

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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**Before The  
State Of Wisconsin  
DENTISTRY EXAMINING BOARD**

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In the Matter of the Application for a License to  
Practice Dentistry of Zahraa Alghabban,  
Applicant.

FINAL DECISION AND ORDER

Order No. **ORDER 0008796**

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**Division of Legal Services and Compliance Application No. 788707**

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 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 6th day of September, 2023.

A handwritten signature in black ink, appearing to read "MaDRB" followed by a stylized flourish.

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Member  
Dentistry Examining Board



Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of the Application for a License to Practice  
Dentistry of Zahraa Alghabban, Applicant.

DHA Case No. SPS-22-0038  
Application No. 788707

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**PROPOSED DECISION**

TO: Zahraa Alghabban  
6809 Mayfield Rd., Apt. 1062  
Mayfield Heights, OH 44124  
[drzahraa80@yahoo.com](mailto:drzahraa80@yahoo.com)

Attorney Jameson Whitney  
Department of Safety and Professional Services  
Division of Policy Development  
P.O. Box 8366  
Madison, WI 53705-5125  
[jameson.whitney@wisconsin.gov](mailto:jameson.whitney@wisconsin.gov)

PROCEDURAL HISTORY

On February 21, 2022 the State of Wisconsin Dentistry Examining Board (Board) issued a Notice of Denial to Zahraa Alghabban (Applicant) with regard to her application for license to practice Dentistry. On April 7, 2022 the Applicant requested a hearing on the Notice of Denial, which was granted. On June 2, 2022, the Division of Policy Development (Division) of the Department of Safety and Professional Services issued a Notice of Hearing identifying the issue for consideration at hearing on the application denial as:

Was the Department's denial of Applicant's application for a license to practice Dentistry based upon a mistake of fact or law, or was it arbitrary or capricious, under the facts of this case?

On June 28, 2022, ALJ Kristin Fredrick conducted a telephonic prehearing conference with the parties. On July 26, 2022, the Division filed a Motion for Summary Judgment with supporting memorandum and attachments. The Applicant did not file a response to the Division's motion. The Division's Motion for Summary Judgment was denied and a new prehearing conference was scheduled at which time the matter was set for hearing. By agreement of the parties and because the Applicant was residing out of the country, the hearing took place by remote video technology on April 21, 2023. The parties stipulated to admission of the Applicant's credentialing file, which was marked as Department's Exhibit 1. The Division requested an opportunity to submit a post-hearing brief and a briefing schedule was set requiring the Division to file its post-hearing brief by May 5, 2023 and requiring the Applicant to file any responsive brief by June 2, 2023. The Division timely filed a post-hearing brief. The Applicant did not file a post-hearing brief. The record in this matter includes the audio recording of the hearing and Department Exhibits 1 and 8.

FINDINGS OF FACT

1. The Applicant, Zahraa Alghabban (hereinafter "Applicant") graduated from the University of Baghdad College of Dentistry with a Bachelor's in Dental Surgery (BDS) degree in June 2004. The University of Baghdad College of Dentistry is a foreign dental school located in Baghdad, Iraq. (Applicant hearing testimony; Dept. Ex. 1)
2. The University of Baghdad College of Dentistry is not an accredited dental school under the American Dental Association's Commission on Dental Accreditation (CODA). (Hearing testimony of Dr. Shaheda Govani)
3. The Applicant participated in a one-year Preceptor Program in Periodontics at the University of Texas School of Dentistry in Houston, Texas where she completed didactic instruction and clinical training in the area of periodontics. The Applicant completed the Preceptor Program on June 29, 2018. (Applicant hearing testimony; Dept. Ex. 1)
4. On or about June 11, 2021 the Applicant received a Certificate of completion of a two-year residency training program in Advanced Education in General Dentistry (AEGD) at the Cleveland Dental Institute. The Cleveland Dental Institute program is accredited as a post-graduate program; however, it does not confer a Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree. (Govani hearing testimony; Dept. Exs. 1 and 8)
5. On or about December 5, 2021, the Applicant filed an application with the State of Wisconsin Dentistry Examining Board (hereinafter "the Board") seeking licensure to practice as a dentist in the State of Wisconsin. (Dept. Ex 1)
6. On or about February 9, 2022, the Board's credentialing liaison, Dr. Shaheda Govani, determined that the Applicant did not meet the requirements for licensure because she did not have a DDS or DMD diploma from an accredited program or two years of equivalent pre-doctoral undergraduate education and skills training from an accredited dental school that provides didactic and clinical education to the level of a DDS or DMD graduate. (Govani hearing testimony; Dept. Ex. 1)
7. On or about February 21, 2022 the Board issued a Notice of Denial to the Applicant based upon the failure to meet the requirements of Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m)(d). (Govani hearing testimony; Ex. 1)
8. On April 7, 2022 the Division received a request for hearing dated March 29, 2022 from the Applicant with regard to the Board's Notice of Denial. At the same time, the Applicant submitted documentation of additional educational programming identified and described in Findings of Fact, ¶¶ 3 and 4 above. (Dept. Ex. 1)
9. The Board determined that the Applicant's additional documentation did not establish that she met the Wisconsin licensure requirements for the same reasons her application was denied on February 21, 2022. (Govani hearing testimony; Dept. Ex. 1)

