

**STATE BOARD OF DENTISTRY
MINUTES**

April 14, 2023

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Richard Nowakowski 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 § 25-14-1-12(a).

Board Members Present:

Richard R. Nowakowski, D.D.S., Vice President
Robert D. Findley, D.D.S., Secretary/Designee
Annette J. Williamson, D.D.S.
Jeffrey L. Snoddy, D.D.S.
R. Daron Sheline, D.D.S.
Edward Sammons, D.D.S.
Matthew Kolkman, D.D.S.
Twyla Rader, L.D.H.
Tammera Glickman, Consumer Member

Board Members Not Present:

Ted M. Reese, D.D.S., President
Dental Member - Vacant

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Dana Brooks, Assistant Board Director, Professional Licensing Agency
Bradley Repass- Litigation Specialist, Professional Licensing Agency
Leif Johnson, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA

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

Williamson/Glickman
Motion carried 9-0-0

III. ADOPTION OF THE MINUTES

A motion was made and seconded to adopt the Minutes of February 10, 2023, as amended.

Kolkman/Sammons
Motion carried 9-0-0

IV. PERSONAL APPEARANCES

A. PROBATION

1. **Michael Foster, D.D.S., License No. 12013301A**
Cause No. 2020 ISBD 0001

Dr. Foster appeared as requested to discuss his ongoing probation. Dr. Foster reported that nothing new has occurred in his personal life, and he has experienced no setbacks with his employment. He stated that his office hours have changed, reflecting a later start end work time. Dr. Foster stated that he is compliant with the Well-Being program and that he will complete in January 2025. His next appearance is scheduled for August 4, 2023.

2. **Kurt Richeson, D.D.S., License No. 12010186A**
Cause No. 2012 ISBD 0016

Dr. Richeson appeared as requested to discuss his ongoing probation. He stated that his probation is going well, and he is currently working in Culver Indiana. He reported that his participation in the Well-Being program is going well, and he has experienced no relapses. He informed the Board that his medication treatment has not had any modifications, and it has been maintained. The Board has received three (3) reports from the Well-Being program that has attested to his compliance with the program.

B. APPLICATION

1. **Jonathan Phen (Dental Application)**

Dr. Phen appeared as requested to discuss his yes response to the question “Do you have any condition or impairment (including a history of alcohol or substance abuse) that currently interferes, or if left untreated may interfere, with your ability to practice in a competent and professional manner?” Dr. Phen is a 2022 graduate of Lake Erie College of Osteopathic Medicine and has taken and passed the NBDE and CDCA examinations. Dr. Phen submitted a statement and a copy of his contract with Professional Resource Network (PRN) from the State of Florida. He stated that the PRN is the equivalent of the Indiana Well-Being program. It is currently noted that he only holds an Illinois license that was just obtained on April 5, 2023. Dr. Phen stated that his employer is aware of his situation, and that he has not done any substances since 2014. He is currently on a medication regime and completed an evaluation where his condition was discovered. He informed the Board that his current PRN contract will expire in 2026, and that he would like to eventually obtain his CSR/DEA license. The Board inquired on his ability to handle stresses, and if he attends any support groups. He stated that he has managed his stress and attended both NA and AA. He currently sees a psychiatrist, a therapist and obtains support from his family and friends. The Board inquired if he has obtained a Florida license. Dr. Phen stated he had not. The Board discussed his contract as per his contract it can only be imposed upon someone with a license in Florida. Dr. Phen stated that he has no opposition to be enrolled in the Indiana Well-Being program.

Board Action: A motion was made to approve Dr. Phen’s application for dental licensure on probation on the contingent that he enrolls in the Well-Being program.

The Board discussed the Well-Being program and the fact that it is not designed for those with non-substance use disorders. The Board encouraged him to reach out to a legal counsel of his own choice regarding his current Florida contract.

Findley/Motion died due to no second.

Board Action: A motion was made and seconded to approve Dr. Phen’s application for dental licensure.

Kolkman/Sheline
Motion carried 7-2-0 (Sammons and Rader opposed.)

2. **Caroline Kontor, L.D.H. (Local Anesthesia Permit)**

Ms. Kontor appeared as requested to discuss her local anesthesia training. Ms. Kontor completed a program at Phoenix College in 1997. Ms. Kontor stated that she has found the application process frustrating and unclear. The Board staff noted that they have requested documentation of her LA training in March 2022 and in February 2023. An email was received on April 11, 2023, from LaQuera Darrow, RDH, Dental Hygiene Program Director, Phoenix University, that outlines the LA training completed in 1997. Ms. Kontor stated that she has been giving local anesthetic since the 90s. The Board stated that the letter received from Ms. Darrow verifies the requirements needed for the permit.

Board Action: A motion was made and seconded to approve Ms. Kontor’s application for a local anesthesia permit.

Rader/Findley
Motion carried 9-0-0

3. **Lori Harris, Chief Executive Officer (Mobile Dental Facility)**
Family Health Centers of Clark County

Dr. Harris appeared as requested to discuss her application for a Mobile Dental Facility. She stated that her organization, the Family Health Center of Clark County, takes care of unsupported areas, and they have received a grant to purchase a mobile unit. Their home base is in Jeffersonville, Indiana and they have established other mobile units to address other health services. Dr. Harris stated that the mobile unit will primarily be located in Clark County, with the intention to potentially service the surrounding counties as needed. Their set up includes telephones to contact the unit, and they have up to three back ups in case of emergency. They do bill Medicaid and private insurances, but primarily it is a pay as you go. She stated that their practice primarily is structured to follow all Federal and Healthcare standards. Dr. Harris stated they have hired two Indiana dentists to work in the mobile facility.

Board Action: A motion was made and seconded to approve Mobile Health Centers of Clark County’s application for mobile dental facility permit.

Snoddy/Rader
Motion carried 9-0-0

C. REINSTATEMENT

1. Mary Essling, L.D.H., License No. 13001875A

Ms. Essling appeared as requested to discuss the reinstatement of her license that expired in 2012. She provided a statement and continuing education for the Board to review. She informed the Board that she is not currently licensed in any other State and has not practiced dental hygiene since 2015. She stated that her past employment was in the State of Illinois where she worked for the ADA and the Academy of Dentistry. She has been in the field of education for dentistry since her license expired.

Board Action: A motion was made and seconded to reinstate Ms. Essling's dental hygiene license pending the passing of the jurisprudence examination.

Williamson/Findley
Motion carried 9-0-0

V. ADMINISTRATIVE HEARINGS

A. Kurt Losier, D.D.S., License No. 12011156A

Administrative Cause No. 2022 ISBD 0011

Re: Administrative Complaint & Proposed Settlement Agreement

Parties Present:

Respondent was present with counsel Elliot Pinky
Amy Osborn, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Accurate Reporting

Participating Board Members:

Richard R. Nowakowski, D.D.S., (Hearing Officer)
Robert D. Findley, D.D.S.,
Annette J. Williamson, D.D.S.
Jeffrey L. Snoddy, D.D.S.
R. Daron Sheline, D.D.S.
Edward Sammons, D.D.S.
Matthew Kolkman, D.D.S.
Twyla Rader, L.D.H.
Tammera Glickman, Consumer Member

Case Summary: On or about September 22, 2022, an Administrative Complaint was filed against Dr. Kurt Losier with allegations of two counts where he failed to maintain the minimum standards of performance for the profession which led to the detriment of his patient. On or about February 9, 2023, a Proposed Settlement Agreement filed for the Board's consideration with the following terms:

- A letter of Reprimand shall be issued to Dr. Losier
- Dr. Losier shall be required to complete eight (8) hours of Continuing Education in the areas of Endodontics, Emergency Management, or a combination thereof within six (6) months of the Final Order in this manner.

- Dr. Losier agrees that he shall indefinitely refrain from performing any endodontic procedures; however, he may perform such procedures in the event of a medical dental emergency.
- Dr. Losier agrees that he may petition the Board to lift the restriction to his practice no less than two (2) years from the date of the Final Order.
- Dr. Losier agrees to pay a fee of \$5.00 to be deposited in the Health Records and Personal Identifying Information Protection Trust Fund.

Mr. Pinky stated that he and the State request that the Board accept the Proposed Settlement that was reached via Settlement Conference with Board Liaison Dr. Findley. Board counsel inquired if the continuing education requirement can be enforced since Dr. Losier is not on probation. Mr. Pinky stated that the Dr. Losier has already put schedules in motion to complete the continuing education requirements and would not like to have the matter continued. He stated that the Settlement agreement states that Dr. Losier has voluntarily agreed to complete the terms, including the restrictions. He continued to state that this complaint has been in progress for many years in many different forms between Dr. Losier and the patient, and they would like the matter resolved. Dr. Losier agreed and stated that he last did a root canal in January of last year, and that he only did the procedure due to the COVID emergency restrictions. He stated that he has changed his practice to ensure stricter standards, and since that incident has developed a PTSD regarding doing further root canals. He stated that they did complete a malpractice suit for this incident which was investigated. The matter was dismissed as he agreed to cease and desist for that practice. Mr. Pinky stated that if the Board wishes to modify the Proposed Settlement Agreement to read differently, there would be no objections. The State agreed to the amended change.

Board Action: A motion was made and seconded to accept the Proposed Settlement Agreement in the matter of Dr. Losier with the following modifications:

- I. Paragraphs II (Continuing Education) and III (Voluntary Practice Restriction) shall be stricken from the proposed Disciplinary Order.
- II. Instead, Respondent's performance of at least eight hours of continuing education, and his decision to refrain from endodontic procedures for two years, shall be considered as voluntary and as mitigating factors in the Board's decision.
- III. All other terms of the proposed Disciplinary Order shall remain as submitted.

Rader/Sammons
Motion carried 9-0-0

B. Rachael Brown, L.D.H., License No. 13004178A
Administrative Cause No. 2022 ISBD 0010
Re: Order To Show Cause

Parties Present:
Respondent was present
Lindy Myer, Court Reporter, Accurate Reporting

Participating Board Members:
Richard R. Nowakowski, D.D.S., (Hearing Officer)
Robert D. Findley, D.D.S.,
Annette J. Williamson, D.D.S.

Jeffrey L. Snoddy, D.D.S.
R. Daron Sheline, D.D.S.
Edward Sammons, D.D.S.
Matthew Kolkman, D.D.S.
Twyla Rader, L.D.H.
Tammera Glickman, Consumer Member

Case Summary: On or about June 3, 2022, Ms. Brown appeared before the Board to discuss her license renewal application and her response regarding an OWI charge against her on February 7, 2022. Based upon her appearance, Ms. Brown's license was placed on Indefinite Probation with the following terms:

- Ms. Brown's license shall remain on Probation, and not be eligible for withdraw of probation until she provides proof that her criminal probation has been resolved.
- Ms. Brown must make a personal appearance before the first Board meeting occurring on or after six months since the date of the order.
- Ms. Brown agrees to follow all statute, rules, and regulations that govern her dental hygiene license.

On or about March 7, 2023, an Order to Show Cause was issued to Ms. Brown due to the allegations that she is in non-compliance with her Order. The Board inquired if Ms. Brown wished to proceed without counsel, and Ms. Brown stated that she does wish to proceed. Ms. Brown stated that she has been a dental hygienist for twenty-five (25) years, and that she does not want to lose her license. She stated she understands she has made mistakes and that she has been going through personal struggles. She stated that she has completed the courses required by the courts and has been attending AA. She informed the Board that at this time, she is not working as a dental hygienist, but working at Applebee's. The Board inquired why she failed to appear at the six (6) month mark, and following requests to appear on two other occasions. Ms. Brown stated that she does not remember the last time she appeared. Board counsel stated that after her last appearance before them, it was reported to their office that she obtained a DUI. She stated that she is attending therapy at Adult and Child and has completed an inpatient eight (8) week course, with twelve (12) week aftercare program. Ms. Brown stated that she is not currently participating in an AA support group, but that she completed her twenty (20) sessions as required by the courts. She indicated that she did not go back. She informed the Board that her reason for not attending the Board meeting in February was due to the fact she moved and could not use her email. She stated that she understands that she failed to keep the Board up to date on her contact information and stated that was her fault. The Board inquired what led to the second (2nd) DUI. Ms. Brown stated that she did not have a good reason, and that she was just stressed. She stated that she manages her stress now by working, keeping busy with gardening, and willpower. The Board inquired if she finds it difficult to work around alcohol. Ms. Brown indicated she does not struggle to work around it, and she is not tempted to consume alcohol. She indicated that she is still currently on non-reporting probation until January 23, 2024. She informed the Board that she is not sure she will return to dental hygiene, but that she would like to have the option. Ms. Brown stated that she is deeply sorry and knows the Board has concerns with her treating the public.

Board Action: A motion was made and seconded that Ms. Brown was found in violation of her probation order.

Glickman/Kolkman
Motion carried 9-0-0

Board Action: A motion was made and seconded to place Ms. Brown's license on suspension for no less than twelve (12) months with the following terms:

- Appear every other Board meeting while on suspension.

Kolkman/Nowakowski
Motion carried 9-0-0

VI. NOTICE OF PROPOSED DEFAULT

A. Ian Hoffman, D.D.S., License No. 12011898A

Re: Notice of Proposed Default

Parties Present:

Respondent was present
Carah Rochester, Deputy Attorney General for the State of Indiana
Lindy Myer, Court Reporter, Accurate Reporting

Participating Board Members:

Richard R. Nowakowski, D.D.S., (Hearing Officer)
Robert D. Findley, D.D.S.,
Annette J. Williamson, D.D.S.
Jeffrey L. Snoddy, D.D.S.
R. Daron Sheline, D.D.S.
Edward Sammons, D.D.S.
Matthew Kolkman, D.D.S.
Twyla Rader, L.D.H.
Tammera Glickman, Consumer Member

Case Summary: On or about June 16, 2022, an Administrative Complaint was filed against Dr. Hoffman with allegations that he failed to keep adequate dental records for his patient. On or about September 19, 2022, a Proposed Settlement Agreement was reached with the following terms:

- Dr. Hoffman shall be issued a Letter of Reprimand against his license.
- Dr. Hoffman shall pay \$5.00 to be deposited in the Health Records and Personal Identifying Information Protection Trust Fund.

On or about February 10, 2023, Dr. Hoffman failed to appear or have counsel appear on his behalf, and the Board issued a Notice of Proposed Default. On or about March 14, 2023, the Board received an email from Dr. Hoffman inquiring about what he needs to do for the Board. The State requests that now that Dr. Hoffman is present to discuss the Settlement, that the Board withdraw their Notice of Default. Board counsel stated that it is up to the Board on how they wish to proceed as Dr. Hoffman responded to the Default outside the required time to respond.

Board Action: A motion was made and seconded to rescind the Notice of Proposed Default in the matter of Dr. Hoffman.

Findley/Sheline
Motion carried 9-0-0

The Board revisited the submitted Proposed Settlement Agreement. The Board inquired if they may look at the Exhibits. Board counsel stated that they cannot since a Settlement was reached,

but they are welcome to ask Dr. Hoffman or Ms. Rochester if they have any clarifying questions about the Settlement Agreement. Dr. Hoffman stated that he had a patient that needed an implant. He performed a normal routine procedure that did not take. He stated that he did not charge his patient for that procedure. The Board inquired how the insurance was factored in. Dr. Hoffman stated that insurance did pay partially, but he does not have a full recollection of this. He stated that he understands the Board's concerns regarding his records being hard to read and is currently working on remedying his record keeping. He stated that he does not have electronic records, only paper. He informed the Board he is looking into various electronic record keeping services but has not obtained one as it is not a requirement. He stated that this incident was not peer reviewed, nor reviewed by malpractice insurance. He stated that he treated his patient in the best way possible, and he did not expect the complaint. He and the State request that the Board accept the Proposed Settlement Agreement.

Board Action: A motion was made and seconded to accept the Proposed Settlement Agreement in the matter of Dr. Hoffman. The agreement reads as follows:

- Respondent agrees that the Board shall issue a Letter of Reprimand against his Indiana dental license.
- Respondent shall pay a Fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund.

Sheline/Snoddy
Motion carried 8-0-1 (Findley abstained).

VII. APPLICATIONS FOR REVIEW

A. Applications

1. Rebecca O'Brien, L.D.H. (Local Anesthesia Permit)

Ms. O'Brien's application was submitted for review of her local anesthesia program and state constructed exam completed in California. Her program was completed in 2010 at Southwestern Community College. The Board noted that her program meets the educational requirements and her state constructed exam from California is equivalent for acceptance.

Board Action: A motion was made and seconded to approve Ms. O'Brien's local anesthesia permit application.

Kolkman/Sheline
Motion carried 9-0-0

2. Gregory Cygan, D.D.S. (Dental Anesthesia Permit)

Dr. Cygan's application for dental anesthesia was submitted for review of his sedation training. Dr. Cygan submitted his transcript from the University of Illinois, a letter from West Virginia University where he completed a one-year internship, and a copy of the case reports completed at his internship. The Board noted that what he has submitted meets requirements.

Board Action: A motion was made and seconded to approve Dr. Cygan’s application for a dental anesthesia permit.

Sammons/Kolkman
Motion carried 9-0-0

B. Continuing Education

1. Tina Reece

Ms. Reece application to become a continuing education sponsor was reviewed. She provided documentation for her training that will cover infant and toddler dental wellness, that includes lactation specialization. She provided a copy of her dental hygiene license, and a copy of the program that she will present. The Board noted that it seems to be very comprehensive.

Board Action: A motion was made and seconded to approve Ms. Reece’s application as a Continuing Education Sponsor.

Snoddy/Findley
Motion carried 9-0-0

2. IDA – Peer Review Workshop

Ed Rosenbaum appeared and discussed the peer review workshop. Several dentists are attending the IDA Peer Review Workshop and would like the Board’s approval to count as their Ethics and Indiana Jurisprudence continuing education requirement. He provided examples of the types of cases that are reviewed, and the standard of care expected from the practitioner. The workshop includes a presentation by the Indiana Attorney General Office on Indiana Codes governing dental licensing and what actions the Code permits the Board to take against a license. Mr. Rosenbaum is requesting that the Board consider those who have taken this workshop to be able to use this for their Indiana Ethics and jurisprudence requirement.

Board Action: A motion was made and seconded to allow dentist who have taken the Workshop, to be able to count these hours towards the Indiana Ethics and Jurisprudence requirement for the renewal of their license.

Nowakowski/Findley
Motion carried 9-0-0

VII. DISCUSSION

A. Lucian Boboia, D.D.S., License No. 12010910A

Re: Respondent’s Unopposed Request to Surrender License

K. Michael Guarte, attorney for Dr. Boboia, filed Respondent’s Unopposed Request to Surrender License for the Board to consider. On January 12, 2022, a Final Order Accepting Proposed

Settlement Agreement was issued in the matter of Dr Boboia which placed him on indefinite probation with terms and conditions. In October of 2022 the Board granted Dr. Boboia's request to modify his probationary order in order to relocate to the state of Arizona. At this time Dr. Boboia has no desire to return to Indiana to practice and therefor is requesting to surrender his dental license. Carah Rochester, Deputy Attorney General, was contacted regarding the motion and she does not object. The Board discussed if they could still address the disciplinary matter if he surrendered his license. Board counsel stated they could not, but the Board does not have to accept his request to surrender if they have concerns. The Board stated that they will accept his surrender provided he complies with payment of the \$3000 fine.

Board Action: A motion was made and seconded to accept the voluntary surrender of Dr. Boboia's dental licensing pending the submission of the \$3,000 fine.

Nowakowski/Kolkman
Motion carried 9-0-0

B. Vincennes University, Dental Training with Jenn

Re: Request for Approval of Coronal Polishing and Fluoride Program

Ms. Jennifer Ramsey of Vincennes University has submitted a program of Coronal Polishing and Fluoride training for the Board to review. The Board compared the program to the current statute and rules but noted that they do not see how many hours of clinical training will be completed. They also noted that they would need to see if the program has obtained an accreditation through CODA or if the program has been implemented for a year with feedback. The Board tabled the request for more information.

C. Compliance Fund Update

The Board reviewed the Compliance Fund. The Board noted that payroll was deducted in February, but nothing else appears to be removed. They discussed the bill that passed which would impact the fund. The IDA stated that the bill that passed only eliminated the money going to the fund.

D. Website Modifications Recommendations

Discussion tabled.

E. Position Statement – Examinations

A position statement was drafted by Dr. Reese to provide clarification regarding statutory requirement that a dentist or dental hygienist may not take the examination more than three (3) times. Dr. Kolkman submitted a worksheet of the impacted statutes for dentistry and dental hygiene with proposed statutory amendments that would make the law clear. The Board counsel stated that the Board cannot propose legislative changes, but those changes can be brought forward by Associations or IPLA on the Board's behalf. As the legislative bills have already been started and finished, it would not be potentially discussed or changed in this legislative session.

The Board discussed possible remediation training options for those who have failed the examination multiple times. They noted that the question would be, is the question that the programs not preparing the students adequately for the examination or is there an aspect of the examination that prevents individuals from passing.

The Board discussed compact licensure, and how that would look for the profession for those that did not pass the examination multiple times.

VIII. REPORTS

A. Office of the Attorney General

The Attorney General's office reported to the Board that they have 95 open complaints and they have closed 30 since the beginning of the year. The average age of the open complaints is 9.8 months.

Dentists are receiving the most complaints against, followed by dental hygienists, and then dental facilities. They are primarily being filed in the area of professional malpractice, unprofessional conduct, and professional incompetence.

There are currently 11 open litigation cases with only 2 closed this year. The average duration of the litigation cases are 15 months.

IX. OLD/NEW BUSINESS

Ms. Vaught stated that rule re-adoption will be brought before the Board in August. The rules that are up for re-adoption are available for the Board to review, per the Board's request of additional notice.

X. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the State Board of Dentistry adjourned at 1:18 p.m. by general consensus.

Ted Reese, D.D.S., President