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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE APPLICATION:

FOR A LICENSE TO PRACTICE

JAN BUBLIK,
APPLICANT.

:
:
:
:

FINAL DECISION
AND ORDER
LS0503182DEN

Division of Enforcement Case No. 05DEN002

The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5th day of September, 2007.

Lori R. Barbeau DDS
Member of the Board
Dentistry Examining Board

1. Jan Bublik, (DOB, 2-12-1972), graduated from Palacky University, Olomouc in the Czech Republic on June 26, 1997. He received a Doctor of Medicine degree in stomatology, (Dentistry). (Ex. 3, p. 1031)
2. The degree program in dentistry at Palacky University was comprised of coursework taken between 1991 to 1997. (Ex. 3, pp. 1028-29)
3. On December 18, 1998, Dr. Bublik graduated from medical school at Palacky University, completing a General Medicine Program. (Ex. 3, p. 1032)
4. Dr. Bublik obtained the general medicine degree because he was accepted to an oral maxillofacial surgery program. In order to be eligible to practice maxillofacial surgery in the European community he had to be dual trained, in dentistry and general medicine. (RT pp. 30-31)
5. From May, 1997 until September, 1998, Dr. Bublik worked as an assistant professor at the Palacky University, School of Medicine, Department of Human Anatomy. (Ex. 3, p. 1025)
6. From October, 1999 until May 2000, Dr. Bublik worked as Vice-chair in the Department of Oral Surgery, at Bata Hospital, Zlin, in the Czech Republic, which included 40 patient contact hours per week. (Ex. 3, p. 1025, 1044) Dr. Bublik thereafter immigrated to the United States.
7. In July, 2001, Dr. Bublik passed Part I of the (United States) National Board Dental Examinations with an average score of 89. (Ex. 3, p. 1053)
8. In 2001, Dr. Bublik received the Bibby Fellowship Award for the best research project in a residency program and in 2002 he received the Handelman Award for Excellence in Dentistry, University of Rochester, School of Medicine and Dentistry, Rochester, New York.
9. In July, 2002, Mr. Bublik passed Part II of the National Board Dental Examinations with a score of 82. (Ex. 3, p. 1053)
10. On December 31, 2002, Dr. Bublik received a certificate for the successful completion of a two year residency in the International Dental Postgraduate Program in Advanced Education in General Dentistry, ("Eastman program") at the Eastman Dental Center of the University of Rochester, School of Medicine and Dentistry, Eastman Department of Dentistry, located in Rochester, New York. (Ex. 3, p. 1039)
11. Dr. Bublik began the two year Eastman program on June 19, 2000, and completed the program December 31, 2002. (Ex. 3, p. 1040)
12. The two year Eastman program completed by Dr. Bublik consisted of seventeen modules; EDD 701- Biostatics and Research Design; EDD 702- Special Care I (Medical/Dental Interrelationships); EDD 703 Special Care II: Geriatric Dentistry; EDD 704- Special Care III: Dentistry for the Developmentally Disabled; EDD 705- Instructional Design; EDD 706 – Ethics and Clinical Practice Forum; EDD 708- TMJ Splint Treatment and Dental Occlusion; EDD 709- Scientific Basis for Safe Dental Practice; EDD 710- Temporomandibular Joint Disorders; EDD 711- Head and Neck Anatomy; EDD 712- Advanced Oral Pathology; EDD 714- Oral Implantology; EDD 715- Clinical Aspects of Dental Caries; EDD 716- Practice Management; ORB 556- Biology of the Periodontium; ORB 558- Growth and Development; ORB 570- Introduction to Oral Epidemiology (Ex. 5)^[1]
13. The Eastman program description for the two year program Dr. Bublik completed describes the program clinical activities to be:

... [M]ajor components in both the one and two year programs. Residents provide comprehensive care to all assigned patients. They carry out treatment plans and case management with consultations with the assistance of the broad AEGD faculty, i.e., specialists in orthodontics and oral surgery, periodontology, prosthodontics, endodontics, oral pathology, and general dentistry. Residents receive clinical training in areas of removable and fixed prosthodontics, periodontics, operative dentistry, cosmetic dentistry, endodontics, pediatric dentistry,

dental implantology, orthodontics and research. (Ex. 8)

14. The two year Eastman program completed by Dr. Bublik requires fourteen mandatory clinical rotations:

Emergency- 52 week (8 hours per week for first year resident, 4 hours per week for second year resident)

Oral Surgery at EDC- 3 months, 8 hours per week

Oral Surgery at SMK- 2 weeks with the Oral Maxillo-facial surgery program

Pediatric Dentistry- 4 week rotation (1/2 day per week)

Research- 3 months, 4 hours per week

Comprehensive Care- 104 weeks (32 hours per week- first year, 28 hours per week- second year)

Community Dentistry- 2 weeks

Developmental Disabled- 2 sessions at the Developmental Disabled Clinic

Geriatric- 2 sessions under doctor direction

Periodontology- 2 sessions

Implantology- 2 sessions

On-Call- 5 sessions

Administrative/Library- ½ day per week (Ex. 8)

15. The two year Eastman program completed by Dr. Bublik at the Eastman Dental Center of the University of Rochester is accredited by the American Dental Association, Commission on Dental Accreditation and has been granted the accreditation status of “approval without reporting requirements.” (Ex. 2)

16. The Commission on Dental Accreditation, accreditation status definition, “approval without reporting requirements”, means:

Programs Which Are Fully Operational. *Approval (without reporting requirements):* An accreditation classification granted to an educational program indicating that the program achieves or exceeds the basic requirements for accreditation” (Ex. 7)

17. On March 28, 2003, Dr. Bublik was issued a license to practice dentistry in the state of New York. Dr. Bublik successfully completed five examinations; DSCE, score 88, SIMPT, score 100, REST, score 100, PERIO, score 95, NBPT1, score 89- (FOF #7), NBPT2, score 82- (FOF #9). (Ex. 3, p. 1042)

18. In evaluating the professional education requirement for licensure in New York, the New York State Education Department/The University of the State of New York, accepted Dr. Bublik’s two-year advanced program in general dentistry from the Eastman Dental Center of the University of Rochester. (Ex. 1, Ex. 3, p. 1042)

20. From January, 2003 to the present, Dr. Bublik has worked as a Clinical Instructor at the University of Rochester, School of Medicine and Dentistry, Eastman Department of Dentistry, at the Eastman Dental Center, located in Rochester, New York. The work consists of forty patient contact hours per week in faculty practice including eight hours of resident supervision in general dentistry, oral surgery and emergency dental clinic. (Ex. 3, p. 1025)

21. The ADA approved, two year University of Rochester Eastman program successfully completed by Dr. Bublik meets the requirements for an approved evaluation program for graduates of foreign dental schools.