10. The Division granted the Applicant's request for hearing and issued a Notice of Hearing on June 2, 2022.

### DISCUSSION

The Board's Notice of Denial in this matter set forth three reasons for why the application was being denied under Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m)(d): (1) the application documentation submitted established the Applicant obtained a Bachelors of Dental Surgery from the University of Baghdad, Iraq on June 30, 2004; (2) the application documentation showed the Applicant received a Certificate in Advanced Education in General Dentistry from St. Vincent Charity Medical Center/Cleveland Dental Institute on June 20, 2021; and (3) the Applicant's documentation of education identified in (1) and (2) above did not establish that she had been awarded a DDS or DMD degree from an accredited dental school or that she had 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 that provides didactic and clinical education to the level of a DDS or DMD graduate. The burden of proof in this matter is on the Applicant to demonstrate that she meets the eligibility requirements. Wis. Admin. Code § SPS 1.08(4).

The requirements for licensure as a dentist for graduates of a foreign dental school are set forth in Wis Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m). Pursuant to Wis. Stat. § 447.04(1)(a)3, a license can only be issued to an applicant who submits evidence of graduation from an accredited dental school. "Accredited" means "accredited by the American Dental Association commission on dental accreditation or its successor agency." Wis. Stat. § 447.01(1); Wis. Admin. Code § DE 1.02(1). Consistent with Wis. Stat. § 447.04(1), the Board promulgated regulations setting forth the requirements that a foreign trained dentist applicant must satisfy in order to obtain licensure in the State of Wisconsin:

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.
- (b) The information required in sub. (1)(a) to (d), (f) and (g).
- (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.

(e) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

Wis. Admin. Code § DE 2.01(1m).

At hearing the Division presented credible testimony from the Board's credentialing liaison, Dr. Shaheda Govani, setting forth the reasoning for the Board's denial of the Applicant's application. (Govani hearing testimony) The Applicant did not present evidence disputing the fact that she had not been awarded a DDS or DMD degree from an accredited dental school to meet the requirements under Wis. Admin. Code § DE 2.01(1m)(d)1. Rather, the uncontroverted evidence established that the Applicant received a Bachelor of Dental Surgery (BDS) degree from a foreign school, the University of Baghdad, which is not an accredited dental school in the U.S. (Applicant hearing testimony; Govani hearing testimony; Dept. Ex. 1)

The testimony and evidence established that the Applicant also completed one year of training at a dental program at the University of Texas School of Dentistry in Houston, Texas in 2017 followed by an additional two years of training leading to a Certificate in Advanced Education in General Dentistry (AEGD) at the Cleveland Dental Institute, which is an accredited dental school. (Applicant hearing testimony; Govani hearing testimony; Dept. Ex. 1) The AEGD program is a two year post-graduate program but does not grant DDS or DMD degrees. (Govani hearing testimony; Ex. 8) Based upon the testimony of Dr. Govani, which was corroborated by the Statement of the Director of Graduate Dental Education at the Cleveland Dental Institute, there is insufficient evidence that the Cleveland Dental Institute AEGD program provides an undergraduate supplemental dental education along with didactic and clinical education to the level of a DDS or DMD graduate to meet the requirements under Wis. Admin. Code § DE 2.01(1m)(d)2. (Govani hearing testimony; Dept. Ex. 8) The Applicant presented no evidence to refute Dr. Govani's testimony.

