota Board of Dentistry ("Board"), by its Complaint Committee. There was no appearance by, or on behalf of, Darcy Lynell Hoops ("Respondent").

On November 2, 2012, the Administrative Law Judge received a post-conference submission by the Board requesting that default judgment be entered pursuant to Minn. R. 1400.6000. Respondent did not file a response to the Board's submission. The hearing record closed on November 16, 2012, the date that Respondent's objection to the motion for default judgment was due.

**STATEMENT OF THE ISSUES**

1. Whether Respondent violated Minn. R. 3100.5300, subp. 5, when she did not respond to the Board's request to audit her professional development portfolio for the period August 1, 2009 to July 31, 2011?

2. Whether the Respondent engaged in conduct that is unbecoming of a person licensed to practice dental assisting and/or conduct contrary to the best interests of the public as defined in Minn. R. 3100.6200 and Minn. R. 3100.6350 by failing to cooperate with the Board?

3. Whether there are grounds for the Board to take disciplinary action against Respondent pursuant to Minn. Stat. § 150A.08 or Minn. R. 3100.5300?

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

## FINDINGS OF FACT

1. On September 12, 2012, a Notice and Order for Prehearing Conference and Hearing ("Notice and Order for Hearing") in this matter was mailed to Respondent at the following address: 3232 Piedmont Avenue, Duluth, Minnesota 55811.<sup>1</sup>

2. The Notice and Order for Hearing indicated that a Prehearing Conference would be held in this matter on October 25, 2012 at 1:30 p.m., at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota.<sup>2</sup>

3. The Notice and Order for Hearing in this matter includes the following statements:

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.

If any party has good cause for requesting a delay of the prehearing conference or hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the prehearing conference or hearing. A copy of the request must be served on the other party.

4. No one appeared at the October 25, 2012 prehearing conference on behalf of Darcy L. Hoops, L.D.A. No prehearing request was made for a continuance, nor was any communication received by the undersigned from Darcy L. Hoops, L.D.A., prior to the pre-hearing conference.

5. The Notice and Order for Hearing alleges that:

(a) Respondent is subject to periodic designated professional development audits conducted by the Board pursuant to Minn. R. 3100.5300.

(b) Respondent failed professional development audits conducted for three consecutive cycle periods:

(i) July 1, 2004 to July 31, 2007 (some submitted credit hours were earned outside of the cycle period);

(ii) August 1, 2007 to July 31, 2009 (most submitted credit hours were earned outside of the cycle period); and

(iii) August 1, 2009 to July 31, 2011 (Respondent failed to respond or cooperate with the Board's request to audit her professional development portfolio).

---

<sup>1</sup> See Affidavit of Sandra Sylvester (September 12, 2012).

<sup>2</sup> Notice and Order for Prehearing Conference and Hearing at 2 (September 7, 2012).

(c) On May 17, 2012, Respondent failed to personally appear before the Board for a conference regarding her professional development audits for these three periods.

6. The allegations contained in the Notice and Order for Hearing are deemed proven.

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

### CONCLUSIONS

1. The Administrative Law Judge and the Minnesota Board of Dentistry have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 150A.02, 150A.08.

2. Notice of the charges against her and of the time and place of the prehearing conference were sent to Respondent at her last known address. This matter is, therefore, properly before the Board and the Administrative Law Judge.

3. Respondent is in default as a result of her failure, without the Administrative Law Judge's prior consent, to appear at the scheduled prehearing conference.

4. Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. Upon default, the allegations and claims set forth in the Notice of and Order for Hearing may be taken as true or deemed proved without further evidence.

5. Minn. R. 3100.5300, subp. 5, provides that licensee must submit to a mandatory audit of the next renewal period by the appropriate Board committee when the previous audit was failed by the licensee.

6. Based upon the facts set forth in the Notice and Order for Hearing, Respondent was in violation of Minn. R. 3100.5300, subp. 5, when she did not respond to the Board's request to audit her professional development portfolio for the period August 1, 2009 to July 31, 2011 after failing her previous audit.<sup>3</sup>

7. Minn. R. 3100.6350 provides that a licensee shall "appear for conferences and hearings at the times and places designated" by the Board. A violation of the rule is "conduct unbecoming a licensee or conduct contrary to the best interests of the public." Minn. R. 3100.6350.

8. Similarly, Minn. R. 3100.6200 provides that "conduct unbecoming a person licensed to practice ... dental assisting, or conduct contrary to the best interests of the public" shall include the act of a licensed dental assistant in "failing to cooperate with the board, its agents, or those working on behalf of the board...."

---

<sup>3</sup> See Notice and Order for Hearing at 1; Minn. R. 3100.6200; Minn. R. 3100.6350.

9. Based upon the facts set forth in the Notice and Order for Hearing, Respondent engaged in conduct unbecoming of a person licensed to practice dental assisting and in conduct contrary to the best interests of the public by failing to appear before the Board on May 17, 2012 for a conference regarding her professional development audits, and by failing to cooperate with the Board's most recent request to audit her professional development portfolio.

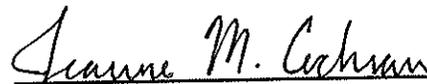
10. The Board is authorized to take disciplinary action against a licensed dental assistant when the licensee has engaged in "conduct unbecoming of a person licensed to practice ... dental assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the [B]oard." Minn. Stat. § 150A.08, subd. 1(6). The Board is also authorized to take disciplinary action against a licensed dental assistant when the licensee has failed to attend a proceeding initiated by the Board, or when the licensee has violated the rules of the Board. Minn. Stat. § 150A.08, subd. 1(12), (13).

11. The imposition of a disciplinary action against Respondent is in the public interest.

### RECOMMENDATION

Based upon these Conclusions, the Administrative Law Judge recommends that the Board of Dentistry take disciplinary action against Darcy Lynell Hoops, L.D.A.

Dated: November 30, 2012



JEANNE M. COCHRAN  
Administrative Law Judge

Reported: Default

### NOTICE

This report is a recommendation, not a final decision. The Board of Dentistry will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact the Board of Dentistry, Suite 450, 2829 University Avenue S.E., Minneapolis, Minnesota 55414, (612) 617-2250 to learn the procedure for filing exceptions or presenting argument.

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. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. 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 the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, 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.