22. Dr. Bublik passed the North East Regional Board of Dental Examiners examination in 2002.

23. The North East Regional Board of Dental Examiners examination is a board-approved examination in clinical and laboratory demonstrations. (Ex. 17, p. 4)

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to Wis. Stat. § 227.01(3)(a), and Wis. Admin.

Code Ch. RL 1.

2. Dr. Jan Bublik has met the requirement of Wis. Admin. Code § DE 2.01 (1) (e), by successfully completing a Board-approved foreign graduate evaluation course.

3. Dr. Jan Bublik has met the burden of proof for the issuance of a license under Wis. Admin. Code § RL 1.08(4)

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the University of Rochester, Eastman Dental Center two year AEGD program, is approved as an evaluation program for graduates of foreign dental schools pursuant to Wis. Admin. Code § DE 4.02.

IT IS FURTHER ORDERED that a license to practice dentistry in the State of Wisconsin be issued to Dr. Jan Bublik forthwith.

APPLICABLE LAW

Statutes

Wis. Stat. § 447.04 (1)

447.04 Licensure.

(1) Dentists.

(a) The examining Board shall grant a license to practice dentistry to an individual who does all of the following:

.....

3. Submits evidence satisfactory to the examining Board that he or she has graduated from an accredited dental school.

.....

6. Completes any other requirements established by the examining Board by rule.

(b) Except as provided in par. (c), the examining Board may grant a license to practice dentistry to an individual who is licensed in good standing to practice dentistry in another state or territory of the United States or in another country if the applicant meets the requirements for licensure established by the examining Board by rule and upon presentation of the license and payment of the fee specified under s. 440.05 (2).

Administrative Rules

Wis. Admin. Code § DE 2.01

DE 2.01 Application for license.

(1) An applicant for license as a dentist shall submit all of the following to the Board:

.....

(e) Evidence satisfactory to the Board of having completed educational requirements in s. 447.04(1), Stats. In the case of a graduate of a foreign dental school, verification shall be provided from a Board-approved foreign graduate evaluation program of successful completion of the evaluation course.

Wis. Admin. Code § DE 4.01

DE 4.01 Board approval. Educational programs in the subject areas of dentistry and dental hygiene shall be approved by the Board. *The Board approves educational programs accredited by the commission on dental accreditation of the American dental association* and may approve other educational programs if the program requires: [Emphasis added.]

Wis. Admin. Code § DE 4.02

DE 4.02 Evaluation programs for foreign graduates. Evaluation programs for applicants who are graduates of dental education programs in other countries shall be approved by the Board.

OPINION

1. Introduction

Jan Bublik's application for licensure as a dentist is one of five related cases wherein the Wisconsin Dentistry Examining Board ("Board") has determined that for foreign trained dentists, no evaluation programs exist under Wis. Admin. Code § DE 4.02, that can be approved by the Board. Therefore, the Board has concluded that currently it is not possible to evaluate whether the training of a foreign trained dentist applicant is equivalent to that received in a dental school program accredited by the American Dental Association.

Thus, Dr. Bublik was denied consideration for licensure in Wisconsin as a dentist because, according to the Board, such an evaluation program was lacking. The Board has *de facto* denied Dr. Bublik's application even though the Board stated that it was "unable to act" on his application.

Board approval of an evaluation program involves the following rule^[2]:

Wis. Admin. Code § DE 4.02

DE 4.02 Evaluation programs for foreign graduates. Evaluation programs for applicants who are graduates of dental education programs in other countries shall be approved by the Board.

At issue here, in part, is the propriety of the Board's exercise of its discretion. Discretion has been defined as follows:

The term "discretion" contemplates an exercise of judgment based on three factors: (1) the facts of record, (2) logic, and (3) the application of proper legal standards. *State v. Shanks*, 2002 WI App 93, ¶6, 253 Wis. 2d 600, 644 N.W. 2d 275, review denied, 2002 WI 111, 256 Wis. 2d 64, 650 N.W. 2d 841 (Wis. July 26, 2002) (No. 01-1372-CR).

Further, "The exercise of discretion is not the equivalent of unfettered decision making." *Hartung v. Hartung*, 102 Wis. 2d 58, 66, 306 N.W. 2d 16 (1981). A discretionary determination, to be sustained, must demonstrably be made and based upon the facts appearing in the record and in reliance on the appropriate and applicable law. *Id.* A misapplication or an erroneous view of the law is an erroneous exercise of discretion. *State v. Hutnik*, 39 Wis. 2d 754, 763, 159 N.W. 2d 733 (1968).

My review of this record leads me to three conclusions.

1) First, as I explain herein, it is clear that the Legislature has exhibited a long standing commitment to the licensing of foreign trained dentists, provided they meet minimum licensure standards, i.e., they can safely and competently practice. In light of this legislative intent, a past attempt by the Board to stop licensing foreign trained dentists resulted in intervention of the legislature and the creation of an arrangement with Marquette Dental School to conduct an evaluation program. Therefore, it is clear that the legislature desires the Board to "get to yes", as an applicant has termed it, if it is safe to do so. As an agency created by the legislature, the Board should be mindful of this legislative intention when the Board exercises its discretion in the licensing of foreign trained applicants.

2) Second, the record demonstrates that the Board would be inconsistent in its application of discretion in licensing of foreign trained dentists, if Dr. Bublik were to be denied licensure, when recent foreign trained applicants have been treated differently and were granted licensure.

3) Third, my review of the record leads me to conclude that the Board has lost focus of its foundation mission: to determine if any and all applicants can safely and competently practice dentistry. The Board now applies a standard by which it judges

evaluation programs for foreign trained applicants which guarantees the programs are certain to fail. It now uniformly rejects all evaluation programs. This direction by the Board reflects a departure from the Board's traditional use of its inherent power to judge and accept evaluation programs.

It has been argued that this new approach by the Board is nothing more than a pretext for barring all foreign trained applicants, which inherently constitutes an abuse of discretion. My recommendation in this opinion does not make a factual finding regarding Board pretext, as my goal is to refocus the Board on its role in the review and acceptance of available evaluation programs. Just as the Board approved the Marquette evaluation program, it may review and approve other programs which accomplish the same result.

2. A History of the licensure of foreign trained dentists in Wisconsin.

The evaluation and licensing of dentists trained in non American Dental Association, (ADA)^[3] accredited institutions goes back to at least 1971, when the Board took the position that "foreign" trained dentists could not be licensed in Wisconsin. (Ex. 9, p. 8062) This was based upon the fact that such persons were not graduates of "an accredited school recognized by the Board."^[4]

By 1975, the Board accepted graduates of Canadian schools for original licensure by examination because such schools were ADA-approved (Ex. 9, p. 8068). (Actually, under a reciprocity agreement, accredited Canadian dental schools were recognized by the ADA's Commission on Dental Accreditation beginning from 1956. (Ex. 11). 1975 Board minutes evidence that an "accredited school recognized by the Board" at least as of 1975, means "ADA accredited". This position of the Board as to the meaning of "accredited" has remained consistent to the present time.

