

MINUTES
STATE BOARD OF DENTISTRY
OCTOBER 2, 2020

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Mara Catey-Williams called the meeting to order at 8:05 a.m. through virtual video and audio conferencing. Dr. Mara Catey-Williams declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Mara Catey-Williams, D.M.D., President
Richard R. Nowakowski, D.D.S., Vice President
Gregory A. Berger, D.D.S. (present at 8:10 a.m.)
Jeffrey L. Snoddy, D.D.S.
Annette J. Williamson, D.D.S.
Jennifer K. Bartek, L.D.H., M.S., C.D.A.
R. Daron Sheline, D.D.S.
Ted M. Reese, D.D.S., Secretary/Designee
Mark R. Stetzel, D.D.S.
Robert D. Findley, D.D.S.

Board Members Not Present:

Gregory A. Berger, D.D.S. (not present at 8:05 a.m.)
Consumer Member, Vacant

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Dana Brooks, Assistant Board Director, Professional Licensing Agency
Felicia Wise, Litigation Specialist, Professional Licensing Agency
Claire Dyer, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA

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

BARTEK/WILLIAMSON
Motion carried 9-0-0

III. ADOPTION OF THE MINUTES:

A motion was made to adopt the June 5, 2020 meeting minutes as amended.

REESE/NOWAKOWSKI
Motion carried 10-0-0

A motion was made to adopt the August 7, 2020 meeting minutes as amended.

FINDLEY/NOWAKOWSKI
Motion carried 10-0-0

IV. ADMINISTRATIVE HEARINGS

8:21 a.m.

A. Chanbo Sim, D.D.S., License No. 12009372A

Administrative Cause No.2020 ISBD 0007
Re: Administrative Complaint

The hearing in the matter of Dr. Sim has been continued.

B. Ghiath A. Halwani, D.D.S., License No. 12010049A

Administrative Cause No. 2020 ISBD 0008
Re: Administrative Complaint

The hearing in the matter of Dr. Halwani has been continued.

C. William J. Downie, D.D.S., License No. 12011611A

Administrative Cause No. 2020 ISBD 0002
Re: Administrative Complaint and Summary Suspension Extension

Parties Present:

Respondent was not present
Alyssa Servies, Deputy Attorney General for the State of Indiana
Lindy Meyer, Court Reporter, Accurate Reporting

Participating Board Members:

Dr. Catey-Williams, DMD (Hearing Officer)
Dr. Nowakowski, DDS
Dr. Sheline, DDS
Dr. Williamson, DDS
Dr. Findley, DDS
Dr. Reese, DDS
Dr. Berger, DDS
Dr. Snoddy, DDS
Ms. Bartek, MS, CDA, LDH

Not Participating Board Members:

Dr. Stetzel, DDS

Case Summary: On or about September 17, 2020 an Administrative Complaint was filed against Dr. Downie. The hearing in the matter of the administrative complaint has been continued. Let the record reflect the Dr. Stetzel recused himself. Dr. Downie is currently attending an inpatient treatment which began on August 8, 2020 and is expected to be completed by November 6, 2020. Both the State and Dr. Downie filed a Voluntary Summary Suspension Agreement on December 2, 2020. The Agreement would extend the summary suspension until the Board's next scheduled meeting on December 4, 2020. At this time the State recommends that the Board extend the summary suspension for an additional sixty (60) days with the hearing scheduled for December 4, 2020.

Board Action: A motion was made and seconded to continue the summary suspension an additional sixty (60) days in the matter of Dr Downie.

