

MINUTES

INDIANA STATE BOARD OF DENTISTRY

AUGUST 3, 2007

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Burns called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Jill Burns, D.D.S., President
Lavene Robison Whitmore, L.D.H., B.S., Vice President
Galen Williams, D.D.S., Secretary
Clance LaTurner, Consumer Member
Harvey Weingarten, D.D.S.
Matthew Miller, D.D.S.
Richard Newton, II, D.D.S.

Board Members Absent:

Dale Sorenson, D.D.S.
Roger Murphy, D.D.S.

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Liz Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda, as amended.

WEINGARTEN/WHITMORE
Motion carried 7-0-0

III. ADOPTION OF THE MINUTES FROM THE JUNE 1, 2007 AND JULY 13, 2007 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes with corrections of the June 1, 2007 meeting of the Board.

WILLIAMS/LaTURNER
Motion carried 7-0-0

A motion was made and seconded to adopt the minutes with corrections of the July 13, 2007 meeting of the Board.

WILLIAMS/LaTURNER
Motion carried 7-0-0

IV. INSPECT PROGRAM

A. INSPECT Presentation

Todd Kinney, Director of the INSPECT program, gave a presentation to the Board to explain the purpose and functions of the program. INSPECT is a prescription drug monitoring program that tracks controlled substances schedules II-V. Those who can register to have access include licensing boards, law enforcement, Attorney General's Office, and licensed practitioners. The program is funded by the Harold Rogers grant and some money comes from the controlled substance registration renewals. Currently 35 states have some type of prescription monitoring program. Practitioners were given access to this program as of July 1, 2007 and are able to check prescriptions of their patients. There are several purposes but one of the most vital is to identify those patients who are drug seekers and doctor shoppers. A practitioner will also be able to track their prescribing practices. There is a training module available on the website www.in.gov/INSPECT. Future plans for the program include interstate sharing, data/trend diversion in Indiana, and continued efforts to improve compliance and quality assurance issues.

V. APPEARANCES

A. PROBATIONARY

- 1. State of Indiana v. Teresa Michelle McCrady, D.D.S.
License No. 12010271A
Administrative Cause No. 2006 DB 0003**

Dr. McCrady appeared before the Board, as requested, regarding her ongoing probationary status. She advised the Board that she is not currently taking any medications but will alert the Board when she begins taking Chantix to help her quit smoking. All of her reports are in and she is in compliance with her probationary order.

B. APPLICATION

There were no scheduled appearances for applications.

C. RENEWAL

There were no scheduled appearances for renewals.

VI. ADMINISTRATIVE HEARINGS

- A. State of Indiana v. Daniel J. Fink, License No. 12007602A
Administrative Cause No. 2006 DB 0006
Re: Amended Complaint**

Parties and Counsel Present:

Respondent was present and was represented by Counsel Terry White.
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:

Dr. Burns (Hearing Officer)

1900-1901

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Ms. Whitmore, L.D.H., B.S.
Ms. LaTurner
Dr. Weingarten
Dr. Williams
Dr. Newton
Dr. Miller

Case Summary: Mark Mader advised the Board that they have been in settlement discussions and both parties have resolved the factual issues of the case. He stated what has not been resolved are the conditions by which the Board would feel comfortable in order to allow the Respondent to practice again. The State explained there are programs the Respondent could enter that may satisfy the Boards concerns. The State and the Respondent have agreed to an extension of the Emergency Suspension for an additional ninety (90) days.

Board Action: A motion was made and seconded to accept the proposed Agreement of an extension of the Emergency Suspension for an additional ninety (90) days.

MILLER/NEWTON
Motion carried 6-0-1
Dr. Williams abstained

B. State of Indiana v. Stephen Leroy Ballard, License No. 12008641A
Administrative Cause No. 2006 DB 0004
Re: Order to Show Cause

Parties and Counsel Present:
Respondent was not present and was not represented by counsel
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:
Dr. Burns (Hearing Officer)
Ms. Whitmore, L.D.H., B.S.
Dr. Weingarten
Ms. LaTurner
Dr. Williams
Dr. Newton
Dr. Miller

Case Summary: Respondent failed to appear in person and was not represented by counsel. Since Respondent has failed to appear in person or by counsel the State requested that a Notice of Proposed Default be issued at this time.

