

**BEFORE THE DENTAL BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF)	
SHEA A. McCARTE, D.A.)	NOTICE OF HEARING AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Dental Board (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 650 Iowa Administrative Code (IAC) 51.6. Respondent was issued dental assistant registration number Q08192 on October 2, 2003. Respondent's registration lapsed on November 2, 2011. Respondent's address as reported to the Board is 124 5th Street SW, #4, Cedar Rapids, Iowa.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 26, 2012, before the Iowa Dental Board. The hearing shall begin at 8:00 a.m. and shall be located in the conference room at the office of the Iowa Dental Board, 400 SW 8th Street, Ste. D, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 650 IAC 51.12(2) to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Iowa Dental Board, 400 SW 8th Street, Ste. D, Des Moines, Iowa 50309.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 650 IAC chapter 51. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 650 IAC 51.18. The hearing may be open to the public or closed to the public at your discretion.

5. Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 650 IAC chapter 51.17.

6. Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. Communications. You may not contact Board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of

Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Melanie Johnson, Executive Director at 515-281-5157.

B. LEGAL AUTHORITY AND JURISDICTION

1. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 153, and 272C.

2. Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 153, and 272C and 650 IAC chapters 30 and 51.

3. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 650 IAC 51.22.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

Respondent is charged under Iowa Code Section 153.34(4) and 650 Iowa Administrative Code 30.4(16) for unprofessional conduct for operating a motor vehicle while under the influence of alcohol.

COUNT II

Respondent is charged under Iowa Code Section 272C.3(2)(a) (2011) and 650 Iowa Administrative Code Section 30.4(23) with failing to comply with a decision of the Board imposing licensee discipline.

D. FACTUAL CIRCUMSTANCES

1. On July 16th, 2008, the Respondent entered into a combined Notice of Hearing, Settlement Agreement and Final Order with the Board to resolve the matter of being charged for the inability to practice dental assisting with reasonable skill and safety by reason of drunkenness, or habitual or excessive use of intoxicants. Respondent reported during registration as a dental assistant that she had previously been charged with:
 - a) Public Intoxication in 1995
 - b) Possession of alcohol under legal age in 1996
 - c) OWI 1st in 1998
 - d) 5th degree theft in 2001
 - e) OWI 2nd in 2002
2. Pursuant to this Order, the Respondent agreed to completely abstain from the personal use and possession of alcohol and all controlled substances.
3. In May of 2010, Respondent was charged with operating while intoxicated third offense.
4. Respondent pled guilty to this crime and was subsequently ordered to complete an intensive outpatient treatment program at St. Lukes Chemical Dependency Services.
5. Respondent completed the intensive outpatient treatment program on October 7, 2010.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 650 IAC chapter 51.19. If you are interested in pursuing settlement of this matter, please contact Melanie Johnson, Executive Director, at 515.281.5157.

F. PROBABLE CAUSE FINDING

On this 21st day of July, 2011, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.


GARY D. ROTH, D.D.S.
Chairperson
Iowa Dental Board

Copies to: Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319