As of 1983, correspondence from the Board to the Joint Committee for the Review of Administrative Rules recognized that then existing DE 2.01 (1) (e) interpreted then existing Wis. Stat. § 447.03 (2) (a) 2. The Board recognized that that evaluation program procedure for foreign trained dentists was to function as follows:

In approximately June of 1975 the Board adopted a written policy indicating that if an applicant for licensure in Wisconsin who had graduated from a foreign dental school had been evaluated as comparable with a graduate of a Board approved school by virtue of a foreign graduate evaluation program such as that available in Minnesota, California or New York, the applicant would be permitted to take the examinations set forth in s. 447.04 leading to licensure...The foregoing policy of accepting foreign graduates who had successfully completed an evaluation program for licensure in this state was promulgated as an administrative rule, effective March 1, 1982. This rule is currently set forth in Chapter DE 2 of the Wisconsin Administrative Code..." (Ex. 9, p. 8028)

For a foreign trained dentist, the existing rules in 1983 provided an alternate means to obtain a dental license. The alternate means was to complete an evaluation course as follows:

DE 2.01 (1) (e) Evidence satisfactory to the Board of having completed educational requirements in s. 447.03(2), Stats. In the case of a graduate of a foreign dental school, verification shall be provided from a foreign graduate evaluation program conducted in California, Maryland, Minnesota, New York or other Board-approved evaluation programs of successful completion of the evaluation course. (Ex. 9, p. 8008)

The Board noted in 1983 that the purpose of the evaluation program was

...to ascertain whether or not the training and proficiency of the foreign graduate is *comparable* to that received by graduates of those schools accredited by the commission on dental accreditation. (Ex. 9, p. 8029) [Emphasis added.].

In 1983, the Board determined that such programs were not sufficiently evaluating clinical skills, and thus the Board attempted to delete all rule language allowing applicants to go through an evaluation course (Ex. 9, p. 8196). Accordingly, the deletion of the evaluation program was included in a proposed rule change. (Ex. 9, p. 8010).

However, the Joint Committee for Review of Administrative Rules asked the Board to delay deletion of the rule, and to “continue its negotiations” with Marquette University to create an evaluation program. (Ex. 9, p. 8031). This correspondence evidences a legislative intent and concern that an avenue for the evaluation and licensing of foreign trained dentists be available in Wisconsin.

By early 1984, Marquette University created an evaluation program. (Ex. 9, pp. 8231, 8243, 8262). The Marquette evaluation program was purportedly used by the Board until 2003.

In 1988, the Board amended Section DE 2.01 (1) (e), to remove references to specific programs conducted in other states, to thereafter provide as follows:

DE 2.01 (1) (e) Evidence satisfactory to the Board of having completed educational requirements in s. 447.03 (2), Stats. In the case of a graduate of a foreign dental school, verification shall be provided from a Board-approved foreign graduate evaluation program of successful completion of the evaluation course. (Ex. 9, p. 8040)

On June 16, 2003, William K. Lobb, DDS, Dean of the Marquette University School of Dentistry wrote to the Board that the Marquette University School of Dentistry was, in so many words, ending its evaluation program. (Ex. 9, p. 4) This decision occurred, according to Lobb, when following the March 2003, meeting of the American Association of Dental Examiners,

A series of conversations were held with the Chair (Bruce Barrette) of the Wisconsin Dentistry Examining Board and me regarding initial licensure of foreign-trained dentists. As you know, Marquette University School of Dentistry has conducted evaluations in the past assessing equivalency of their training to Wisconsin standards. (Ex. 9, p.4)

The specific contents of these conversations between Lobb and Barrette are not disclosed in the record.

At the Board’s July 2, 2003, meeting, the Board voted to essentially do away with the evaluation program.

MOTION: Keith Clemence moved, seconded by Catherine Schleis, to require all foreign-trained dentists, prior to applying for Wisconsin licensure, would need to: first successfully pass National Boards Part I and II, attend an ADA accredited dental school for a minimum of 2 years, which would result in the candidate receiving a DDS/DDM degree, successfully pass either CRDTS or WREB; and in addition, all foreign trained applicants are acted on by the Credentialing Committee. Motion carried unanimously. (Ex. 9, p. 14)^[5]

Thus began a rolling dispute with the Department regarding the propriety of the Board’s action, which resulted in other Board-directed actions to search for a replacement evaluation program. Other credential review organizations were contacted, but rejected as not assessing clinical competency. (Ex. 9, pp. 166-287) Follow up correspondence with these organizations was also sent out to clarify and reconfirm whether clinical competency was evaluated. (Ex. 16)

The result of the Board’s recent search for an acceptable evaluation program was the abandonment of licensing for foreign trained dentists. On January 25, 2005, the Board’s subcommittee for the issue of foreign trained dentists passed the following motion:

MOTION: Dr. Barrette moved, seconded by Dr. Gill, to change the language in the second bullet point to read: “The Board is unable to act on your application at the present time due to the unavailability of a Board-approved evaluation program.” Motion carried unanimously. (Ex. 9, p. 301)

The record is devoid of any Board efforts to consider evaluating and accepting actual clinical programs in the same manner as it did when the former clinical program was created by Marquette Dental School in 1984 in response to legislative urging.

3. Interpreting Wis. Admin. Code § DE 4.02

The requirements of an “evaluation program” in Section DE 4.02 are not defined. The Board therefore in the exercise of its discretion could review any training programs it wished to determine whether they would qualify. With the exception of the Marquette program, however, the Board has simply never done this. Yet it is possible to find a replacement for the Marquette program which substantively does what the Marquette program purported to do. This was the intent of the legislature by requesting years ago that the Board at that time work with Marquette to develop such a program.

The record reflects that the original Marquette evaluation program was designed to test clinical skills. However, the record also reflects that the Marquette evaluation program apparently was never used by either Marquette or the Board to test clinical skills. Instead, the Marquette clinical review evaluation program morphed at some unknown point into a “mere” credential review program, of the type the Board now decries as being unacceptable.

The Board’s recent conclusion is unsupportable, that, to paraphrase, “all that exists are mere credential review services.” This is reflected in the denial letter sent to Dr. Bublik. However, the record reveals that the Board in its search only contacted the “mere” credential review services and never sought to seek out and approve clinical evaluation programs.

The Board is reminded that the Marquette Dental School clinical program, itself was actually a clinical program that the Board approved as meeting the requirements of Section DE 4.02. Nothing prevents the Board from reviewing other clinical programs to see if they too now qualify for purposes of Section DE 4.02. The Board’s current search for and rejection of the “mere” credential review programs, obviously doomed to failure, is misplaced and has delayed the licensing of potentially safe foreign trained dentists. The Eastman program that Dr. Bublik completed is one example of an advanced ADA approved program which can be used to gauge the clinical skills of foreign trained dentists.

