

BEFORE THE MINNESOTA
BOARD OF DENTISTRY

In the Matter of
Leah M. Laing, L.D.A.
License No.: A11645

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

The above-entitled matter came before Administrative Law Judge (“ALJ”) Kimberly Middendorf on July 24, 2020, September 14, 2020, and March 1, 2021 at the request of the Minnesota Board of Dentistry (“Board”) Practitioner Review Committee (“Committee”). The matter was initiated pursuant to the Amended Notice and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Committee on July 1, 2020. Nicholas Lienesch, Assistant Attorney General, represented the Committee.

On April 14, 2021, the ALJ issued Findings of Fact, Conclusions of Law, and Recommendation (“ALJ’s report”), recommending the Board take disciplinary action against Licensee’s dental assisting license. (A true and correct copy of the ALJ’s report is attached hereto and incorporated herein as Exhibit A.)

The Board convened to consider the matter on July 9, 2021, via WebEx Videoconference. Nicholas Lienesch, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. Licensee appeared and presented oral argument on her own behalf. Committee members Angela Rake, D.D.S.; Hassan Ismail, D.D.S.; Heidi Donnelly, L.D.A.; and Ruth Dahl, did not participate in deliberations and did not vote in the matter. Hans Anderson, 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 April 14, 2021, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Accordingly, the Board hereby finds as follows:

1. On July 1, 2020, an Amended Notice and Order for Hearing in this matter was mailed to Licensee at her last known address. Licensee's address on file with the Board is: Leah M. Laing, L.D.A., c/o Susan Vogel, 20980 Sycamore Street NW, Oak Grove, MN 55011. A courtesy copy was also emailed to Licensee at leahmlaing@gmail.com.

2. The Amended Notice and Order for Hearing indicated that a prehearing conference would be held in this matter by telephone on July 24, 2020, at 9:30 a.m.

3. In conformity with Minn. R. 1400.5700 (2019), the Amended 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.

4. In conformity with Minn. R. 1400.6000 (2019), the Amended Notice and Order for Hearing in this matter also includes the following statement:

Your failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that you are in default. A default means that the allegations contained in this Notice of Hearing may be taken as true or deemed proved without further evidence needing to be presented. If the allegations are taken as true or deemed proved, the Committee may recommend disciplinary action, which may be imposed by the full Board.

5. Licensee did not file a Notice of Appearance with the undersigned within 10 days of service of the Amended Notice and Order for Hearing.

6. No one appeared at the prehearing conference on behalf of Licensee. No request was made for a continuance, nor was any communication received by the Administrative Law Judge from Licensee prior to the prehearing conference.

7. Licensee's failure to appear at the prehearing conference was without consent of the Administrative Law Judge.

8. The Committee moved for default judgment based upon Licensee's failure to appear on July 24, 2020. The Motion was taken under advisement.

9. Before a recommendation on the Committee's motion for default judgment was issued, Licensee contacted the Committee's attorney and informed him that she had failed to appear due to her confusion about the date of the prehearing conference. On August 5, 2020, the Committee requested that the prehearing conference be reset.

10. Although Licensee did not serve or file a notice of appearance, she indicated to the Office of Administrative Hearings that her email address is leahparker0913@gmail.com and provided an address different from the one on file with the Board: 802 W Garfield St #63, Anoka, MN 55303.

11. By order dated August 13, 2020, the prehearing conference was reset for September 14, 2020. The Office of Administrative Hearings (OAH) served Licensee at 802 W Garfield St #63, Anoka, MN 55303. These documents were not returned to OAH as undeliverable.

12. On August 28, 2020, Licensee confirmed, via email from leahparker0913@gmail.com, that she would attend the September 14, 2020, prehearing conference.

13. Licensee attended the prehearing conference on September 14, 2020. Following the prehearing conference, the Administrative Law Judge issued a protective order and the First

Prehearing Order. OAH served these documents on Licensee at the address she provided to OAH: 802 W Garfield St #63, Anoka, MN 55303. A courtesy copy was emailed to leahparker0913@gmail.com. These documents were not returned as undeliverable.

