

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

ERIN DANKO, R.D.H.
(License No. 8639)

)
) FINAL AGENCY DECISION
)

THIS MATTER was heard before the North Carolina State Board of Dental Examiners (Dental Board) on November 5, 2011 pursuant to N.C. Gen. Stat. §§ 90-229 and 150B-38 and 21 NCAC 16N .0504 of the Board's Rules. The Board's Hearing Panel consisted of Board members Dr. Millard W. Wester, III, presiding; Dr. Brad C. Morgan, Dr. C. Wayne Holland, Dr. Stanley L. Allen, Dr. David A. Howdy and Ms. Carla J. Stack, R.D.H. Board members Dr. Kenneth M. Sadler and Dr. James B. Hemby, Jr., did not participate in the hearing, deliberation or decision of this matter. The Respondent, Erin Danko, R.D.H., (Respondent), was represented by Reed N. Fountain. Carolin Bakewell represented the Investigative Panel and Thomas F. Moffitt represented the Hearing Panel.

Based upon the stipulations of the parties and the evidence produced at the hearing, the Hearing Panel enters the following:

FINDINGS OF FACT

1. The Dental Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding pursuant to the authority granted to it in Chapter 90 of the North Carolina General Statutes, including the Dental Hygiene Act and the Rules and Regulations of the North Carolina State Board of Dental Examiners.

2. The Respondent was licensed to practice dental hygiene in North Carolina on June 22, 2007 and holds license number 8639.

3. At all times relevant hereto, Respondent was subject to the Dental Hygiene Practice Act and the Board's rules and regulations promulgated thereunder.

4. On March 1, 2010, the Respondent voluntarily entered into a 28- day in-patient treatment program at Fellowship Hall in Winston-Salem, N.C.

5. The staff at Fellowship Hall determined that Respondent was dependent upon benzodiazepines, alcohol, opioids and cannabinoids, that she had a history of dependence upon amphetamines and a history of abusing hallucinogens and cocaine.

6. On March 29, 2010, following her discharge from Fellowship Hall, the Respondent signed a five-year treatment contract with the North Carolina Caring Dental Professionals (CDP).

7. The Respondent dropped out of CDP before the end of her five- year contract, without CDP's consent.

8. On August 13, 2010, the Respondent participated in a Settlement Conference with the Dental Board to discuss whether she had violated her March 29, 2010 CDP contract by dropping out of the CDP program.

9. In October 2010, the Dental Board tendered a proposed Consent Order to the Respondent that found, among other things, that she had violated her March 29, 2010 CDP contract.

10. The Respondent did not sign the proposed Consent Order in October 2010. Instead, she consulted CDP about resuming participation in the program.

11. On January 19, 2011, the Dental Board directed the Respondent to undergo an additional substance abuse evaluation arranged by the CDP.

12. On February 3, 2011, Dr. Ferdinand Cobos conducted the evaluation of the Respondent.

13. The February 3, 2011 evaluation lasted 50 minutes. No interviews of collateral sources were conducted. During the evaluation, the Respondent advised Dr. Cobos that she disagreed with the Fellowship Hall discharge summary.

14. Dr. Cobos diagnosed the Respondent with opiate dependence in sustained remission.

15. On February 18, 2011, the Dental Board again tendered a proposed Consent Order to the Respondent. The terms of the Consent Order were identical to those of the Order presented to the Respondent in October 2010.

16. The Respondent signed the Consent Order and returned it to the Dental Board.

17. The Consent Order was signed and filed by the Board staff on March 21, 2011.

18. The March 21, 2011 Consent Order, found, among other things, that the Respondent is a chronic or persistent user of intoxicants to the extent that her ability to practice hygiene is impaired, in violation of G.S. § 90-229(a)(4).

19. Pursuant to the March 21, 2011 Consent Order, the Respondent was required, among other things, to

- a) sign a contract with the CDP by April 21, 2011 and comply with all terms of the contract;

- b) not possess or use any controlled substances, alcohol or other mood altering substances other than those prescribed in the course of professional treatment;
- c) participate in the Board's drug screening program by submitting to random urine, blood and/or hair tests upon request of the Board or its authorized agent.

20. The March 21, 2011 Consent Order has not been vacated or modified and remains effective and binding on the Respondent.

