BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

KELLI J. HAYES, R.D.H.  ) FINAL AGENCY
(License Number 6561)  ) DECISION

THIS MATTER was heard before the North Carolina State Board of Dental Examiners (Board) on October 11, 2013 pursuant to N.C. Gen. Stat. §§ 90-41.1, 224, 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. David Howdy, presiding; Dr. Kenneth M. Sadler, Dr. Stanley L. Allen, Dr. William M. Litaker, Dr. Clifford O. Feingold and Ms. Carla J. Stack. Board members Dr. Millard W. Wester, III and Dr. James B. Hemby, Jr., did not participate in the hearing, deliberation or decision of this matter. The Petitioner, Kelli J. Hayes, R.D.H., was represented by A. Justin Eldreth. 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 Board 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 Petitioner was licensed to practice dental hygiene in North Carolina on September 25, 2000 and holds license number 6561.

3. The Petitioner failed to renew her dental hygiene license in 2004 and has been without a valid North Carolina hygiene license at all times since April 1, 2004.

4. The Petitioner knew that she could not lawfully practice dental hygiene on and after April 1, 2004.


6. The Petitioner led her employer to believe that she could lawfully practice dental hygiene.

7. In 2010, the hygiene coordinator for Dentistry of the Carolinas asked to see the Petitioner’s 2010 hygiene license renewal.

8. In response to this request, the Petitioner photocopied another hygienist’s license renewal form and used the copy to fabricate a license renewal for herself.

9. The Petitioner then presented the fabricated license renewal to the hygiene coordinator, for the purpose of deceiving her employer.
10. In late November 2010, the Petitioner’s employer learned from other sources that the Petitioner in fact was not licensed to practice hygiene and immediately fired the Petitioner.

11. In 2012, after the Dental Board filed a civil proceeding against her in Gaston County Superior Court, the Petitioner signed a Consent Order permanently enjoining her from engaging in the unlicensed practice of dental hygiene.

12. The unlicensed practice of dental hygiene is a misdemeanor.

13. The Petitioner filed for reinstatement of her dental hygiene license on December 28, 2010 and again on December 31, 2012. The Petitioner did not reveal on either application that she had been charged with driving while impaired in 2000 and convicted of the offense in 2002.

14. The Petitioner did not reveal on her December 28, 2010 reinstatement application that she had illegally practiced dental hygiene from June 2008 until November 2010.

15. The fact that the Petitioner failed to reveal her April 2000 DWI charge on her 2010 and 2012 license applications, that she failed to reveal her illegal practice of dental hygiene on her 2010 application, that she knowingly practiced hygiene without a valid license for nearly 2 ½ years and that she falsified a 2010 license renewal form is evidence of dishonesty.

16. Petitioner did not present any live character witnesses to testify on her behalf.
17. The Petitioner presented character letters from five individuals. Only two of the Petitioner’s character witnesses, Mr. Donald Adams and Mr. Gary C. Humphries, directly addressed the issue of the Petitioner’s honesty. However, neither disclosed how often and under what circumstances they interacted with the Petitioner. It was also unclear whether either witness was aware of the deception that the Petitioner practiced upon her former employer for more than two years.

18. Rev. Jerry Laws, the Petitioner’s minister, wrote a letter on Petitioner’s behalf, but did not discuss her character for honesty. Rev. Laws’ interactions with the Petitioner were limited to seeing her at church over the past several years.

19. The Petitioner also presented a typed, unsigned, unsworn and undated letter from a Teresa Wright addressed “to whom it may concern.” The Hearing Panel did not find this letter to be credible evidence of the Petitioner’s good moral character.

20. The Petitioner has a significant history of alcohol dependence and abuse.

21. Between 2002 and 2009, the Petitioner was convicted of DWI on three different occasions.

22. Between 2007 and mid-2010, the Petitioner often consumed half of a fifth of liquor per day, including on week days.
23. Although the Petitioner testified that she significantly reduced her alcohol consumption beginning in 2010, she produced no objective evidence to support her assertion.

24. The Petitioner has not participated in any random urine or drug screening testing.

25. The Petitioner contacted the North Carolina Caring Dental Professionals Program shortly before the hearing of this matter, but had not signed an evaluation agreement or treatment contract as of the date of the hearing.

26. On September 27, 2013, approximately 2 ½ weeks before the trial of this matter, the Petitioner obtained a substance abuse assessment from Insights In Recovery in Gastonia. There was no evidence that any licensed physician was involved in the assessment. The assessment consisted of a 50-minute interview of the Petitioner and a review of a form the Petitioner filled out about her driving record. No collateral sources were contacted. Insights diagnosed Petitioner with “substance abuse dependence.”

27. Prior to her September 27, 2013, evaluation at Insights, the Petitioner has never attended Alcoholics Anonymous or any similar organization to help maintain her sobriety. The Petitioner attended one AA meeting after her evaluation at Insights.
28. The Petitioner still occasionally consumes alcohol. She denies that she is currently an alcoholic, although she admits that she was an alcoholic in the past.

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

CONCLUSIONS OF LAW

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

2. At all times relevant hereto, Petitioner was subject to the Hygiene Practice Act and the Board’s rules and regulations promulgated thereunder.

3. Petitioner had proper notice of the time, date and place of the hearing herein.

4. The Petitioner failed to carry her burden of proving that she has reformed and currently possesses good moral character.

5. The Investigative Panel carried its burden of proving that the Petitioner is a chronic or persistent user of intoxicants to the extent that her ability to practice dental hygiene is impaired.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters the following:
ORDER

1. The Petitioner’s petition for reinstatement of her North Carolina dental hygiene license is hereby DENIED.

2. The Petitioner must obtain advocacy from the North Carolina Caring Dental Professionals before seeking reinstatement of her dental hygiene license.

This the 30th day of December, 2013.

[Signature]
David A. Howdy, President
The N.C. State Board of Dental Examiners