14. On January 8, 2021, the Committee filed a motion for partial summary disposition. The Committee served Licensee at her last address on file with the Board: c/o Susan Vogel, 20980 Sycamore Street NW, Oak Grove, MN 55011. The Committee also sent a courtesy copy to leahmlaing@gmail.com. Licensee did not serve or file a response to the motion.

15. To allow for time to consider the partial motion for summary disposition, the Administrative Law Judge issued an order continuing the contested case hearing scheduled for March 8, 2021. In addition, because of the conflicting information regarding Licensee's current address, the Judge ordered Licensee to serve and file a notice of appearance with her current address by February 8, 2021. Licensee was served with the Order for Continuance by mail at 802 W Garfield St #63, Anoka, MN 55303 and by email to leahparker0913@gmail.com. These documents were not returned as undeliverable.

16. Licensee did not file a notice of appearance as ordered, and the Administrative Law Judge issued an Order Scheduling Third Prehearing Conference, setting a prehearing conference for March 1, 2021, in a final attempt to determine Licensee's current address. Licensee was served with the Order by mail to 802 Garfield St #63, Anoka, MN 55303 and by email to leahparker0913@gmail.com. These documents were not returned as undeliverable.

17. Licensee failed to appear for the prehearing conference on March 1, 2021. Because Licensee failed to appear at the prehearing conference, Licensee is in default.

18. On March 1, 2021, the Administrative Law Judge issued an Order to Show Cause to Licensee regarding her failure to appear for the prehearing conference and to comply with prior

orders in this matter. Licensee was ordered to show cause by March 17, 2021. OAH served Licensee with the Order to Show Cause by mail to 802 Garfield St #63, Anoka, MN 55303. The mailing was returned as undeliverable.

19. On April 14, 2021, Licensee emailed OAH, from leahparker0913@gmail.com. Her email reads, in its entirety as follows:

I apologize I keep putting this off. I know I need to fill out some interrogations. Could you give me 30 days to fill that out. My new address is 11827 Champlin Dr, #202, Champlin, MN 55316[.]

Licensee's email does not cure her multiple defaults and general failure to participate in her appeal.

20. 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 and deemed proven without further evidence and incorporated by reference into these Findings of Fact.

CONCLUSIONS OF LAW

The Board accepts the April 14, 2021, ALJ's report and accordingly adopts and incorporates the Conclusions of Law 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 Licensee's license to practice as a licensed dental assistant in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

3. IT IS FURTHER ORDERED that during the period of suspension Licensee shall not engage in any conduct which constitutes the practice of dental assisting as defined in Minnesota Statutes section 150A.05 subdivision 5, and shall not imply or suggest to any persons by words or conduct that Licensee is authorized to practice as a dental assistant in the State of Minnesota.

4. IT IS FURTHER ORDERED that Licensee 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 no fewer than 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 Licensee 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 assisting and has had 12 months of sobriety immediately preceding her petition. At the time of Licensee's petition, Licensee may be directed to meet with a Committee to review her response to the Findings of Fact and provide documentation of 12 months of sobriety. In petitioning for removal of the suspension, Licensee 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. Evidence of compliance with the provisions of this Order. As part of the

proof of compliance, Licensee shall submit the following in support of her petition:

1) Self-Report. Licensee shall submit to the Board a report from Licensee herself. The report shall be submitted at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

a) Licensee's sobriety, including the date Licensee last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this Order is in effect;

b) Licensee's treatment and participation in a chemical dependency rehabilitation program, including weekly attendance at a substance use support group during the 12 months preceding the petition; evidence of participation shall include, but need not

be limited to, attendance sheets on a form provided by the Board that have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

c) Licensee's physical and mental health status, treatment plan, medications, and compliance with treatment;

d) Licensee's work schedule;

e) Licensee's future plans in dentistry and the steps she has taken to prepare herself to return to practice as a licensed dental assistant; and

f) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

2) Report From Health Care Professional. Licensee shall cause to be submitted to the Board a report from any health care professional whom Licensee consults for physical health, mental health, or chemical dependency treatment while this Order is in effect. The reports shall be submitted at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

a) Verification that the health care professional has reviewed this Order;

b) Identification of diagnoses and any plans of treatment, including medications, devised for Licensee;

c) Licensee's progress with therapy and compliance with the treatment plan;

d) A statement regarding Licensee's sobriety;

e) Recommendations for additional treatment, therapy, or monitoring; and

f) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

3) Report of Prescribed Mood-Altering Chemicals. Licensee shall cause to be submitted to the Board a report from any and all physicians, dentists, and other authorized health care professionals who have prescribed mood-altering chemicals for Licensee during the period this Order is in effect. Each report is due at the time of petition and shall provide and address:

a) The name, dosage, frequency, and purpose of the mood-altering chemicals for Licensee;

b) Confirmation that the physician, dentist, or other health care professional has been informed of Licensee's chemical dependency history; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

4) Chemical Dependency Evaluation. Within sixty days prior to petitioning, Licensee shall undergo a chemical dependency evaluation performed by a licensed professional. Licensee shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Licensee is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

a) Verification the evaluator has reviewed a copy of this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

b) Diagnosis and any recommended treatment plan;

- c) Licensee's ability to handle stress;
- d) Recommendations for additional evaluation or treatment;

and

- e) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

5) Compliance With Evaluator's Recommendations. Licensee shall comply promptly with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

6) Mental Health Evaluation. Within sixty days prior to petitioning, Licensee shall undergo a mental health evaluation performed by a psychiatrist or a licensed psychologist. Licensee shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Licensee is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

- a) Verification the evaluator has reviewed a copy of this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

- b) Diagnosis and any recommended treatment plan;
- c) Licensee's ability to handle stress;
- d) Recommendations for additional evaluation or treatment;

and

- e) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

7) Compliance With Evaluator's Recommendations. Licensee shall comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

8) Additional Information. Any additional information relevant to Licensee's petition reasonably requested by the Board Practitioner Review Committee.

5. IT IS FURTHER ORDERED that Licensee shall meet all reregistration requirements in effect at the time of her petition to reinstate her licensee, 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 Licensee'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.

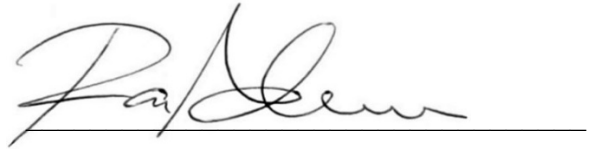
7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement pursuant to paragraph 4, above, take any of the following actions:

- a. Reinstatement Licensee's dental assisting license;
- b. Reinstatement Licensee's dental assisting license with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or

c. Continue the suspension of Licensee's license upon her failure to meet the burden of proof.

Dated: July 12, 2021

STATE OF MINNESOTA
BOARD OF DENTISTRY

A handwritten signature in black ink, appearing to read "F. Allen", is written over a horizontal line.

Presiding Board Member

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

In the Matter of L.M.L., L.D.A.,
License No. A11645

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

This matter is assigned to Administrative Law Judge Kimberly Middendorf.

Nicholas Lienesch, Assistant Attorney General, represents Practitioner Review Committee (Committee) of the Minnesota Board of Dentistry (Board). Leah M. Laing (Licensee) represents herself without legal counsel.

STATEMENT OF THE ISSUES

Is Licensee in default for her failure to appear at two prehearing conferences and her failure to comply with orders in this matter?