The question of pretext and abuse of discretion thus looms because the Board is not considering alternate programs such as the Eastman program. The Board appears to do the following:

1. Implicitly determines without explanation that alternate ADA approved programs do not qualify for purposes of Section DE 4.02. (While ironically the unused Marquette clinical program did not have ADA approval, yet was “approved” by the Board.)
2. Implicitly discounts the use such programs by other states. The Board thus appears to conclude that those other states are failing in their respective missions, without findings of fact as to exactly why this Board holds such a position and what specifically is unsafe with such alternate programs.
3. Within the twenty five year licensing history exhibited by this record, the recent record discloses at times a very inconsistent application of analysis as to why and how the Board exercises discretion in the evaluation of foreign trained dentists.

In the same manner that the Board approved the original Marquette Dental School evaluation program (designed to test clinical skills), it should now review other programs offered by other schools and institutions, to determine if they satisfy the requirements of Section DE 4.02. To not undertake this task could very well be deemed an abuse of discretion.

4. The University of Rochester AEGD program (Eastman program) qualifies as an evaluation program for graduates of foreign dental schools pursuant to Wis. Admin. Code § DE 4.02.

Against this history of the application of Board discretion in the licensing of foreign trained dentists, the Eastman program satisfies the Board’s requirement of a program that sufficiently evaluates a candidate’s clinical skills (i.e., proficiency).

In the past evaluation programs in four states (Maryland, Minnesota, California, and New York) were used by the Board to evaluate foreign-trained dentists. (Ex. 9, pp. 8027-30, 8083) The Board has traditionally and consistently held the view that the evaluation of practical skills was the paramount requirement of an evaluation program. (Ex. 9, p. 8142) This goal should remain the same today. The Board should be seeking to determine that Dr. Bublik’s ability to practice is “comparable” to a minimally qualified graduate of an accredited dental program.

The proper exercise of Board discretion would appear to require that more be done in the instance of Dr. Bublik and similarly situated applicants. While the Board has rejected current evaluation programs that fail to assess clinical competency, for Dr. Bublik, the specifics of his Eastman clinical program were never reviewed. The Board has not determined whether the Eastman program could be accepted as an evaluation program sufficient for his licensure.

A. Comparison of the Marquette University School of Dentistry Evaluation Program and the International Dental Postgraduate Program in Advanced Education in General Dentistry, (“Eastman program”) at the Eastman Dental Center of the University of Rochester, School of Medicine and Dentistry, Eastman Department of Dentistry.

The Marquette program was the primary program used by the Board (purportedly) as of 1988.^[6] The Eastman program completed by Dr. Bublik should be accepted by the Board as an evaluation program as well. This recommendation is based upon two factors that are summarized as follows: 1) The Eastman program has a more extensive clinical component than the Marquette program; and 2) The Eastman program is ADA accredited without reporting requirements, the Marquette clinical program never was ADA accredited.

1. The Eastman program has a more extensive clinical component than the Marquette program.

The components of the Eastman program are set forth in the findings of fact and Exhibit 8. The components of the Marquette program are set forth in Exhibit 9 pp. 323-331. The Eastman program is a two year program with didactic and clinical work.

Eastman program (2 years)

Residents receive clinical training in areas of:

- a. Removable and fixed prosthodontics,
- b. Periodontics,
- c. Operative dentistry,
- d. Cosmetic dentistry,
- e. Endodontics,
- f. Pediatric dentistry,
- g. Dental implantology,
- h. Orthodontics,
- i. Research. (Ex. 8)

The Eastman program requires fourteen mandatory clinical rotations:

- a. Emergency- 52 week (8 hours per week for first year resident, 4 hours per week for second year resident)
- b. Oral Surgery at EDC- 3 months, 8 hours per week
- c. Oral Surgery at SMK- 2 weeks with the Oral Maxillo-facial surgery program
- d. Pediatric Dentistry- 4 week rotation (1/2 day per week)
- e. Research- 3 months, 4 hours per week
- f. Comprehensive Care- 104 weeks (32 hours per week- first year, 28 hours per week- second year)
- g. Community Dentistry- 2 weeks
- h. Developmental Disabled- 2 sessions at the Developmental Disabled Clinic
- i. Geriatric- 2 sessions under doctor direction
- j. Periodontology- 2 sessions
- k. Implantology- 2 sessions
- l. On-Call- 5 sessions
- m. Administrative/Library- ½ day per week (Ex. 8)

Marquette program

No course descriptions or syllabi are available for the Marquette program. The Marquette program consisted of a three week screening evaluation and a semester clinical evaluation.

Screening Evaluation (3 weeks)

- a. Endodontics
- b. Operative Dentistry
- c. Prosthodontics
- d. Removable Prosthodontics
- e. Anesthesia
- f. Hospital Dentistry
- g. Oral and Maxillofacial Surgery
- h. Orthodontics
- i. Periodontics
- j. Clinical Oral Pathology & Diagnosis
- k. Pedodontics

Clinical Evaluation (1 semester)

- a. Endodontics- prepare and fill four teeth
- b. Operative Dentistry- 150 units, one restoration equals approximately 6 units.
- c. Fixed Prosthodontics- 3-unit (minimal) fixed partial denture, 1 crown
- d. Removable Prosthodontics- pass the final examination given to junior and senior classes for the preceding year. Oral exam, fabrication of a complete denture, diagnose and develop multiple treatment plans for three partially edentulous patients.
- e. Anesthesia, Hospital Dentistry, Oral Surgery- 10 routine extractions, 2 alveoplasties, perform maxillary tuberosity reduction, demonstrate care of post-operative alveolar osteitis, perform a biopsy.
- f. Periodontics- perform examination and determine prognosis and develop a treatment plan for 2 patients
- g. Clinical Oral Pathology & Diagnosis- CPR certification, radiology skills, oral diagnosis and treatment planning, minimum of 15 cases
- h. Pedodontics- prepare and restore primary molar with a Class II amalgam, stainless steel crown, and provide oral examinations, including radiographs, and treatment plans for two pedodontic patients.
- i. Orthodontics- to be determined.

When compared, both programs contain similar clinical components. In some instances the Eastman program appears to be more extensive, in others both programs appear similar. The Board should not be seeking to identify a one-to-one correspondence; there should be room for legitimate variation between educational institutions. The Eastman program appears to cover the major areas of didactic and clinical training. The two year Eastman program would also appear more comprehensive than the Marquette program of shorter duration.

2. The Eastman program is ADA accredited without reporting requirements; while the Marquette clinical evaluation program never was ADA accredited.

The ADA accreditation of approved without reporting requirements is as follows:

Approval (without reporting requirements): An accreditation classification granted to an educational program indicating that the program achieves or exceeds the basic requirements for accreditation” (Ex. 7)

In the instance of the Eastman program, the basic ADA requirements for an advanced program in general dentistry are therefore met or exceeded.

The ADA describes its accreditation as follows:

The American Dental Association has delegated the Commission on Dental Accreditation the responsibility for

the evaluation of predoctoral, advanced and allied dental education programs. *Programs are evaluated in accordance with published educational standards.* The Commission on Dental Accreditation is recognized by the U.S. Department of Education to accredit dental education programs. *Students currently enrolled in any of these programs and who complete the program will be considered graduates of an accredited program.* [Emphasis added.] (Ex. 14)

The Board has by rule deemed that any educational program which is ADA-accredited is approved by the Board. Wis. Admin. Code §DE 4.01 provides in part:

DE 4.01 Board approval. Educational programs in the subject areas of dentistry and dental hygiene shall be approved by the Board. *The Board approves educational programs accredited by the commission on dental accreditation of the American dental association* and may approve other educational programs if the program requires: [Emphasis added.]

Therefore to establish a defensible exercise of its discretion, the burden shifts to the Board to demonstrate how the ADA accredited Eastman program does not qualify as an evaluation program, and to state reasons why Section DE 4.01 does not apply. The burden is on the Board to show a public protection danger with the Eastman program. To demonstrate consistency in the application of its discretion, the Board would then need to elucidate where that same issue (or clinical skill set) had been satisfactorily tested by the now defunct non ADA accredited Marquette program. The record here does not establish that a student who successfully completes an ADA advanced skills program is in some manner deficient in certain critical core basic skills. The record here does not demonstrate that somehow the ADA accreditation process has got it wrong, by accrediting a program which admits unqualified students.

It may be argued that an advanced program does not reflect mastery of the “basic” clinical skills that the Board is seeking to verify with an evaluation program. I feel this argument is problematic. A side by side comparison of the Marquette program and the Eastman program doesn’t differentiate “basic” skills versus any other skills for either program. It is not clear in the record that the Board has ever articulated what specific skills that it desires to see tested, or that either the Marquette program or the Eastman program fails to evaluate those skills. Therefore, in a vacuum, such an argument is makeweight at best. In Wisconsin, by statute and by rule, ADA accreditation is recognized as an official sanction of reliability and quality. Neither the Eastman program nor the Marquette programs exhaustively identify “basic” skills versus “advanced” skills yet it is established that the Eastman program meets published educational standards. The Board is directed in its mission to license dentists who are minimally competent. The Board should be able to articulate specifically how a candidate for licensure who completes the Eastman program is not minimally competent. At that point at least the candidate will have the sufficient due process notice to attempt to marshal further evidence sufficient to address the Board’s concern.

The ADA indicates that all programs are, “evaluated in accordance with published educational standards”. Therefore the question for the Board becomes, if the Board refuses to accept the Eastman advanced program in clinical skills, is the Board saying that the ADA and the published educational standards that the ADA follows, allow the entry of students into these programs, and the operation of these programs, such that the programs produce dangerous dentists?

The “basic skills” argument to reject the Eastman program is thus not persuasive and could border on appearing to be pretextual.^[7]

B. The Marquette “clinical” program was never used after 1994, yet the Board continued to issue licenses to foreign trained dentists based upon credential review alone.

Despite the “official” record of the use of the Marquette clinical program, it was never actually used after 1994, yet the Board continued to grant licenses to foreign trained dentists. (Ex. 15) From 1995 until 2003, the Board was actually using the Marquette “clinical” program as a modified credential review service and not as a clinical skills evaluation at all.

It must be assumed that that Board knew that its official requirement was not being met. The question then becomes: How necessary was such a clinical program? It appears in retrospect that the Board actually had deemed the performance of a

credential review implicitly sufficient to protect the public health, safety and welfare.

More important to the analysis here is that the credential review by the Marquette Dental School was actually a form of discretionary review of the underlying programs and not technically a “credential” review of the type currently of concern to the Board. The difference is apparent and significant. When the applications of recent candidates are examined, it is clear that the Marquette Dental School was not actually performing a credential review at all, i.e., checking foreign transcripts for correlation to domestic ADA programs. Rather, the Marquette Dental School was instead stating that an educational equivalence was established between the applicant’s training and the training received in an ADA approved program – specifically, the training received at Marquette.

In this sense, the Board in using Marquette to review these credentials had actually ceded to Marquette the Board’s own job, which the Board needs to re-undertake at this time. Namely, the Board must now review ADA-approved programs completed by foreign trained dentists to determine whether they qualify as evaluation programs. Dr. Bublik has actually presented to the Board (via his completion of the Eastman program) a version of a clinical evaluation program of the type that Marquette promised to the Board but did not deliver. The Board now should exercise its discretion to review the Eastman program and approve it for purposes of Wis. Admin. Code § DE 4.02. The following is a compilation of application files for foreign trained applicants^[8]. A review will allow the Board to revisit its recent credentialing history, most notably to discern that approval of the Eastman program is consistent with the existing pattern of the Board’s exercise of its discretion on this question:

Omar Abdo- 5403 7-24-2001 (Ex. 9, pp. 20000- 20049) This is an endorsement application. It is not clear why the March 22, 2000, Marquette letter, a “review” of credentials, was prepared for an endorsement candidate. The letter states Abdo is prepared to a level at least equivalent of a Marquette University School of Dentistry graduate.

Schooling: University of Illinois at Chicago, College of Dentistry, Advanced Combined Prosthodontics Certificate, Master of Science (Oral Science), expected graduation Spring 2001.

The Abdo application is significant in that if it was deemed by the Board as an examination application^[9], the review reviewed and approved an advanced course in a specialty (not a general basic clinical skills program) and an advanced degree in a specialty (not a general basic clinical skills program.) Therefore, in the exercise of appropriate discretion, Bublik’s completion of the Eastman program should be deemed satisfactory as well. (If the Abdo application was deemed an endorsement candidate, then the Board apparently accepted a Master of Science Degree and an advanced certificate for purposes of satisfying the educational requirements of Wis. Admin. Code § DE 2.04: “The applicant has graduated from a school of dentistry accredited by the American dental association.”)

Rodney Vergotine- License Number 5438 11-02-01-(Ex. 9, pp. 20340-20385). The applicant was a candidate for original licensure by examination. He graduated from the University of the Western Cape, located in South Africa. From 1991 to 1993 he was a pediatric dental resident at the University of Missouri, and from 1993 to 1995 he was a pediatric dental fellow at the University of Illinois. He was licensed in Illinois and Missouri in 1997, and Oklahoma in 2000.