21. On March 25, 2011, the Respondent signed a new five year contract with CDP.

22. Respondent's March 25, 2011 CDP contract required her, among other things, to

- a) abstain from all mood altering substances;
- b) attend at least four meetings per week of a CDP-approved abstinence-based program of therapy;
- c) submit to random urine and/or blood tests and submit to additional treatment recommendations made by the CDP.

23. The Respondent tested positive for alcohol on April 12, May 17 and May 19, 2011.

24. The April 12, 2011 positive screen for alcohol was likely caused by environmental factors, such as the use of hand sanitizers.

25. The Respondent tested positive for alcohol on May 17 and May 19, 2011 because she consumed alcohol before the tests, in violation of her March 25, 2011 CDP contract and the March 21, 2011 Consent Order.

26. On May 19, 2011, the Respondent called the testing center before 5 a.m., at which time she learned that she had been selected to undergo a urine screen that day.

27. The Respondent delayed undergoing testing until 8:15 p.m. on May 19, 2011, in an effort to avoid detection of the fact that she had consumed alcohol.

28. After the Respondent tested positive for alcohol, Barbara Bennett, Executive Director of the CDP, asked Respondent to go to an Intensive Outpatient Program, or, alternatively, move to a halfway house. The Respondent declined to do either, in violation of her March 25, 2011 CDP contract.

29. On June 14, 2011, the Respondent withdrew from the CDP program before the contract expired, without the consent of the CDP or the Dental Board.

30. Since dropping out of the CDP program on June 14, 2011, the Respondent has not participated in any Board drug screening program and has failed to attend at least four meetings each week of a CDP approved abstinence-based program of therapy, in violation of her CDP contract.

31. After dropping out of the CDP program on June 14, 2011, the Respondent has not engaged in any program of recovery and has not been screened or tested for the use of alcohol or other addictive substances.

32. The Respondent is a chronic or persistent user of intoxicants to the extent that her ability to practice hygiene is impaired.

33. Addiction is a relapsing, progressive disease.

34. Without proper treatment and monitoring, it is very unlikely that Respondent will recover from her addiction.

35. At the formal hearing of this matter, the Respondent contended that she was not bound by the March 21, 2011 Consent Order because she had dated her signature February 2, 2011, some days before the Consent Order was sent to her by the Dental Board staff.

36. Before the formal hearing of this matter, however, the Respondent never contended that she had not intended to agree to the Consent Order or be bound by its terms.

37. Between March 21, 2011 and June 14, 2011, the Respondent took a number of steps to comply with the March 21, 2011 Consent Order, including signing a new CDP contract on March 25, 2011. These actions indicated that the Respondent believed she was subject to and bound by the March 21, 2011 Consent Order.

Based upon the foregoing Findings of Fact, the Hearing Panel hereby enters the following:

CONCLUSIONS OF LAW

1. The Dental Board has jurisdiction over the person of the Respondent and the subject matter of this case.

2. The Respondent knowingly and voluntarily entered into the March 21, 2011 Consent Order with the Dental Board and was bound by its terms.

3. The Respondent is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs her ability to practice dental hygiene and is therefore in violation of G.S. § 90-229(a)(4).

4. By consuming alcohol in May 2011, refusing to undergo treatment directed by the CDP director, failing to attend at least four meetings per week of a CDP-approved abstinence based recovery program, and by failing to participate in a Board drug screening program, the Respondent violated the terms of her CDP contract and violated a lawful order of the Board, which constituted unprofessional conduct in violation of 21 NCAC 16V .0102(4) and (10) and G.S. § 90-229(a)(12).

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. The Respondent's license to practice dental hygiene in North Carolina is hereby suspended indefinitely.

2. Prior to seeking reinstatement of her hygiene license, the Respondent shall present written evidence of the following to the Dental Board's Deputy Operations Officer:

- a) She has entered into a contract with the North Carolina Caring Dental Professionals and complied with the terms of the contract for at least one year; and
- b) The CDP is advocating for her return to the practice of dental hygiene.

3. The Dental Board may impose such terms and conditions on any order of reinstatement as are necessary for the protection of the public.

This the 24 day of January 2012.



Dr. Millard W. Wester, III,
President

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS