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**Before the
State Of Wisconsin
Dentistry Examining Board**

In the Matter of the Application for a Dentistry
License of Bonolo Odirile, Applicant

FINAL DECISION AND ORDER

Order No. **0005358**

Division of Legal Services and Compliance Case No. 16 DEN 101


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, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision and Order Granting Summary Judgment 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 at Madison, Wisconsin on the 5th day of July, 2017.



Member
Dentistry Examining Board



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Application for a Dentistry
License of Bonolo Odirile, Applicant

DHA Case No. SPS-16-0073
DLSC Case No. 16 DEN 101

PROPOSED DECISION AND ORDER GRANTING SUMMARY JUDGMENT

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Bonolo Odirile, by:

Attorney Arthur K. Thexton
Thexton Law Offices
6229 W. Lloyd Street
Wauwatosa, WI 53213

Department of Safety and Professional Services, Division of Legal Services and Compliance, by

Attorney Amber L. Cardenas
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

The above-captioned matter is before this tribunal on a motion for summary judgment filed by the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division). For the reasons set forth below, the request for summary judgment in favor of the Division is granted.

UNDISPUTED MATERIAL FACTS

1. Applicant Bonolo Odirile (Applicant) filed an application to practice as a dentist in the State of Wisconsin on or about June 9, 2016. (Affidavit of Amber Cardenas (Cardenas Aff.), p. 1)
2. The requirements for licensure as a dentist for an applicant who is a graduate of a foreign dental school (foreign-trained dentists) are set forth in Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m).

3. On or about June 13, 2013, Applicant graduated from the National University of Ireland, University of College Cord, a foreign dental school located in Ireland, with a Bachelor of Dental Surgery (BDS). (Cardenas Aff., Ex. 1, Tab E, 013, Ex. 1, Tab M, 026)

4. The Wisconsin Dentistry Examining Board (Board) has defined the word “accredited” in Wis. Admin. Code § DE 1.02(1) to mean “accredited by the American Dental Association (ADA) commission on dental accreditation or its successor agency.”

5. According to a search of the ADA’s Commission on Dental Accreditation (CODA), website, the National University of Ireland, University of College Cord (College Cork), is not an accredited dental school. (Cardenas Aff., Ex. 2)

6. On or about June 30, 2016, Applicant graduated from the University of Pennsylvania, School of Dental Medicine, orthodontic postgraduate program, with an Orthodontic Certificate. (Cardenas Aff., Ex. 1, Tab H, 017-018; Ex. 1, Tab J, 020-021; Ex. 1, Tab K, 022-023; Ex. 1, Tab P, 031-032)

7. On August 5, 2016, the Board’s credentialing liaison determined that unless the Applicant had documentation of completing at least a two-year accredited dental school program to the level of DDS or DMD, she did not meet the foreign-trained requirements. (Cardenas Aff., Ex. 1, Tab I, 019)

8. Subsequently, Applicant submitted additional information, including a letter from Dr. Chun-Hsi Chung and the Certificate of Professional Education form filled out by the University of Pennsylvania. (Cardenas Aff., Ex. 1, Tab J, 020-021; Ex. 1, Tab K, 022-023)

9. On August 15, 2016, the Board’s credentialing liaison determined that Applicant’s BDS from Ireland did not meet the statutory and administrative rule requirements. (Cardenas Aff., Ex. 1, Tab L, 024)

10. Subsequently, Applicant submitted additional documentation, including a general evaluation report from the Educational Credential Evaluators (ECE). The ECE report concluded that Applicant’s “Bachelor of Dental Surgery” degree is the U.S. equivalent of “completion of five (5) years of study in a dentistry program.” (Cardenas Aff., Ex. 1, Tab M, 026)

11. On August 23, 2016, the Board’s credentialing liaison concluded that Applicant does not have a diploma from an accredited school or equivalent to a DDS or DMD degree from an accredited dental school. The liaison concluded that neither Applicant’s orthodontic training, nor her BDS from Ireland, satisfied the statutory or rule requirements. (Cardenas Aff., Tab N, 027)

12. On September 13, 2016, the Board issued a Notice of Denial for failure to meet the requirements of Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m)(d). (Cardenas Aff., Ex. 1, Tab O, 029-030)

13. In response to the Notice of Denial, Applicant submitted a duplicate copy of the letter from Dr. Chung, a duplicate copy of her Pennsylvania postgraduate Certificate in

Orthodontics, a duplicate copy of the ECE general evaluation report, and a letter from Dr. T. Gerard Bradley for the Board's consideration. The Board did not review the duplicate materials or letter from Dr. Bradley. (Cardenas Aff., Ex. 1, Tab P, 031-033; Ex. 1, Tab Q, 034-035)

DISCUSSION AND CONCLUSIONS OF LAW

"The summary judgment procedure as provided in s. 802.08, Stats., shall be available to the parties upon approval by the division or the administrative law judge." Wis. Admin. Code § HA 1.10(2).