During her own testimony, the Applicant acknowledged that the AEGD certificate program at Cleveland Dental Institute is not an undergraduate program but a postgraduate program. (Petitioner hearing testimony) Moreover, the Applicant failed to present sufficient evidence to establish that her educational training provided didactic and clinical education to the level of a DDS or DMD graduate to meet the requirements for licensure under Wis. Stat. § 447.01(1) and Wis. Admin Code § DE 2.01(1m)(d). The Applicant stated that she did not believe that Wisconsin's law is fair and further she felt that completion of an AEGD program should be sufficient to grant licensure to a foreign dentist consistent with the State of Vermont, which did grant her application for licensure. (Petitioner hearing testimony). Unfortunately, I do not have the authority to change law or policy based on fairness arguments. Administrative agencies such as the Division of Hearings & Appeals lack authority to render a decision on equitable arguments. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F. Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

Based upon the evidence presented, the Applicant did not meet her burden of proof to show by satisfactory evidence that she meets the eligibility requirements set by Wisconsin law for a license to practice dentistry under Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m)(d). See Wis. Admin. Code § SPS 1.08(4). Further, the evidence presented at hearing does not establish that the

Board's denial was based upon a mistake of fact or law, or arbitrary or capricious. Rather, the Board's decision was supported by a reasonable rationale based upon the existing legal standards and thus, was not an erroneous exercise of discretion. Accordingly, I must uphold the Board's decision.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has the authority to promulgate rules and oversee issuance of licensure to practice dentistry in the State of Wisconsin under Wis. Stat. §§ 447.02 and 447.04(1).
2. The Applicant has not been awarded a DDS or DMD degree from an accredited dental school pursuant to Wis. Admin. Code § DE 2.01(1m)(d)1.
3. The evidence does not establish that the Applicant's Certificate in Advanced Education in General Dentistry from Cleveland Dental Institute met the requirements under Wis. Admin. Code § DE 2.01(1m)(d)2.
4. Based upon the testimony and evidence presented, the Dentistry Examining Board's denial of the Applicant's application for licensure to practice dentistry was supported by the evidence and consistent with Wis. Stat. § 447.04(1) and Wis. Admin. Code § DE 2.01(1m)(d); and thus, the denial was not arbitrary or capricious.
5. The Division of Hearings and Appeals has the authority to issue a decision in this matter pursuant to Wis. Stat. §§ 227.44 and 227.51 and Wis. Admin. Code Ch. SPS 1.

ORDER

For the reasons set forth above, it is HEREBY ORDERED that the Dentistry Examining Board's February 21, 2022, denial of the Applicant's application is affirmed.

Dated at Madison, Wisconsin on June 28, 2023.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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Madison, Wisconsin 53705  
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By: \_\_\_\_\_

Kristin P. Fredrick  
Administrative Law Judge

## NOTICE OF RIGHTS OF APPEAL

TO: Zahraa Alghabban  
6809 Mayfield Rd., Apt. 1062  
Mayfield Heights, OH 44124

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is **October 3, 2023**. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for rehearing must be served upon the respondent at the address listed below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period. The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law. A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident, the proceedings shall be in the county where the dispute arose. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53(1)(a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable 30 day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

Wisconsin Dentistry Examining Board  
4822 Madison Yards Way  
P.O. Box 8366  
Madison, WI 53708-8366



#### 227.49 Petitions for rehearing in contested cases.

(1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

#### 227.53 Parties and proceedings for review.

(1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review of the decision as provided in this chapter and subject to all of the following procedural requirements:

(a)

1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the credit union review board, or the savings institutions review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1. to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review of contested cases shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review under this

subdivision shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this subdivision commences on the day after personal service or mailing of the decision by the agency.

#### 227.57 Scope of review.

(1) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

(2) Unless the court finds a ground for setting aside, modifying, remanding or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

(3) The court shall separately treat disputed issues of agency procedure, interpretations of law, determinations of fact or policy within the agency's exercise of delegated discretion.

(4) The court shall remand the case to the agency for further action if it finds that either the fairness of the proceedings or the correctness of the action has been impaired by a material error in procedure or a failure to follow prescribed procedure.

(5) The court shall set aside or modify the agency action if it finds that the agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action, or it shall remand the case to the agency for further action under a correct interpretation of the provision of law.

(6) If the agency's action depends on any fact found by the agency in a contested case proceeding, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by substantial evidence in the record.

(7) If the agency's action depends on facts determined without a hearing, the court shall set aside, modify or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(8) The court shall reverse or remand the case to the agency if it finds that the agency's exercise of discretion is outside the range of discretion delegated to the agency by law; is inconsistent with an agency rule, an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained to the satisfaction of the court by the agency; or is otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(9) The court's decision shall provide whatever relief is appropriate irrespective of the original form of the petition. If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as it finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(10) Upon such review due weight shall be accorded the experience, technical competence, and specialized knowledge of the agency involved, as well as discretionary authority conferred upon it. The right of the appellant to challenge the constitutionality of any act or of its application to the appellant shall not be foreclosed or impaired by the fact that the appellant has applied for or holds a license, permit or privilege under such act.