Board Action: A motion was made and seconded to issue the Notice of Proposed Default.

WILLIAMS/NEWTON
Motion carried 7-0-0

On November 13, 2006, the Board accepted an Agreement between Respondent and the State under which the Respondent admitted to consuming alcohol while

at work and, following completion of an in-patient substance abuse treatment program, agreed to a sixty (60) month contract with the Indiana Dental Association Council on Well Being ("IDA Well-Being Program") and a twenty-four (24) month Caduceus Aftercare Agreement with Rush Behavioral Health.

Based on the Agreement between the Respondent and the State, the Board issued its final order on November 13, 2006, placing Respondent on indefinite probation for not less than three (3) years, subject to certain terms and conditions, including the condition that he comply with all terms of the sixty (60) month contract with the IDA Well-Being Program that he signed on October 23, 2006.

The Board received a letter from the IDA Well-Being Program on June 18, 2007, advising that the Respondent had withdrawn from the well-being program on June 13, 2007.

At the July 13, 2007 meeting, the Board issued an Order to Show Cause to appear on August 3, 2007 to show cause why his license should be suspended or other action taken.

On August 2, 2007 the Respondent wrote a letter to the Board explaining that he will be unable to attend this meeting. He stated he officially retired from practice on May 31, 2007 and saw no reason to continue in the Indiana Well-being program. He noted that he understood as a result of this the Board will have to take his license and that he will comply with that order. He further asked that no fine be levied against him and to keep the process as simple as possible as he has a difficult monetary situation. The Board also finds that the intent of the letter submitted to the Board by the Respondent is unclear. Although the Respondent may have stated to Dr. Sorenson that he wanted to surrender his license to practice dentistry, the letter to the Board does not state such intent and says only that Respondent realizes the Board will have no choice but to take his license. For this reason, the Board took no action on surrender of the Respondent's license.

If the Respondent wants to petition the Board for surrender of his license he should submit a specific written request to that affect. The Respondent is advised that the Board has discretion whether or not to accept surrender of a license and may impose conditions on acceptance of a license surrender.

The State requested that the Board issue an emergency suspension at this time pending the receipt of further information from the Respondent.

Board Action: A motion was made and seconded to issue an Emergency Suspension for a period of ninety (90) days and to notify Respondent what is required if he wishes the Board to consider surrender of his license.

WILLIAMS/MILLER
Motion carried 7-0-0

VII. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Board.

VIII. NOTICE OF PROPOSED DEFAULT

The first part of the document is a list of names and addresses of the members of the committee. The names are listed in alphabetical order and include the following: [Illegible names and addresses]

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A. State of Indiana v. John Penrod Eades, D.M.D., License No. 12010420A
Administrative Cause No. 2005 DB 0004
Re: Notice of Proposed Default

Parties and Counsel Present:

Respondent was not present and was not represented by counsel.
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:

Dr. Burns, (Hearing Officer)
Ms. Whitmore, L.D.H., B.S.
Ms. LaTurner
Dr. Weingarten
Dr. Williams
Dr. Newton
Dr. Miller

Case Summary: Respondent failed to respond to the Notice of Proposed Default and did not appear in person or by counsel. At this time the State requested the Board to find the Respondent in default.

Board Action: A motion was made and seconded to find the Respondent in default.

NEWTON/WILLIAMS
Motion carried 7-0-0

At this time the State asked the Board to take judicial notice of its file in this matter. The State reviewed the counts I, II, III, and IV and advised those four (4) counts constitute the complaint and asked the Board to find those conclusions to be true. The State asked the Board to issue an Order in conformity with these Findings of Fact and Conclusions of law. The Board discussed each count and their options for discipline.