Pursuant to Wis. Stat. § 802.08, summary judgment "shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Wis. Stat. § 802.08(2). "When a motion for summary judgment is made and supported as provided in this section [§ 802.08], an adverse party may not rest upon the mere allegations or denials of the pleadings but the adverse party's response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue for trial." Wis. Stat. § 802.08(3). "If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against such party." *Id.*

"A motion for summary judgment may be made on the basis of the pleadings or other portions of the record in the case or it may be supported by affidavits and a variety of outside material." *Tews v. NHI, LLC*, 2010 WI 137, ¶ 49, 330 Wis. 2d 389, 793 N.W.2d 860 (citation omitted). On a motion for summary judgment, the facts are construed in favor of the non-moving party. *DeHart v. Wis. Mut. Ins. Co.*, 2007 WI 91, ¶ 7, 302 Wis. 2d 564, 734 N.W.2d 394. "[I]f there are any material facts in dispute or any reasonable inferences that might be drawn from undisputed facts which point to a result contrary to the one sought by the movant, the motion must be denied." *Peninsular Carpets, Inc. v. Bradley Homes, Inc.*, 58 Wis. 2d 405, 410, 206 N.W.2d 408 (1973). However, "when the facts are not in dispute and the legal issues are capable of resolution, summary judgment is mandatory." *Smith v. State Farm Fire & Cas. Co.*, 127 Wis. 2d 208, 301, 380 N.W.2d 372 (Ct. App. 1985).

The undisputed material facts establish that Applicant does not meet the requirements of Wisconsin licensure set by statute and administrative rule. As a graduate of a foreign dental school, Applicant must meet the licensure requirements of Wis. Stat. § 447.04(1). Among other requirements, Wis. Stat. § 447.04(1)(a)6. requires that applicants complete "any other requirements established by the examining board by rule." Pursuant to this statutory authority, the Board has promulgated rules for graduates of foreign dental schools in Wis. Admin. Code § DE 2.01(1m), which states, in relevant part:

(1m) An applicant for a license as a dentist who is a graduate of a foreign dental school shall submit all of the following to the board:

(a) Evidence satisfactory to the board of having graduated from a foreign dental school.

...

(d) Evidence of one of the following:

1. Verification of having been awarded a DDS or DMD degree from an accredited dental school.

2. Verification of having received a dental diploma, degree or certificate from a full time, undergraduate supplemental dental education program of at least two academic years at an accredited dental school. The program must provide didactic and clinical education to the level of a DDS or DMD graduate.

There is no dispute that Applicant failed to provide the Board with proof that she had been awarded a DDS or DMD degree, nor does Applicant argue that she ever received such a degree. Rather, Applicant was awarded a BDS from College Cork and submitted proof of such to the Board. In addition, there is no dispute that College Cork is not an accredited dental school as defined by Wis. Admin. Code § 1.02(1) because it is not “accredited by the American Dental Association (ADA) commission on dental accreditation (CODA) or its successor.” It is undisputed that the CODA website demonstrates that College Cork is not an accredited school. Thus, as a matter of law, Applicant does not meet the requirements of Wis. Admin. Code § DE 2.01(1m)(d)1.

Nor is there any dispute that Applicant failed to present evidence to the Board that she received a dental diploma, degree, or certificate from a full time, *undergraduate*, supplemental dental education program of at least two academic years at an accredited dental school, pursuant to Wis. Admin. Code § DE 2.01(1m)(d)2. Rather, Applicant was awarded a certificate in orthodontics from a *postgraduate* orthodontic program at University of Pennsylvania, and presented proof of such to the Board. As a matter of law, therefore, Applicant does not meet the requirements of Wis. Admin. Code § DE 2.01(1m)(d)1.

Applicant argues that because Wisconsin has reciprocity with Canada, and Canada has reciprocity with Ireland, then it follows that the Wisconsin Board should find Applicant’s credentials from Ireland sufficient for licensing in Wisconsin. Applicant asserts: “If a=b, and b=c, then a=c.” (Applicant’s Brief, p. 4) However, transitive property principles do not trump the plain language of the statute and administrative code.

Applicant also asserts that Wis. Admin. Code § DE 2.01(1m) should be interpreted in a way that supports the purpose of the rule, which is to protect the public; that Applicant graduated with the equivalent of a DDS or DMD degree recognized by the Commission of Dental Accreditation of Canada; and that Applicant is well-qualified to practice dentistry in Wisconsin. However, this tribunal is bound by the undisputed facts and the plain language of Wis. Stat. § 447.04(1)(a)6. and Wis. Admin. Code § DE 2.01(1m). The undisputed facts show: (1) Applicant did not graduate with a DDS or DMD degree; (2) Applicant’s degree was not awarded by an accredited dental school; and (3) Applicant does not have the requisite diploma, degree or certificate from a full time, undergraduate supplemental dental education program. Because these undisputed facts show, as a matter of law, that Applicant did not meet the requirements for licensure under Wis. Stat. § 447.04(1)(a)6. and Wis. Admin. Code § DE 2.01(1m), the Board properly denied her Application, and summary judgment in favor of the Division is required.

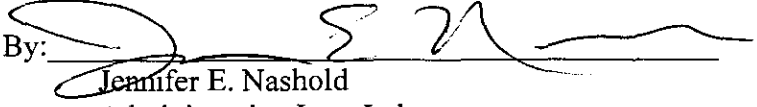
ORDER

For the reasons set forth above, IT IS ORDERED that the Division's motion for summary judgment is granted, and the Board's denial of Applicant's application for licensure is affirmed.

IT IS FURTHER ORDERED that this Order is effective the date of the Final Decision and Order in this matter is signed by the Board.

Dated at Madison, Wisconsin on May 4, 2017.

STATE OF WISCONSIN
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By: 
Jennifer E. Nashold
Administrative Law Judge