Vergotine’s follow up studies domestically at the Universities of Illinois and Missouri were apparently not evaluated. Rather, September 17, 2001 Marquette correspondence indicates a credential review was performed for his degree from South Africa, which was deemed equivalent. Also noted was, “None of this comparison considered direct observation and review of clinical care.” (Ex. 9, p. 20360)

Prior to the September 17, 2001 correspondence, August 27, 2001, correspondence from Marquette University states,

The program comparison, in addition to consideration of the program of studies and postgraduate training in Pediatric Dentistry justifies the conclusion that based on the provided details, Dr. Vergotine has participated in a program of studies equivalent to the four year DDS program offered at Marquette University School of Dentistry.

As evidenced by this August 27 correspondence, post graduate training at an ADA school without being awarded a degree

qualifies as the equivalent of the Marquette program.^[10] Therefore, for consistency the Eastman program should also qualify.

Francisco Pestana- License Number- 5339 05-02-01- (Ex. 9, pp 20082-20241) Endorsement. No credential review. ADA accredited. University of Puerto Rico.

Ewa P. Koser- License Number- 5274 10-15-02- (Ex. 9, pp 20267-20315) Endorsement. Credential review, April 24, 2002, Marquette letter indicating that the applicant had completed the Resident Study Licensure Program at Northwestern University, which prepared her to a level at least equivalent to a Marquette University School of Dentistry graduate.

Ms. Koser graduated from the Medical University in Lubin, Poland. She thereafter graduated from the Northwestern University Dental School program in 1996, and obtained licensure in Illinois. What is interesting about this file is that licensure by endorsement under Wis. Admin. Code § DE 2.04 (1) (a), does not allow for an evaluation program, as used in this instance. Rather, that provision requires, “The applicant has graduated from a school of dentistry accredited by the American dental association.” Despite this, it appears the evaluation program at Marquette “evaluated” Ms. Koser’s Northwestern University program, and found it equivalent to the Marquette Dental School degree program.

Therefore, the Marquette credential review letter for this endorsement candidate was used for the wrong purpose by the Board. The Northwestern program is apparently not a “degree” program, yet was accepted for purposes of endorsement licensure under section DE 2.04 (1) (a), with the Marquette credential review process providing approval. (The record does not contain any information about the Northwestern program, but it appears by its title to not be a “DDS” or “DMD” program.) However, by rule, the evaluation program process applies to only examination candidates, not endorsement candidates.

If, on the other hand, Koser qualified ultimately by examination, then the Eastman program completed by Dr. Bublik should be given the same status as the Northwestern University Dental School Resident Study Licensure Program. It is important to note that under the Koser analysis used by the Board that the Eastman program would also suffice for licensure by endorsement as well, if the Koser analysis was applied consistently.

All the more so then, the Board should use the Eastman program for purposes of licensure by examination, for Dr. Bublik, ie. where it is the proper place to do so. (I.e., under a consistently applied “Koser” analysis, if the Eastman program should also qualify as graduation from an ADA school of dentistry for purposes of Wis. Admin. Code § DE 2.04 licensure by endorsement, therefore, the Eastman program should be considered to be *at least* the equivalent of an approved evaluation program for original licensure under Wis. Admin. Code § DE 2.01.)

Stephen Eidam- License Number - 5559- 09-12-02 - (Ex. 9, pp. 20484-20523)

The applicant was a candidate for original licensure by examination. He graduated from Ulm University in Germany. He thereafter received an MS from the University of Minnesota and completed the University of Minnesota Advanced Education Program in Periodontology. The August 14, 2002, Marquette credential review letter found the applicant’s education to be equivalent to that of a Marquette dental school graduate. (p. 20493)

Andris Jaunberzins- License Number 5478, 06-06-2002 (Ex. 9 pp. 20315- 20339). The applicant was an examination licensure candidate. He graduated from the Medical Academy of Latvia. A January 22, 2001, Marquette letter indicated a credential review was performed and the applicant’s education was deemed equivalent.

Weiguang Ma- License Number 5464 05-01-2002- (Ex. 9, pp. 20409-20446). The applicant was a candidate for original licensure by examination. He graduated from the College of Dentistry in Xian, China. The February 12, 2002, Marquette credential review letter determines his education to be equivalent to a Marquette dental school graduate. This determination included a review of post graduate coursework in Oral and Maxillofacial Surgery. (p. 20433-4) The coursework was a residency at the University of Miami School of Dentistry.

Mr. Ma did not “graduate” in the sense of receiving a diploma from an ADA accredited DDS or DMD program. Rather, he received a certificate for work in a post graduate specialty. The argument therefore that the ADA approved Eastman program is insufficient because a certificate was received, versus the awarding of a degree, is not well taken. Further, the Board has

demonstrated its exercise of discretion in accepting for equivalency the completion of post graduate work resulting in the granting of a certificate, as evidenced with Mr. Ma.

Francisco Villalobos License Number 5433 10-19-2001- (Ex. 9, pp. 20386-20408). The applicant was a candidate for original licensure by examination. He attended the University of Nueva San Salvador. He also completed an orthodontic residency at the University of Oklahoma. The September 21, 2001, Marquette credential review letter finds his education to be equivalent with a Marquette dental school graduate. This finding was based in part on a review of his post graduate coursework in a specialty.

Here, the Board once again accepted specialty coursework to establish equivalency. Therefore for any argument that a general program is insufficient, (i.e., Eastman), the Board has failed to explain the rational basis for accepting a non clinically comprehensive specialty program versus now potentially rejecting the ADA approved Eastman advanced clinical program.

Maylani Evangelista – License Number 5469 05-29-2002- (Ex. 9, pp. 20447-20484). The applicant was a candidate for original licensure by examination. She graduated from the Cebu Doctors College, in the Philippines. She received an MS degree and certificate in Orthodontics from the University of Minnesota, and received a Certificate in Advanced Education in General Dentistry from Marquette University. The February 11, 2002, Marquette credential review letter evaluated her education as equivalent to a Marquette dental school graduate. This evaluation included a review of her post graduate coursework.

Ching Yin 5274 09-08-2000- (Ex. 9, pp. 20241-20268) Licensure by examination. (Not endorsement). Attended Taipei Medical College School of Dentistry. June 26, 2000, Marquette letter, credential review. Equivalent to a Marquette dentistry graduate. (p. 20260)

The applicant, Ching Yin, did not appear to complete any additional ADA approved coursework.

Thomas G. Bradley 5275 09-08-2000- (Ex. 9, pp. 20051-20081) March 17, 2000, Marquette letter, credential review, equivalent. (p. 20080) This was an endorsement candidate. It isn't clear why a credential review was performed. Cork Dental School – National University of Ireland, MS Ohio State, 1991-1994 Orthodontics.

Note that for purposes of licensure for Mr. Bradley, an MS Degree in a specialty was deemed sufficient to meet endorsement requirements under §DE 2.04.