SUMMARY OF RECOMMENDATION

The Administrative Law Judge concludes that Licensee is in default and recommends that the allegations in the Notice and Order for Prehearing Conference and Hearing (Notice and Order for 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 July 1, 2020, an Amended Notice and Order for Hearing in this matter was mailed to Licensee at her last known address.¹ Licensee's address on file with the Board is: Leah M. Laing, L.D.A., c/o Susan Vogel, 20980 Sycamore Street NW, Oak Grove, MN 55011.² A courtesy copy was also emailed to Licensee at leahmlaing@gmail.com.³

¹ See Attachment A at Affidavit of Service dated July 1, 2020.

² *Id.*

³ *Id.*

2. The Amended Notice and Order for Hearing indicated that a prehearing conference would be held in this matter by telephone on July 24, 2020, at 9:30 a.m.⁴

3. In conformity with Minn. R. 1400.5700 (2019), the Amended 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.⁵

4. In conformity with Minn. R. 1400.6000 (2019), the Amended Notice and Order for Hearing in this matter also includes the following statement:

Your failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that you are in default. A default means that the allegations contained in this Notice of Hearing may be taken as true or deemed proved without further evidence needing to be presented. If the allegations are taken as true or deemed proved, the Committee may recommend disciplinary action, which may be imposed by the full Board.⁶

5. Licensee did not file a Notice of Appearance with the undersigned within 20 days of service of the Amended Notice and Order for Hearing.

6. No one appeared at the prehearing conference on behalf of Licensee. No request was made for a continuance, nor was any communication received by the undersigned from Licensee prior to the prehearing conference.

7. Licensee’s failure to appear at the prehearing conference was without consent of the Administrative Law Judge.

8. The Committee moved for default judgment based upon Licensee’s failure to appear on July 24, 2020. The motion was taken under advisement.⁷

9. Before a recommendation on the Committee’s motion for default judgment was issued, Licensee contacted the Committee’s attorney and informed him that she had failed to appear due to her confusion about the date of the prehearing conference. On August 5, 2020, the Committee requested that the prehearing conference be reset.⁸

10. Although Licensee did not serve or file a notice of appearance, she indicated to the Office of Administrative Hearings that her email address is

⁴ *Id.* at 1.

⁵ *Id.* at 4.

⁶ *Id.*; see also *id.* at 1.

⁷ See July 24, 2020 prehearing conference audio recording; see also Order Scheduling Second Prehearing Conference.

⁸ Letter from Nicholas Lienesch to Judge Middendorf, August 5, 2020.

leahparker0913@gmail.com and provided an address different from the one on file with the Board: 802 W Garfield St #63, Anoka, MN 55303.

11. By order dated August 13, 2020, the prehearing conference was reset for September 14, 2020.⁹ The Office of Administrative Hearings (OAH) served Licensee at 802 W Garfield St #63, Anoka, MN 55303. These documents were not returned to OAH as undeliverable.

12. On August 28, 2020, Licensee confirmed, via email from leahparker0913@gmail.com, that she would attend the September 14, 2020, prehearing conference.

13. Licensee attended the prehearing conference on September 14, 2020. Following the prehearing conference, the Administrative Law Judge issued a protective order and the First Prehearing Order. OAH served these documents on Licensee at the address she provided to OAH: 802 W Garfield St #63, Anoka, MN 55303. A courtesy copy was emailed to leahparker0913@gmail.com. These documents were not returned as undeliverable.

14. On January 8, 2021, the Committee filed a motion for partial summary disposition. The Committee served Licensee at her last address on file with the Board: c/o Susan Vogel, 20980 Sycamore Street NW, Oak Grove, MN 55011. The Committee also sent a courtesy copy to leahmlaing@gmail.com.¹⁰ Licensee did not serve or file a response to the motion.

15. To allow for time to consider the partial motion for summary disposition, the Administrative Law Judge issued an order continuing the contested case hearing scheduled for March 8, 2021. In addition, because of the conflicting information regarding Licensee's current address, the Judge ordered Licensee to serve and file a notice of appearance with her current address by February 8, 2021. Licensee was served with the Order for Continuance by mail at 802 W Garfield St #63, Anoka, MN 55303 and by email to leahparker0913@gmail.com. These documents were not returned as undeliverable.