REESE/NOWAKOWSKI

Motion carried 9-0-0

D. David Lapsey, D.M.D., License No. 12009301A

Administrative Cause No. 2018 ISBD 0005

Re: Petition To Convert License Status to Inactive and Petition to Withdraw Probation

Parties Present:

Respondent was present with Counsel Josh Timmons

Erika Steuerwald, Deputy Attorney General for the State of Indiana

Lindy Meyer, Court Reporter, Accurate Reporting

Participating Board Members:

Dr. Catey-Williams, DMD (Hearing Officer)

Dr. Stetzel, DDS

Dr. Nowakowski, DDS

Dr. Sheline, DDS

Dr. Williamson, DDS

Dr. Findley, DDS

Dr. Reese, DDS

Dr. Berger, DDS

Dr. Snoddy, DDS

Ms. Bartek, MS, CDA, LDH

Case Summary: On or about November 1, 2018 the Board filed a Final Order Accepting Proposed Findings of Fact, Conclusions of Law and Order. A Petition to Convert License Status and a Petition to Withdraw Probation was filed on September 18, 2020. The probation terms Dr. Lapsey was required to complete were the following:

- Dr. Lapsey must maintain complete, continuous compliance with his pretrial diversion agreement. Dr. Lapsey was required to notify the Board in writing of any noncompliance withing ten (10) days of the noncompliance.
- Dr. Lapsey was required to complete, continuous compliance with his Indiana Dental Association Well Being Program contract. He was to notify the Board in writing of any noncompliance withing ten (10) days of noncompliance.
- Dr. Lapsey was required to keep the Board apprised of his current personal contact information and current employment contact information.
- Dr. Lapsey was required to have his dental employer to submit quarterly reports to the Board indicating his professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others. Should Dr. Lapsey be unemployed as a dentist, or self-employed he was required to submit quarterly reports to the Board on his personal circumstances.
- Dr. Lapsey was required to make annual appearances before the Board to discuss updates on his status.
- Dr. Lapsey was required to provide a copy of the Final Order in this matter to his dental employer and cause them to return a signed copy to the Board within ten (10) days of his employment.
- Prior to the withdrawal of his Probation status, Dr. Lapsey shall pay a fee in the amount of Five Dollars (\$5.00) to be deposited in the Health Records and Personal Identifying Information

Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:

Office of the Indiana Attorney General
ATTN: Teresa Henson
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

Mr. Timmons informed the Board that Dr. Lapsey has completed all probation terms as set by the Board. Dr. Lapsey has decided to retire from the practice of dentistry and has a buyer in line for his dental practice. He would like to withdraw from the Well Being Program. The State had no objections to the request for the withdrawal of the Well Being Program, provided that Dr. Lapsey submits proof that his contract was completed. Mr. Timmons submitted Exhibits A-H with no objections from the State. Exhibit A is a copy of the Pretrial Agreement which shows that the Court determined his case is dismissed. Dr. Lapsey stated that during the time of his summary suspension he did not have patients or work in the field of Dentistry. He informed the Board that he entered into the Well Being Program prior to the Probation of his license and has been in the program for two (2) years. He has not had any alcohol or drugs during that time. Exhibit B was submitted which was a letter from Candace Backer. Ms. Backer is from the Indiana Well Being Program and stated in the letter that Dr. Lapsey has entered into a five-year Continuing Care Contract which started on May 10, 2018. The letter indicated that Dr. Lapsey has completed specialized treatment for his chemical dependency for health care professionals and is also in full compliance with his recovery contract. Dr. Lapsey confirmed he attends group therapy sessions; however, those meetings are restricted due to COVID. He informed the Board that he also uses a calming app which was sponsored by the Well Being Program. He sees his sponsor two (2) times a month and has for the past two years. He has known his sponsor for over thirty (30) years. Dr. Lapsey stated that he sees a therapist two (2) times a month as well and has intentions to continue therapy. He is mindful now of his associates and tries to keep good influences and people around him. During his retirement period he has obtained a rental property and a farm. Exhibits C and D are the quarterly reports sent to the Board, and Dr. Lapsey stated that he appeared before the Board at the February meeting. Exhibit E is a copy of the confirmed money order showing he has paid the fines. Dr. Lapsey stated that he had practiced discount dentistry for those who needed the service. He also volunteered to work at the 4H fair and kids' sports teams and is a firm believer of community service. Dr. Lapsey stated that he has been in practice for thirty (30) years and with his ongoing medical issues found that it was the time to move on from dentistry. He made the decision to retire one (1) year ago. His current practice is currently in the process of being sold to Todd Hadley. Exhibit G was submitted which is a copy of the notice from Mr. Hadley with the intention to purchase the practice. The State asked for clarification if Dr. Lapsey has had any additional criminal charges, and Dr. Lapsey stated that he has had no additional charges. Candace Backer appeared as witness for Dr. Lapsey. She has been the Well Being Coordinator for twenty-five (25) years and is familiar with Dr. Lapsey since 2018. Ms. Backer stated that she agreed with the initial diagnosis for Dr. Lapsey and that he has signed a five (5) year contract of which he has completed two (2) years. He is in currently in full compliance of the program. Ms. Backer stated that if Dr. Lapsey would like to withdraw from the Program, it will up to the discretion of the Board to accept that he has met the terms of his Probation in regards to the completion of the Well Being Program. Ms. Backer stated that the Well Being program does operate under Indiana Statute. Should he withdraw from his contract she is obligated to report the withdrawal as she must report any noncompliance. The Board asked Dr. Lapsey for more clarification on his reasons for drinking. Dr. Lapsey stated that the main reason was due to a bad divorce, rather than his medical issues. Dr. Lapsey also informed the Board that if the purchase of his practice falls through, he would still not return to practice. His intention should that case occur, he would hire another dentist to run the practice. Mr. Timmons concluded for Dr. Lapsey that he has a legacy he would like to protect, and he has shown to meet all terms as set by the Board. Mr. Timmons stated that Dr. Lapsey has presented improvements and changes with his life and practice. The State concluded that Dr. Lapsey has shown