Board Action: A motion was made and seconded to find Count I as factual.

MILLER/WILLIAMS
Motion carried 7-0-0

Board Action: A motion was made and seconded to find Count II as factual.

WILLIAMS/NEWTON
Motion carried 7-0-0

Board Action: A motion was made and seconded to find Count III as factual.

WEINGARTEN/WILLIAMS
Motion carried 7-0-0

Board Action: A motion was made and seconded to find Count IV as factual.

WEINGARTEN/WILLIAMS
Motion carried 7-0-0

Board Action: A final motion was made and seconded to revoke Respondent's license and impose a one thousand dollar (\$1,000.00) fine for each count.

WEINGARTEN/WILLIAMS
Motion carried 7-0-0

IX. OLD/NEW BUSINESS

There was no old/new business

X. DISCUSSION

A. Rita M. Sommers, Executive Director
North Dakota State Board of Dental Examiners
Re: Regional Board Exam Acceptance

The Board took notice of a letter advising that as of June 1, 2007 the North Dakota State Board of Dental Examiners voted to accept the ADEX examination format which includes the NERB and CRDTS examinations.

B. Computer Testing Service

Although Dr. Sorenson was not present at this meeting he had researched the Board using Pearson Examination Service to administer the law examination to applicants. He submitted information to the Board explaining the approximate cost per candidate will be \$50-\$60. Dr. Weingarten mentioned looking into Sylvan since they are a multi-state company. Ms. Vaught told the Board if they did choose to give the law examination through a professional examination company then we would no longer offer the examination through the Professional Licensing Agency. All candidates would be required to take it through the testing service. The Professional Licensing Agency may be required to place this matter out for bids to other testing agencies to determine which testing company would be selected as our testing service.

C. Oral Conscious Sedation

Dr. Weingarten discussed an article on oral conscious sedation. It is not regulated in Indiana but the ADA is recommending anesthesia guidelines.

D. Ms. Brown explained to the Board that Dr. Michael Bajza has filed a petition for judicial review in Lake County. The court issued a temporary stay of the Board's discipline which means the revocation of his license has been stayed and that he may practice dentistry at this time. Another hearing will be held to determine whether the stay will continue until the petition for judicial review is completed or to lift the stay. The court will review the material from the hearing held before the Board and determine if the Board's decision to revoke Dr. Bajza's license is supported by the evidence. The court will either affirm the Board's decision or remand it back to the Board for further proceedings.

E. The Indiana Dental Association will have a journal prepared for review by the Board regarding the ethics and jurisprudence requirement.

F. License Renewal Information from 2006

Ms. Vaught presented the Board with statistics that were requested by Dr. Burns regarding dental and dental hygiene renewals. 10,207 renewals were submitted prior to the expiration date of March 1, 2006. 937 renewals were submitted after the March 1, 2006 expiration date and of those 222 had out-of-state addresses.

- G. The Board was advised that an investigator from the Cosmetology Board will investigate the advertisement from Mirror Image Laser Clinic. Dr. Sorenson was concerned as to whether an esthetician may be practicing dentistry without a license.
- H. Ms. Vaught asked the Board about Chris Kirkup. She has been receiving reports on him from the Wellness Program but he is not on probation so she was not sure why she was getting reports.
- I. The Board took notice of the AADE guidelines for State Dental Boards on professional conduct involving sexual boundaries violations.
- J. Ms. Vaught asked for a volunteer to complete a survey that was sent by the ADA. Ms. Whitmore offered to complete the survey.
- K. Ms. Whitmore discussed the idea of having an Indiana Dental Board newsletter. Ms. Vaught state that this could be done in the future and it could be posted on the website.
- L. The Board discussed dental intern permits and clarified the documents that are required for issuance. The applicant must be a graduate of an approved program and present the following documentation completed application, fee, photo, CPR card, transcripts, notarized copy of a diploma, and national board scores.

XI. APPLICATION REVIEW

A. Endorsement

- 1. Bland P. Walker, D.D.S.