16. Licensee did not file a notice of appearance as ordered, and the Administrative Law Judge issued an Order Scheduling Third Prehearing Conference, setting a prehearing conference for March 1, 2021, in a final attempt to determine Licensee's current address. Licensee was served with the Order by mail to 802 W Garfield St #63, Anoka, MN 55303 and by email to leahparker0913@gmail.com. These documents were not returned as undeliverable.

17. Licensee failed to appear for the prehearing conference on March 1, 2021. Because Licensee failed to appear at the prehearing conference, Licensee is in default.

⁹ Order Scheduling Second Prehearing Conference.

¹⁰ Affidavit of Service, January 8, 2021.

18. On March 1, 2021, the Administrative Law Judge issued an Order to Show Cause to Licensee regarding her failure to appear for the prehearing conference and to comply with prior orders in this matter. Licensee was ordered to show cause by March 17, 2021. OAH served Licensee with the Order to Show Cause by mail to 802 W Garfield St #63, Anoka, MN 55303. This mailing was returned as undeliverable.

19. On April 14, 2021, Licensee emailed OAH, from leahparker0913@gmail.com. Her email reads, in its entirety as follows:

I apologize I keep putting this off. I know I need to fill out some interrogations. Could you give me 30 days to fill that out. My new address is 11827 Champlin Dr, #202, Champlin, MN 55316[.]¹¹

Licensee's email does not cure her multiple defaults and general failure to participate in her appeal.

20. 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:

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 (2020).

2. The Licensee received timely and proper notice of the July 24, 2020, Prehearing Conference in this matter when the Committee sent the Notice and Order for Prehearing Conference and Hearing to the address she provided to the Board.

3. The Licensee received timely and proper notice of the Committee's Motion for Summary Disposition when the Committee served her at the address on file with the Board.

4. Licensee was served with all orders at the mailing and email addresses she provided to the Office of Administrative Hearings.

5. The Committee has complied with all relevant procedural requirements of statute and rule.

¹¹ Email from Licensee to OAH, Apr. 14, 2021 (on file at the Office of Administrative Hearings).

6. Under Minn. R. 1400.6000, the Licensee is in default as a result of her failures to appear at the scheduled prehearing conferences and to respond to the Administrative Law Judge's orders.

7. 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.

8. Minn. Stat. § 150A.08 provides that the Board may discipline a licensee who engages in conduct that violates the rules or law applicable to a licensee.

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

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

11. In light of Licensee's defaults, the Committee's motion for summary disposition is moot.

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

RECOMMENDATION

The Board should take reasonable and appropriate disciplinary action against Leah M. Laing.

Dated: April 14, 2021


KIMBERLY MIDDENDORF
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 (2020), 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 the Executive Director of the Minnesota State Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, MN 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 (2020). 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 to be imposed.

Under Minn. Stat. § 14.62, subd. 1 (2020), 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.

ATTACHMENT A

OAH No. 21-0902-36870

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

In the Matter of
Leah M. Laing, L.D.A.
License No.: A11645

**NOTICE AND ORDER FOR
PREHEARING CONFERENCE
AND HEARING**

TO: Leah M. Laing, L.D.A. ("Licensee"), 802 W. Garfield Street #63, Anoka, MN 55303.

NOTICE

1. A CONTESTED CASE HEARING REGARDING YOUR LICENSE WILL BE HELD AT A DATE AND TIME TO BE DETERMINED AT THE PREHEARING CONFERENCE SCHEDULED BELOW. The Minnesota Board of Dentistry ("Board") Practitioner Review Committee ("Committee") has initiated this contested case proceeding to determine whether it should impose discipline against your license. A contested case hearing is a trial-like proceeding that is held before an administrative law judge. The Committee's allegations against you are listed below. Do not throw these papers away. They are official papers that affect your rights. You have the right to contest the allegations and to provide evidence, testimony, and argument at the Hearing.