to meet the burden of proof for his probation withdraw. There is only one item outstanding which is the completion of the five (5) year Well Being Program. Dr. Lapsey has only completed two (2) years of the program; however, the State has no objections to the withdrawal of the probation since Dr. Lapsey is retiring from practice.

Board Action: A motion was made and seconded to grant Dr. Lapsey's Petition to Withdrawal Probation and allow him to withdraw from the Well Being Program and place his dental license in inactive status.

NOWAKOWSKI/FINDLEY
Motion carried 10-0-0

V. SETTLEMENT AGREEMENTS

A. Nissa McConnell, D.D.S., License No. 12011723A

Administrative Cause No. 2018 ISBD 0004

Re: Revised Settlement Agreement

Parties Present:

Respondent was present with Counsel Teresa Pruit
Paul Schnilly, Deputy Attorney General for the State of Indiana
Lindy Meyer, Court Reporter, Accurate Reporting

Participating Board Members:

Dr. Catey-Williams, DMD (Hearing Officer)
Dr. Stetzel, DDS
Dr. Nowakowski, DDS
Dr. Sheline, DDS
Dr. Williamson, DDS
Dr. Findley, DDS
Dr. Reese, DDS
Dr. Berger, DDS
Dr. Snoddy, DDS
Ms. Bartek, MS, CDA, LDH

Case Summary: On or about February 19, 2018 an Administrative Complaint was filed against Dr. McConnell. Since that time a Revised Settlement Agreement was filed on August 31, 2020 for consideration by the Board. The Administrative Complaint was investigated by the State to ensure Dr. McConnell provided proper care for her patients. The investigation included patient charts, treatment records, diagnostic images, and billing data. Dr. McConnell cooperated with the investigation and provided information on her numerous major health issues which prohibit her from working full time. Due to COVID-19 and the risk of her health, Dr. McConnell has not seen any patients. Dr. McConnell is not currently in active practice and will accept settlement since the probation terms will be difficult to complete, and she would not like to be placed on suspension. The State concluded that they have found the Settlement to be reasonable. Should Dr. McConnell want to come back to active practice, she will have to appear and present her case in order to become active again. The State moved for the Board to accept the Proposed Settlement Agreement.

