

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

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<b>IN THE MATTER OF</b>	)	
<b>TAMMY S. BERTCH, R.D.H.</b>	)	<b>NOTICE OF HEARING AND STATEMENT OF CHARGES</b>
<b>RESPONDENT.</b>	)	

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**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 Iowa dental hygiene license number 2596 on September 18, 1996. Respondent's dental hygiene license expired on August 31, 2009. Respondent's address as reported to the Board is 1613 Wakonda Drive, Waterloo, Iowa 50703.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on January 13, 2010, before the Iowa Dental Board. The hearing shall begin at 2:00 p.m. and shall be located in the conference room at the office of the Iowa Dental Board, 400 SW 8<sup>th</sup> 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 8<sup>th</sup> 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, 2<sup>nd</sup> 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 Constance L. Price, 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) (2009) with willful or repeated violations of the rules of the Board by failing to comply with the decision of the Board imposing discipline, in violation of 650 Iowa Administrative Code 30.4 (23).

## **D. FACTUAL CIRCUMSTANCES**

1. On January 10th, 2008, the Respondent was charged by the Board with being convicted of a misdemeanor crime related to the practice of dental hygiene.
2. On April 22, 2008, the Board held a hearing on this matter. On May 13<sup>th</sup>, 2008, the Board issued an Order which placed the Respondent on indefinite probation and

required her to complete a substance abuse evaluation and comply with all treatment recommendations made by the evaluating facility. Respondent subsequently completed a substance evaluation at a Board approved facility.

3. On October 29<sup>th</sup>, 2008, based upon the evaluating facility's recommendations, the Board issued an Order Modifying Conditions of Probation which stated that Respondent shall immediately document evidence of the following:
  - a. The Order required Respondent to enroll in the Better Choices Program within thirty (30) days from the date of that Order. Respondent has not enrolled in this program.
  - b. The Order required Respondent to immediately comply and document successful compliance with all recommendations of the facility.
  - c. The Order required Respondent to participate in the Board's random drug and alcohol screening program at her own expense. Respondent has not taken the steps necessary to participate in this program.
  - d. The Order required Respondent to submit a quarterly fee and quarterly reports detailing her compliance with the terms of her Order. Respondent filed one quarterly report on June 26<sup>th</sup>, 2008, but has otherwise failed to meet this requirement.

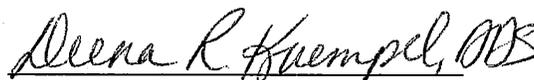
#### **E. SETTLEMENT**

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 Constance L. Price, Executive Director, at 515.281.5157.

**F. PROBABLE CAUSE FINDING**

On this 28<sup>th</sup> day of October, 2009, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.



DEENA R. KUEMPEL, D.D.S.

Chairperson  
Iowa Dental Board

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