2. YOU MUST APPEAR FOR THE PREHEARING CONFERENCE AND THE HEARING TO PROTECT YOUR RIGHTS. The Prehearing Conference is an opportunity for you to ask any questions you may have and to schedule deadlines. The Hearing is your opportunity to tell your side of the story and to challenge the Committee's allegations. A Notice of Appearance form is enclosed with this Notice. You must sign and send the Notice of Appearance to the Office of Administrative Hearings within 20 days of the date of service of this Notice. You must also send the Notice of Appearance to the Committee's attorney.

3. YOU MAY LOSE YOUR CASE IF YOU DO NOT APPEAR FOR THE PREHEARING CONFERENCE OR THE HEARING. You are required to appear for the Prehearing Conference and the Hearing. If you do not appear, the Committee will ask the judge to find you in default. A default means that the judge could deem the allegations contained in this Notice to be true and proven, which would allow the Board to take disciplinary action against your license.

4. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. You may wish to get legal help from a lawyer. A lawyer may be able to advise you of your rights and to represent you at the Hearing. If you do not have a lawyer, the Office of Administrative Hearings may have information about places where you can get legal assistance. Helpful information is available on the Office of Administrative Hearings' website at <https://mn.gov/oah>. The website helps describe the "contested case hearing" process and

provides sample forms for your reference. **Even if you cannot get legal help, you must still appear for the Hearing or you may lose your case.**

ORDER

IT IS HEREBY ORDERED that a prehearing telephone conference will be held on **June 23, 2020 at 10:30 a.m.** To participate in the prehearing telephone conference, dial 1-888-742-5095, and enter conference code **929 609 1686#**. The Office of Administrative Hearings is located at 600 North Robert Street, St. Paul, MN 55101, telephone (651) 361-7900.

The Chief Administrative Law Judge of the Office of Administrative Hearings has assigned this matter to the Honorable Kimberly Middendorf, Administrative Law Judge. **The Administrative Law Judge may be contacted by mail at P.O. Box 64620, St. Paul, Minnesota 55164-0620, or through the Administrative Law Judge's assistant Lisa Armstrong at (651) 361-7888 or lisa.armstrong@state.mn.us.**

The purpose of the hearing is to determine whether the facts in this matter, if proven by a preponderance of the evidence, constitute a violation of the Dentistry Practice Act, entitling the Board to impose disciplinary action against Licensee's license.

The date, time, and location of the hearing will be decided by the Administrative Law Judge at the prehearing conference. The hearing will follow the contested case procedures stated in Minnesota Statutes sections 14.57 to 14.62 and in Minnesota Rules 1400.5010 to 1400.8400. Minnesota Statutes chapter 150A, and sections 214.10 and 214.103 may also apply to this proceeding. These laws are available on the internet at www.revisor.mn.gov. A copy of these materials may also be purchased from the Minnesota Book Store, telephone (651) 297-3000.

The attorney for the Committee, Nicholas Lienesch, Assistant Attorney General, may be contacted if you have any questions regarding the process or to discuss settlement options as follows:

Nicholas Lienesch, Assistant Attorney General
445 Minnesota Street, Suite 1400
St. Paul, MN 55101-2131
(651) 757-1315

ALLEGATIONS

1. On June 10, 2005, the Board licensed Licensee to practice dentistry in the State of Minnesota.
2. On or about May 3, 2019, the Health Professionals Services Program ("HPSP") received a report from a third party, alleging that Licensee "has not been herself lately." The report continued to state that Licensee had been forgetful, and her appearance had changed.
3. Licensee initially failed to enroll in the HPSP until the Board filed a contested case at the Office of Administrative Hearings on October 4, 2019.

