

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

MARIE P. POTTS, R.D.H.
(License No. 3358)

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FINAL AGENCY DECISION

THIS MATTER came to be heard and was heard on December 12, 2009 before the North Carolina State Board of Dental Examiners (the Board) pursuant to G.S. §§ 90-229 and 150B-38 and 21 N.C.A.C. 16N .0504 of the Board's Regulations of the Board's Regulations. The Hearing Panel of the Board consisted of Board members Dr. C. Wayne Holland, presiding; Dr. Brad C. Morgan, Dr. Ronald K. Owens, Dr. Millard Wester III, and Ms. Jennifer A. Sheppard, R.D.H. Board members Dr. Kenneth M. Sadler, Dr. W. Stan Hardesty and Dr. James B. Hemby, Jr. did not participate in the hearing, deliberations or decision of this matter. The Respondent, Marie D. Potts, R.D.H., did not appear nor was she represented by counsel. Carolin Bakewell represented the Investigative Panel.

Based upon the evidence produced at the hearing, the Board enters the following:

FINDINGS OF FACT

1. The North Carolina State Board of Dental Examiners is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 90 of the North Carolina General Statutes (the Dental Practice Act).

2. At all times relevant hereto, Respondent was licensed to practice dental hygiene in North Carolina and was subject to the Dental Hygiene Act and the Board's rules promulgated thereunder.

3. On August 4, 2008, the Dental Board and the Respondent entered into a Consent Order whereby the Respondent's license to practice dental hygiene was suspended for three years (hereafter, August 4, 2008 Consent Order). The Respondent's dental hygiene license was provisionally restored, with no active suspension, on condition that, among other things, the Respondent performed 100 hours of Board-approved community service by August 4, 2009.

4. The Respondent did not request an extension of time in which to comply with the August 4, 2008 Consent Order and no such extension has been entered.

5. The August 4, 2008 Consent Order has not been modified or vacated.

6. The Respondent was aware of the terms and requirements of the August 4, 2008 Consent Order.

7. On July 28, 2008, the Respondent filed a written statement with the Dental Board setting out a plan to fulfill her community service requirement.

8. On August 19, 2008, the Board's Deputy Operations Officer advised the Respondent, in writing, that her July 28, 2008 plan had been rejected by the Board.

9. On August 21, 2009, via electronic mail message, the Board's legal counsel inquired whether Respondent had taken any other steps to fulfill the community service requirement set out in the August 4, 2008 Consent Order.

10. The Respondent did not reply to the August 19, 2008 or the August 21, 2009 communications from Board staff.

11. The Respondent did not complete the community service required by the August 4, 2008 Consent Order.

12. The Respondent was properly served with the Notice of Hearing in this matter and was aware of the time, date and place of trial.

CONCLUSIONS OF LAW

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

2. By failing to complete the community service as required by the August 4, 2008 Consent Order, the Respondent violated a lawful Order of the Board entered in a disciplinary proceeding and thereby violated 21 NCAC 16V .0102(4) and G.S. §§ 90-229(a)(6) and (12).

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law and pursuant to the authority set out in G.S. § 90-229(a), it is ORDERED, ADJUDGED and DECREED as follows:

1. License Number 3358 issued to the Respondent for the practice of dental hygiene is hereby suspended for three years, effective thirty (30) days from the date of this Final Agency Decision.

2. Prior to resuming the practice of dental hygiene, Respondent shall petition for the reinstatement of her license and shall demonstrate that she is competent to practice dental hygiene.

This the 16 day of February, 2010.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By: Terry W. Fiddle
Terry W. Fiddle
Deputy Operations Officer