Board Action: A motion was made and seconded to accept the Proposed Settlement Agreement in the matter of Dr. McConnell. The terms of the Agreement are as follows:

- Dr. McConnell agrees that she must be familiar with and comply with all billing rules and regulations of any insurance program she accepts payments from, including the Indiana Medicaid program.
- Dr. McConnell's dental license shall be placed on INDEFINATE SUSPENSION for at least one (1) year. Dr. McConnell may apply to withdraw suspension status from her license once she has completed the following terms:
 - Within one hundred twenty (120) days of the date of the Board's Order, Dr. McConnell shall submit proof of completion of a total of twelve (12) continuing education hours, six (6) hours each, in 1) Medicaid billing and 2) child restraint/behavioral interventions. At least six (6) hours of the continuing education courses shall be pre-approved by the Board in advance of Dr. McConnell taking the course. These hours are in addition to those necessary for licensure renewal.
 - Provide a written explanation to the Board of why she believes she is able to return to the competent practice of dentistry.
 - Dr. McConnell understands that she will have to request, in writing, that the Board reinstate her license. Respondent will then have to make a personal appearance before the Board and demonstrate that she is able to practice. At that time the Board may place probationary terms or other restrictions on her practice.
 - Within thirty (30) days from the date of the Board's Order, Dr. McConnell shall pay a fee of five dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:
 - Office of the Indiana Attorney General
 - ATTN: Kathryn Shively
 - 302 West Washington Street, 5th Floor
 - Indianapolis, IN 46204
- Dr. McConnell has carefully read and examined the Proposed Agreement and fully understands that any noncompliance with the statute or regulations regarding the practice of dentistry, or any violation of the Agreement, may result in Dr. McConnell requesting an emergency suspension of her license, an Order to Show Cause may be issued by the Board, or a new cause of action pursuant to Ind. Code 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of Dr. McConnell's license.
- Both parties agree to the continuing jurisdiction of the Board and that the discipline agreed to, terms of discipline, and licensure status will apply even if the Board renews Dr. McConnell's license at a later date.

REESE/NOWAKOWSKI
 Motion carried 10-0-0

VI. NOTICE OF PROPOSED DEFAULT

- A. Christie Lant, D.D.S., License No. 12010692A**
 Administrative Cause No. 2020 ISBD 0004
 Re: Notice of Proposed Default

Parties Present:

Respondent not present

Alyssa Servies, Deputy Attorney General for the State of Indiana

Lindy Meyer, Court Reporter, Accurate Reporting

Participating Board Members:

Dr. Catey-Williams, DMD (Hearing Officer)
Dr. Stetzel, DDS
Dr. Nowakowski, DDS
Dr. Sheline, DDS
Dr. Williamson, DDS
Dr. Findley, DDS
Dr. Reese, DDS
Dr. Berger, DDS
Dr. Snoddy, DDS
Ms. Bartek, MS, CDA, LDH

Case Summary: On or about June 5, 2020 Dr. Lant appeared before the Board as requested to discuss her yes response on her license renewal. Dr. Lant explained that she had a DUI incident and upon deliberation from the Board, Dr. Lant was placed upon Probation with terms to sign up for the Well Being Program, desist practicing dentistry until authorized by the Board after an appearance, and make regular appearances before the Board so they may be kept informed of her progress. Ms. Candace Backer of the Well Being Program attested that Dr. Lant signed a contract with the Well Being Program on February 20, 2020. Ms. Backer stated that Dr. Lant was unable to pass the initial neurological assessment at the Well Being Program, or the follow up assessment that occurred in June. Dr. Lant also did test positive for alcohol during a screening in June. The Well Being Program was last in contact with Dr. Lant in July, whereupon Dr. Lant expressed intention to withdraw from the Program. Dr. Lant also conveyed to the Program that she had no intention to return to dentistry if she could not pass the assessment. Dr. Lant was diagnosed with bipolar disorder, alcohol abuse disorder, and anxiety disorder. Dr. Lant was scheduled for an Order to Show Cause hearing on August 6, 2020; however, she emailed IPLA to inform the Board she would not be appearing. Due to her failure to appear at that hearing a Notice of Proposed Default was issued on that date. Dr. Lant sent an emailed stating her intention to relinquish her license citing financial and mental difficulties. The State advised that there should be further discipline on Dr. Lant's license since she has not complied with the Well Being Program or the terms set forth by the Board; however, the State will leave it up to the Board for the final decision.