4. On January 23, 2020, Licensee signed a Participation Agreement with HPSP.
5. On January 30, 2020, the Board dismissed the contested case.
6. On, or about, February 18, 2020, HPSP received the following information regarding Licensee:
 - a. Licensee engaged in daily use of amphetamines and marijuana until November 12, 2019, when she was admitted to treatment.
 - b. Licensee has been diagnosed with Post-Traumatic Stress Disorder ("PTSD), Generalized Anxiety Disorder, and Attention Deficit Hyperactivity Disorder.
7. Licensee was discharged from residential treatment on January 16, 2020 in order to live with her mother, but Licensee did not go live with her mother, and instead went to live alone in her own apartment.
8. Licensee used cannabidiol ("CBD") from January 18 through January 20, 2020.
9. Licensee tested positive for amphetamines on January 27, 2020.
10. Licensee has not responded to multiple HPSP attempts to contact Licensee.

ISSUES

Whether the foregoing conduct constitutes one or more of the following grounds for disciplinary action:

1. Conduct unbecoming 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 board, in violation of Minnesota Statutes section 150A.08, subdivision 1(6), as follows:
 - a. Engaging in personal conduct that brings discredit to the profession of dentistry, in violation of Minnesota Rule 3100.6200(A).
2. Any physical, mental, emotional, or other disability which adversely affects a dental assistant's ability to perform the service for which the person is licensed, in violation of Minnesota Statutes section 150A.08, subdivision 1(8).
3. Violating the terms of the health professionals services program participation agreement, in violation of Minnesota Statutes section 214.355.

ADDITIONAL NOTICE

1. Your failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that you are in default. A default means that the allegations contained in this Notice of Hearing may be taken as true or deemed proved without further evidence needing to be presented. If the allegations are taken as true or deemed proved, the Committee may recommend disciplinary action, which may be imposed by the full Board.

2. If you have good cause for requesting a delay of the prehearing conference or hearing, your 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 Committee.

3. If you intend to appear at the prehearing conference and hearing, you must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service of this Notice. A copy must be served on the Board's Committee attorney. A Notice of Appearance form is enclosed.

4. At the hearing, all parties have the right to be represented by a lawyer, by themselves, or by a person of their choice (if not prohibited as the unauthorized practice of law). The parties are entitled to ask the Administrative Law Judge to issue subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence and cross-examine witnesses, and to submit evidence and argument. Ordinarily the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the hearing should bring all evidence bearing on the case, including any records or other documents. If data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minnesota Statutes section 14.60, subdivision 2.

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing shall be made in writing to the Administrative Law Judge pursuant to Minnesota Rule 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <https://mn.gov/oah/self-help/forms-subpoenas> or by calling (651) 361-7900.

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge assign a mediator so that mediation can be scheduled promptly.

8. The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court. A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings is available at

<https://mn.gov/oah/self-help/administrative-law-overview/contested-case-hearing-guide.jsp> or by calling (651) 361-7900.

9. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the administrative law judge must be promptly notified. To arrange for an accommodation or an interpreter, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, MN 55164-0620, or call (651) 361-7900 (voice) or (651) 361-7878 (TTY).

10. You may review the laws that apply to this process on the internet by going to www.revisor.mn.gov. The laws that govern the Contested Case Proceeding are contained in Minnesota Statutes sections 14.57 to 14.62 and in Minnesota Rules 1400.5010 to 1400.8400. The laws regulating the profession of dentistry, dental therapy, dental hygiene, and dental assisting are contained in Minnesota Statutes sections 150A.01 to 150A.22. You may also find helpful information by going to the Office of Administrative Hearings' website at <https://mn.gov/oah/>. If you have any other questions, you may contact the Committee's attorney.

Dated this 15th day of May, 2020.

PRACTITIONER REVIEW COMMITTEE
OF THE BOARD OF DENTISTRY

By: 

BRIDGETT ANDERSON, LDA, MBA
Executive Director