Marta Speakman - License Number 5651 08-21-2003- (Ex. 9, pp. 20624-20708) The applicant graduated from Memorial Academy in Poland. She then completed 2 academic years of supplemental dental education receiving a certificate of completion of the International Dentist Program at the University of Illinois. (p. 20644) The Illinois Interim Associate Dean for Academic Affairs also stated, “Dr. Speakman achieved the educational equivalency of a graduating senior who receives a DDS degree from our institution.” (p. 20644) The applicant was thereafter licensed in Illinois in 1996.

On July 2, 2003, the Board's dental review committee noted that her application was by “reciprocity” (endorsement), and; “Deny! Not ADA approved program DDS or DMD.” (p. 20678) On July 17, 2003, the director of admissions for Marquette University sent the applicant a letter, stating that no credential review would be undertaken. The letter states in part, “...the School of Dentistry has not dealt with such requests for several years.” Such a statement contained in the July 17, 2003, letter is incorrect, as the present record clearly establishes.^[11] Thereafter the applicant directed a letter of complaint to the Governor, (p. 20674-75). This complaint letter to the Governor resulted in an August 18, 2003, Marquette letter, establishing her equivalency.

The August 18, 2003, Marquette credential review letter, from Dean William K. Lobb, approved the equivalence of the applicant's educational experience with that of a Marquette dental school graduate. (p. 20668) Also a factor in the equivalency determination was the applicant's completion of the two-year International Dentist Program at the University of Illinois. By email correspondence from the Department's bureau director to staff, it is indicated that “Yes, the DEB chair said to go ahead and give her a license.” (Ex. 9, p. 20625)

For consistency the Eastman program should also be accepted in this instance for Dr. Bublik, as the University of Illinois

program was for Ms. Speakman.

Felicia Mata License Number 5657 09-08-2003- (Ex. 9, pp. 20524-20624) The applicant attended the Centro Escolar University, in the Philippines. She applied by endorsement. She received a license as a dentist in Illinois on October 4, 1996.

The Board's dental review committee reviewed the application file on July 2, 2003, and noted that she was applying by endorsement, (reciprocity) and the recommendation is to deny, because: "Deny- Not ADA approved program with DDS or DMD". (p. 20536)

An August 29, 2003 Marquette credential review letter determined the applicant's education to be equivalent to a Marquette dental school graduate. The review determined that her completion of the two year International Dentist Program at the University of Illinois was the factor in her being "prepared" to the equivalent level. (p. 20535) The University of Illinois program is a 24 month 3200 hours program of preclinical assessment and training and clinical practice in all disciplines of dentistry. (p. 20554)

It is not clear from the file upon what basis the Board exercised discretion to grant a license. Technically, an application by endorsement under Wis. Admin. Code § DE 2.04, does not require the completion of an evaluation program. Therefore, it is not clear why the August 29, 2003 Marquette letter was generated. Alternatively, if the application was deemed to be for licensure by examination, and all other requirements were met, the August 29 letter served to demonstrate compliance with Wis. Admin. Code § DE 2.01 (1) (e), and the successful completion of an evaluation program.

It appears that the University of Illinois program was deemed to satisfy either DE 2.04 or 2.01 (1)(e). Either way, the Eastman program should be afforded a similar result in Dr. Bublik's case. If not, the Board has failed to provide a basis for not doing so.

Grace Richardson License Number- 5636 07-07-2003 (Ex. 9, pp. 20709-20734) The application is marked by staff as for licensure by examination. The applicant graduated from Dalhousie University in Nova Scotia, Canada.

William Lobb License Number 5628 6-30-2003- (Ex. 9, pp. 20734-20773) The applicant graduated from the University of Alberta in Edmonton Alberta, Canada, in 1977. He received an MS degree in the specialty of Orthodontics from the University of Michigan in 1981. The application indicates that licensure is being sought by endorsement. The file contains a credential review letter from Marquette University, dated, June 10, 2003. It is written by Timothy Creamer, Senior Associate Dean. (p. 20737) A credential review was performed which reviewed all of the applicant's educational experience and found it to be equivalent to that of a Marquette University School of Dentistry Graduate.

As has been noted with other application files reviewed in this opinion, once again a credential review letter was generated for licensure by endorsement, where it was not technically necessary. The evaluation program of credential review is only required by rule for licensure by examination under Wis. Admin. Code § DE 2.01 (1)(e). A review of the file discloses that it appears to contain a combination of proofs for both licensure by examination and by endorsement. However, these proofs appear to be incomplete for licensure by *either* method. The application file was not referred to the Board's dental review committee, and my review of the file does not demonstrate that the Board acted on this file.^[12]

Deji Fashemo License Number 5682 1/7/04- (Ex. 9, pp. 20773-20840) The application is marked as being by "Exam" (p.20782) although the Board review committee indicates that it is a "reciprocity" application. (p. 20774) The application was approved by reciprocity. The applicant graduated from the University of Ibadan, in Nigeria, in 1992. He completed the Eastman program in Advanced Education in General Dentistry in June 2001. He was licensed by the State of Washington on June 17, 2002.

This course completed by Mr. Fashemo; is the same course completed by Dr. Bublik.

C. The Eastman program or similar programs have been accepted by the Board for purposes of satisfying licensure.

For several of the applicants discussed in this opinion, the Board has in fact used the Eastman program or another similar to it as the basis for awarding licensure. These applicants are:

a. Ewa P. Koser- License Number- 5274 10-15-02- (Ex. 9, pp 20267-20315) Resident Study Licensure Program at Northwestern University

b. Weiguang Ma- License Number 5464 05-01-2002- (Ex. 9, pp. 20409-20446). Post graduate coursework in Oral and Maxillofacial Surgery, University of Miami School of Dentistry.

c. Francisco Villalobos License Number 5433 10-19-2001 (Ex. 9, pp. 20386-20408) Orthodontic residency at the University of Oklahoma.

d. Arta Speakman License Number 5651 08-21-2003- (Ex. 9, pp. 20624-20708) International Dentist Program at the University of Illinois.

e. Deji Fashemo License Number 5682 1/7/04- (Ex. 9, pp. 20773-20840). Eastman Program in Advanced Education in General Dentistry.

I find nothing in the record to serve as a basis to reconcile a decision to reject the Eastman program now with the Board's previous granting of licenses based upon completion of the Eastman program and similar programs in the past. If this Board felt that the Eastman program is not sufficient to protect the public safety, then it should have so stated and specified reasons why.

D. The State of New York issued a license to Dr. Bublik based in part upon his successful completion of the AEGD program.

The State of New York exercised its discretion in a manner sought by Dr. Bublik to be done by this Board for purposes of Wis. Admin. Code §DE 4.02. This Board should do likewise.

Conclusion

I recommend to the Board that the Eastman program be accepted for purposes of Wis. Admn. Code § DE 4.02, and that Dr. Bublik be issued a license.