Board Action: A motion was made and seconded to place Dr. Lant on indefinite suspension for not less than two years and shall not petition for reinstatement until she is medically cleared for practice through a fitness for duty evaluation performed by the IDA Well Being Program and she has shown an appropriate record of sobriety through the IDA Well Being Program or an agency approved by the Board.

SHELINE/SNODDY
Motion carried 10-0-0

VII. PERSONAL APEARANCES

11:00 a.m.

A. PROBATION

There were no Probation appearances scheduled today.

B. RENEWALS

There were no renewal appearances scheduled today.

C. REINSTATMENT

1. Denise Doran, L.D.H., License No. 13003959A

Ms. Doran could not appear as requested due to a family emergency. Ms. Doran did submit continuing education certificates and a statement for the Board to review. The Board found most of the CE Ms. Doran completed would be accepted; however, they wanted to see more training on record keeping and hand skills. The Board found that if she completed six (6) additional hours of CE in hand skills, and two (2) hours in record keeping they would feel better of approving her reinstatement. The Board expressed interest in reviewing potential CE courses with Ms. Doran before she signed up for them to ensure she was getting the training they were looking for, especially since live CE at this present time is difficult to obtain. The Board wished she had been able to appear so they could discuss continuing education programs.

Board Action: A motion was made and seconded to deny Ms. Doran's reinstatement for failure to appear as requested in order for her to explain the extent of her practice since the expiration of her license in 2014 and continuing education that was completed.

CATEY-WILLIAMS/FINDLEY
Motion carried 10-0-0

D. APPLICATION

1. Erin V. Ballard (D.D.S.)

Dr. Ballard appeared as requested to discuss her application for licensure by examination. Dr. Ballard graduated for the University of Louisville and took the CDCA Regional exam 3 times but did not pass the Endodontics, Prosthetics, or Anterior Restoration portions. She recently passed all 3 portions of the exam in July. Dr. Ballard informed the Board that the examination was not the traditional examination, but the new OSCE exam which made it difficult to pass as it was not what she was expecting. Dr. Ballard indicated that when she took the exam it was a bad testing day and there was tension at in the air at the exam location. There had been discussion from others taking the exam that they had failed, and large groups of individuals seemed to be retaking the exam. Normally when taking the traditional exam, you do not find out the same day. With the new OSCE exam Dr. Ballard stated she found out that same day whether she passed or not. While Dr. Ballard felt that she did well, she was surprised when she received her failing scores. Dr. Ballard indicated that she has found a potential practice to work at in Lawrenceburg, Indiana should she be licensed. Currently she is only shadowing. The Board asked clarification if she was intending on working in in the state of Kentucky and Dr. Ballard stated she did not have that intention. By statute of you have failed the exam 3 times you are not eligible for licensure. The Board stated they felt that in this situation it was not a 3-time failure as she took those 3 portions on the same day, and it is different section of one regional exam.

Board Action: A motion was made and seconded to approve Dr. Ballard's application pending passing the law examination.

Stetzel/Snoddy
Motion carried 9-0-1 Bartek abstained.

VIII. APPLICATION FOR REVIEW

There are no applications for review today.

IX. DISCUSSION

A. Readoption of Rules

LSA Document #20-292

828 IAC 0.5-2-5 Registration of mobile dental facilities and portable dental
Operations

The Board discussed the readoption of 828 IAC 0.5-2-5 and determined there would be no financial impact on small businesses if these rules were to be readopted.

A motion was made and seconded to readopt 828 IAC 0.5-2-5.

CATEY-WILLIAMS/FINDLEY
Motion carried 10-0-0

828 IAC 0.5-2-6 Continuing education; sponsor approval fees

A motion was made and seconded to readopt 828 IAC 0.5-2-6.

