

**BEFORE THE MINNESOTA  
BOARD OF DENTISTRY**

In the Matter of  
Maria R. Buenano, R.D.A.  
Registration No. A7239

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

The above-entitled matter came on for a prehearing conference on January 12, 2009, before Administrative Law Judge (“ALJ”) Barbara L. Neilson at the request of the Complaint Committee (“Committee”) of the Minnesota Board of Dentistry (“Board”). The matter was initiated pursuant to the Notice of and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Committee on November 7, 2008. Angelina M. Barnes, Assistant Attorney General, represented the Committee. Maria R. Buenano, R.D.A. (“Respondent”) made no appearance.

On February 4, 2009, the ALJ issued Findings of Fact, Conclusions and Recommendation (“ALJ’s report”), recommending the Board take disciplinary action against the dental registration of Respondent. (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 27, 2009, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Angelina M. Barnes, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. Respondent did not appear. Board members Nadene Bunge, D.H., Candace Mensing, D.D.S., and Freeman Rosenblum, D.D.S. did not participate in deliberations and did not vote in the matter. Tiernee Murphy, Assistant Attorney General, was present as legal advisor to the Board.

## FINDINGS OF FACT

1. The Board is authorized pursuant to Minnesota Statutes sections 150A et seq. to license, regulate, and discipline persons who apply for, petition, or hold registrations as dental assistants and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against registered dental assistants, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. The Board has reviewed the record of this proceeding and hereby accepts the February 4, 2009, 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, "Pursuant to Minn. R. 1400.6000, the allegations set forth in the Notice of and Order for Prehearing Conference and Hearing are deemed proved without further evidence, and they are hereby incorporated into these Findings by reference." The allegations contained in the Notice of Hearing are as follows:

### **Unprofessional Conduct and/or Inability to Practice with Reasonable Skill and Safety**

3. On April 7, 2005, the Board referred Respondent to the Health Professionals Services Program ("HPSP"). On April 22, 2005, the HPSP informed the Board that Respondent failed to contact HPSP by the deadline date.

4. On or about August 10, 2005, Respondent indicated that she had voluntarily entered chemical dependency treatment for 19 months and that she would like to maintain her registration and pursue practicing dental assisting. On October 28, 2005, the Committee referred Respondent to HPSP.

5. On October 31, 2005, Respondent contacted HPSP. During the intake process, Respondent admitted to being alcohol and crack cocaine dependent for the past 20 years, noted an unfavorable discharge from her previous chemical dependency treatment in March 2005, and

disclosed that in 2001 she was diagnosed with depression and social anxiety for which she receives treatment from a psychiatrist.

6. On December 5, 2005, Respondent signed a Participation Agreement and Monitoring Plan with the HPSP for monitoring of her psychiatric and substance disorder. She subsequently reported a relapse and entered an inpatient treatment program from which she was discharged on March 13, 2006. Following her discharge, Respondent entered an outpatient treatment program, resided at a recovery center, and continued routine toxicology screens.

7. On February 27, 2007, HPSP directed Respondent to begin toxicology screens. The HPSP sent Respondent a letter instructing her to complete and return certain forms by May 11, 2007, which were required to participate in the HPSP toxicology screens. Respondent failed to respond to the HPSP.

8. On May 24, 2007, Respondent was discharged from the HPSP due to non-compliance.

9. On January 14, 2008, the Committee referred Respondent to the HPSP a third time. The Committee's certified letter was returned by mail to the Board office due to being unclaimed by Respondent. On February 7, 2008, the Committee re-sent the HPSP referral letter by regular mail. Respondent failed to contact the HPSP by the deadline date.

10. The Board and/or Committee has referred Respondent to the HPSP three times. On each occasion, Respondent has been either non-compliant, or failed to contact the HPSP by the deadline date.

**Failure to Cooperate**

11. On January 16, 2008, the Board sent Respondent a certified letter requesting that she submit to the Board documentation of her professional development portfolio for the cycle

period July 1, 2004 to February 28, 2007. The Board's certified letter was delivered to Respondent and the Board received a signed receipt. Respondent has failed to respond or cooperate with the Board's request to audit her professional development portfolio.

12. On October 24, 2008, based upon the information received from the HPSP and Respondent's failure to cooperate with the Board, the Committee scheduled a disciplinary conference with Respondent. Respondent failed to contact the Committee or to attend the October 24, 2008 disciplinary conference.

#### **Conviction of an Offense Involving Moral Turpitude**

13. On August 27, 2008, Respondent pleaded guilty to Prostitution-- Soliciting/Accepting Solicitation to Engage for Hire in a Public Place, pursuant to Minn. Stat. section 609.324, subd. 2.

#### **CONCLUSIONS**

The Board accepts the February 4, 2009, 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 the dental registration of Respondent to practice dental assisting in the State of Minnesota is indefinitely **SUSPENDED** immediately.

2. IT IS FURTHER ORDERED that Respondent shall not engage in any conduct which constitutes the practice of dental assisting as defined in Minnesota Statutes section 150A.10, subd. 2. and Minnesota Rules part 3100.8500, and shall not imply to any

persons by words or conduct that Respondent is authorized to practice dental assisting in the State of Minnesota.

3. IT IS FURTHER ORDERED that Respondent surrender to the Board her original registration and current renewal certificate. Respondent shall deliver them personally or by first-class mail to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, Minnesota Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her registration at such time as she is willing to respond to the Findings of Fact set forth above and no earlier than one year from the date of this Order. Respondent's registration may be reissued, 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 assisting. At the time of Respondent's petition, Respondent must meet with a 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 contained in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order.
- c. Any additional information relevant to Respondent's petition reasonably requested by the Complaint Committee.

5. IT IS FURTHER ORDERED that if Respondent petitions to have the suspended status removed from her registration two (2) years or more after the date of this Order,

Respondent shall be required to attain a passing score on a Board approved registration examination. Respondent's compliance with this requirement shall not create a presumption that she should be granted a registration to practice dental assisting in the State of Minnesota.

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

- a. Reissue to Respondent her registration to practice dental assisting.
- b. Reissue a registration to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Deny Respondent's petition for registration based upon her failure to meet the burden of proof.

7. IT IS FURTHER ORDERED that Respondent shall meet all re-registration 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 professional development requirements.

8. 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 148.261, subdivision 1(18), and provide grounds for further disciplinary action.

Dated: April 3, 2009

MINNESOTA BOARD  
OF DENTISTRY

  
KRISTIN HEEBNER, J.D.  
Secretary of the Board