The Board reviewed the application file of Dr. Walker. Dr. Walker is a 1986 graduate from the University of Tennessee. He has taken and passed the National Boards and Southern Region Testing Agency Examination (SRTA). Dr. Walker is currently licensed in the state of Mississippi. He responded positive to question #3 regarding treatment for a drug or alcohol abuse problem. Dr. Walker is currently under a contract with the Mississippi Professionals Health Program. After review, the Board requested that Dr. Walker appear at the September 7, 2007 meeting for further consideration of his application for dental licensure.

B. Examination

- 1. Lora Schlosser, L.D.H.

The Board reviewed the application file of Ms. Schlosser. Ms. Schlosser is a 2007 graduate of Rhodes State College. She has taken and passed the National Board and North East Regional Board of Regional Dental Examiners (NERB). Information was submitted from Denise Bowers, RDH, MEd., Chair and Associate Professor, Dental Hygiene, Rhodes State Colleges, regarding ethics violations that may have occurred during the regional examination. After review, the Board requested that Ms. Schlosser appear at the September 7, 2007 meeting for further consideration of her application for dental hygiene.

C. Anesthesia and Sedation Permits

There were no anesthesia and sedation permits to review.

D. Dental Intern Permit

There were no dental intern permits to review.

E. Professional Corporations

There were no professional corporation applications to review.

XII. PROBATIONARY REPORT

1. **Penelope Lynn Dunlap, D.D.S.** probationary file was reviewed. Dr. Dunlap submitted her monitoring reports from Dr. Joseph Hake. Dr. Dunlap is in compliance with her probationary order.
2. **James W. Cahillane, D.D.S.** probationary file was reviewed. Dr. Cahillane submitted his monthly report from the IDA Wellness Program. His next appearance before the Board is scheduled for November 2, 2007. Dr. Cahillane is in compliance with his probationary order.
3. **Jim D. Frankos, D.D.S.** probationary file was reviewed. Dr. Frankos submitted his monthly report from the IDA Wellness Program. His next appearance before the Board is scheduled for April 2008. Dr. Frankos is in compliance with his probationary order. Dr. Frankos may request to have his probationary status changed at that time.
4. **Christopher Leonard, D.D.S.** probationary file was reviewed. Dr. Leonard submitted his monthly report from the IDA Wellness Program. At his appearance on July 13, 2007 Dr. Leonard was told to have his doctor submit what medications that he has been prescribed and to have his worksite monitor report current. As of this date those reports have not been received. Dr. Leonard next appearance before the Board is scheduled for October 5, 2007.

XII. CONTINUING EDUCATION

A. Avon Oral & Maxillofacial Surgery

The Board granted approval for Avon Oral & Maxillofacial Surgery to be a sponsor of continuing education until March 2, 2008.

B. Harris Periodontics and Implant Dentistry

The Board granted approval for Harris Periodontics to be a sponsor of continuing education until March 2, 2008.

C. American Educational Institute

The Board reviewed an application submitted by the American Educational Institute to be a sponsor of continuing education. The Board noted that AEI program advertising claims to fulfill state requirements but the Board saw no evidence that they meet the 2 hour ethics and Indiana jurisprudence requirement. Their program was not accepted at this time but it can be re-reviewed if AEI sends in additional information about how they will address this in their advertising.

D. Mark A. Saxen, D.D.S., PhD

The Board granted approval for Mark A. Saxen, D.D.S. to be an approved sponsor of continuing education until March 2, 2008.

XIII. REPORTS

CONFIDENTIAL - SECURITY INFORMATION

A. CONTROLLED SUBSTANCE ADVISORY COMMITTEE (CSAC)

Dr. Miller attended the July meeting of CSAC but did not have anything to report regarding dentist before the Committee.

XIV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana State Board of Dentistry adjourned at 12:30 p.m.

Jill M Burns DDS
Jill Burns, D.D.S., President

11-2-07
Date

Gaylen Williams
Gaylen Williams, D.D.S., Secretary

11/2/07
Date