SHELINE/BERGER
Motion did not carry 2-8-0.
(Catey William; Nowakowski; Stetzel; Snoddy, Findley, Sheline; Berger; and
Williamson nay)
(Reese and Bartek yes.

828 IAC 1-5 Continuing Education for Renewal of License

The Board discussed the readoption of 828 IAC 1-5 and determined there would be no financial impact on small businesses if these rules were to be readopted.

A motion was made and seconded to readopt 828 IAC 1-5.

CATEY-WILLIAMS/REESE
Motion carried 10-0-0

828 IAC 1-6 Dental Hygienists; License Renewal

The Board discussed the readoption of 828 IAC 1-6 and determined there would be no financial impact on small businesses if these rules were to be readopted.

A motion was made and seconded to readopt 828 IAC 1-6.

CATEY-WILLIAMS/NOWAKOWSKI
Motion carried 9-0-1 (Stetzel nay.)

828 IAC 1-7 Inactive Dental License

The Board discussed the readoption of 828 IAC 1-7 and determined there would be no financial impact on small businesses if these rules were to be readopted.

A motion was made and seconded to readopt 828 IAC 1-7.

WILLIAMSON/REESE
Motion carried 10-0-0

828 IAC 4 MOBILE DENTAL FACILITIES AND PORTABLE DENTAL
OPERATIONS

The Board discussed the readoption of 828 IAC 4 and determined there would be no financial impact on small businesses if these rules were to be readopted.

A motion was made and seconded to readopt 828 IAC 4.

CATEY-WILLIAMS/BARTEK
Motion carried 10-0-0

B. Continuing Education Requirements for 2022

Governor Holcomb issued an Executive Order 10-21 which waived IC 25-13-2-6 and IC 25-14-3-8 for the completion of live continuing education in 2020 due to the Public Health Emergency. The Board does understand that it is difficult to obtain live CE at this time; however, if you are able to interact with the presenter and ask questions during the seminar, the Board will consider that live CE. There have been concerns expressed that if an audit should occur for this time frame that there might be discrepancy in CE for those who are licensed, and some licensed individuals are under the impression that there is no live portion required at this time. Counsel for the Board advised that they understand this issue, and if there is an audit it will be reviewed on a case by case basis. Current CE changes are valid until November 2, 2020 unless the Governor renew's his Order.

C. HEA 1067 Dental Hygienist

New legislature has been passed that allows for of dental assistants and dental hygienists to administer nitrous oxide. The Board discussed possible rules that can be drafted for this new law. The law does not appear to fall under the practice agreement terms as used by other Boards, and those who are administrating the nitrous oxide must be under supervision of a dentist. Those administrating must also complete educational training and submit proof of the completed education to their supervisor. There are discussions of new CE sponsors and programs to ensure continuous education for new techniques, and the Board discussed potentially wanting those effected to provide CE that they maintain their education with should they be a part of administrating the nitrous oxide. Currently there is only a CODA approved program and training; however, the IDA is aware of training and is working on developing training programs.

D. Digital Prescription

On July 1, 2020 a bill was passed that determined that all schedule 2 drugs can only be prescribed electronically by December 1, 2020. The Board just wanted to discuss this change, as not everyone is aware that this law has gone through. There are no standard requirements or programs that can be used; however, some programs do run a monthly fee to maintain the program. If there are any questions for specifics regarding the law, the

Indiana Board of Pharmacy will have more clarification, and information will be posted on the IPLA website once more definitive information is set down. The Final Rules for this change should be implemented by December 31, 2020.

X. REPORTS

The Attorney General's office reported that there are currently 69 open cases, with 152 closed. The duration of an open case is an average of 8 months which has gone down from the previous 12 months. There are 6 new administrative complaints with 14 open. The duration of the litigation files is 12.56 months.

XI. OLD/NEW BUSINESS

There is no old/new business before the Board today.

XII. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the State Board of Dentistry adjourned at 2:13 p.m. by consensus.

Mara Catey-Williams, D.M.D., President

Date

Richard R. Nowakowski, D.D.S., Vice President

Date