Date: November 4, 2005

William Anderson Black
Administrative Law Judge

Endnote-[\[13\]](#)

- [1] Exhibit 8 contains the curriculum and course outlines for this program for Fall 2000 through Fall 2002, which Dr. Bublik attended.
- [2] A preliminary issue was raised that Section DE 4.02 contains the word “shall”, and based upon the use of that word, it has been argued that “shall” in this instance means that the Board must approve something, even if in the proper exercise of discretion, the Board is unable to find a program that safely measures equivalency to be an evaluation program. Because of the findings and recommendations set forth in this opinion, addressing this issue is not necessary. I note, however, that the rule does not read “The Board shall approve . . . evaluation programs,” but rather “Evaluation programs . . . shall be approved by the Board.” The word “shall” for purposes of Section DE 4.02 merely identifies the Board as the entity to perform the task of approving evaluation programs. I do not interpret it to mandate a non discretionary, “least of evils” choice. Such a forced reading of this section would undercut the purpose of regulation in the interest of public safety.
- [3] As used in this opinion, “ADA accredited” means, the ADA’s Commission on Dental Accreditation or an accredited Canadian school recognized by ADA reciprocity.
- [4] For purposes of this opinion, and for consistency, the term “foreign trained”, will mean that the applicant’s first professional degree was obtained at a non accredited dental school. Typically, and as is the case with Dr. Bublik, the issue of being “foreign trained” relates to an applicant who obtained this first professional degree in a country other than the United States.
- [5] On September 1, 2004, this motion was rescinded by the Board. The Board appointed a subcommittee to study foreign graduate evaluation programs to determine their acceptability and report at the November 3, 2004 meeting. The Board also took action to postpone any further action on pending foreign dentist applications. (Ex. 13)
- [6] “It was decided that the Board would continue with the Marquette program since there seems to have been no problems with its use.” (Ex. 9, p. 8351)
- [7] If such an argument is truly advanced, not as mere makeweight to avoid licensing foreign trained dentists, then the implication is that the Board needs to seek statutory change to abandon ADA accreditation as the *sine qua non* for licensure in this state.
- [8] These files go back approximately five years and appear to be the only available files.
- [9] The licensure record is unclear on this point.
- [10] The evaluation program by rule is in place to demonstrate functional equivalency with an ADA approved school. The Marquette evaluation program conducted on behalf of the Board, found “equivalency” specifically with the Marquette Dental School, not an ADA approved school generally.
- [11] One troubling aspect of this case is that Marquette University is acting as a gatekeeper and performing a quasi public function. Yet a means of redress and due process standards do not easily apply in this context. In a related case, applicant Hanan Youssef (LS 0504083 DEN) testified that she was informed personally by the Dean as follows:

ALJ BLACK: That's it, okay. Did you bring with you any course description of the Marquette program listing the course work involved, both in the didactic and clinical components, basically the syllabus and course descriptions?

MS. YOUSSEF: No, I didn't.

ALJ BLACK: Would it be possible for you to get that from the time period that you went through the program?

MS. YOUSSEF: I can ask about it. I'll try. I'm not sure.

ALJ BLACK: I would certainly hope that they would give that to you.

MS. YOUSSEF: Okay. Would this be about just the general program?

ALJ BLACK: The certificate program that you completed, maybe Mr. Callisto can make a phone call to somebody that might help with that if that's a problem. We should get that so that can be a part of the record in this case. We will mark that tentatively as Exhibit 3. **Did you ever talk to the Dean about this issue?**

MS. YOUSSEF: I did. I did during my residency when I first came in and he told me that this evaluation program was no longer being performed because **he didn't feel comfortable doing it** and he advised me to go back to dental school for the three years, which if I could have, I probably would, but for certain reasons, I couldn't.

ALJ BLACK: Do you recall, did you have more than one conversation with him about this issue?

MS. YOUSSEF: Maybe once, not twice, no more than that, no.

ALJ BLACK: Do you recall when that was?

MS. YOUSSEF: It was during my residency program.

ALJ BLACK: At the beginning of it, the middle of it, the end of it?

MS. YOUSSEF: Probably like 2003, March 2003, during the ending of my first year.

ALJ BLACK: And was there a reason that this -- did you initiate the conversation?

MS. YOUSSEF: Yes, I did.

ALJ BLACK: And was there a reason that you did?

MS. YOUSSEF: Well, I was interested in getting the Wisconsin license, and I had heard that the year before me

Dr. Dobak had got the Wisconsin license and what I had heard was that they would need to write me a letter to show that I was competent enough and that would be presented to the Board. When I did that, when I went to approach him, he mentioned that this was no longer feasible and he advised me that the best way would be to go back to the dental school and do the three years of undergraduate schools again. (Youssef, LS 0504083 DEN, RT. pp. 22-24) [**Emphasis added.**]

[12] The Lobb application file is troubling in many respects: The applicant, William Lobb, Dean of the Marquette Dental School, is the same person who addressed correspondence on June 16, 2003, to the Board that Marquette University would in effect be terminating its credential review program and suggested that the Board adopt a suggested alternative as the new requirement for licensure by foreign trained dentists. (The Board in fact took the very action recommended by Lobb at its July 2, 2003 meeting.) Mr. Lobb placed an application on file on June 26 following his June 16 letter to the Board, and obtained a license within three working days. The file contains a handwritten note, which reads: "Bruce I trust this is everything you need. I have tried to ensure this was complete. Final hard copies and certificate will be forwarded as they are available. Bill" (Exhibit 9, p. 20738) Two days after Mr. Lobb received his license, the Board met on July 2, 2003, to effectively end the licensure of foreign trained dentists in Wisconsin. Furthermore, as noted in footnote 11, this judge has received testimony in another denial proceeding that indicates that some time in 2003 before June 16, 2003, the Marquette Dean indicated to a student that the credential review program for foreign trained applicants was no longer available at Marquette, because the Dean, "didn't feel comfortable doing it." However, it appears that there was comfort in Marquette producing just such a letter for Mr. Lobb, on June 11, 2003, days before Lobb wrote his June 16, 2003, letter to the board to kill the Marquette program. Accordingly, I request that

The Department review the application process for William Lobb to insure that the application file is complete and that the proofs necessary for the issuance of a license by either endorsement or examination are evidenced in the file, or take other appropriate action as necessary.

The Department undertake an investigation of the policies, procedures and exact personnel involved in the granting of a license to William Lobb, to determine and insure that the proper procedural policies were followed.

If appropriate, the Department's Division of Enforcement open such investigations as are necessary relating to this matter, utilizing the Board screening bi-pass procedure.

[13] Exhibit 4 as received at hearing has been consolidated with Exhibit 9 for purposes of consistency in pagination. All references in this opinion are to Exhibit 9.