

IN THE MATTER OF \* BEFORE THE  
ESTHER EVANS \* STATE BOARD OF  
DENTAL RADIATION TECH \* DENTAL EXAMINERS  
APPLICANT \* Case No. 2010-151

\* \* \* \* \*

**FINAL CONSENT ORDER**

On or about September 3, 2009, the State Board of Dental Examiners (the "Board"), received information that the Applicant, Esther Evans, answered "yes" to question f. under Section III, Character and Fitness: "Have you pled guilty, nolo contendere, had a conviction or receipt of probation before judgment or other diversionary disposition of any criminal act, excluding minor traffic violations?"

Accordingly, on December 2, 2009, the Board, by a majority of its fully authorized membership, voted to initially deny the Applicant's application for a Dental Radiation Technologist (DRT) certificate.

The Applicant was given notice of the issues underlying the Board's Notice of Initial Denial by a Letter dated September 2, 2010, which informed her that she had to request a hearing in writing within 30 days of the Notice or the Order would become final. The Applicant timely requested a hearing and a Case Resolution Conference was held on February 10, 2010, which was attended by Edna Street-Jones, DDS, Timothy Modic, DDS, and Barbara Merritt, RDH, Board members, and Grant Gerber, Counsel to the Board. Also in attendance were the Applicant and her attorney, Alex Leikus, and the Administrative Prosecutor, Roberta Gill.

Following the Case Resolution Conference, over the strenuous objection of the Administrative Prosecutor, the Applicant and the Board agreed to resolve the matter by way of settlement. The Applicant and the Board agreed to the following:

### **FINDINGS OF FACT**

1. By application dated August 3, 2009, the Applicant submitted an application to the Board to become a DRT.

2. The Applicant answered "yes" to Question "f" under Section III—"Character and Fitness" asked: "Have you pled guilty, nolo contendere, had a conviction or receipt of probation before judgment or other diversionary disposition of any criminal act, excluding minor traffic violations?" A "yes" answer required a detailed explanation.

3. The Applicant submitted two letters: one was handwritten and addressed to "To Whom it may Concern", dated May 5, 2009. It stated, *inter alia*, that on September 1, 2005, she was sentence (sic) to 40 months imprisoned (sic), 5 year (sic) supervised release, 300 hours community service. I pleaded guilty to one indictment for possession with the intent to distribute heroin. The date of the offense was May 12, 2004. "I have completed everything imposed by the court, but the supervised release, which I am completing". The other letter was typewritten, dated May 26, 2009, also addressed to "to whom it may concern" and indicated that she was a student at Medix and wanted to know if she could sit for the DANB exam.

4. Court records confirm that the Applicant's statement was correct in that she was convicted in Federal Court for possession with intent to distribute one kilo of heroin in

violation of Federal law and was sentenced to 40 months incarceration beginning in 2005, followed by 5 years supervised probation, and 300 hours of community service.

5. As set forth above, the Applicant lacks the moral qualifications for certification in Maryland.

6. As set forth above, the Applicant violated the Act and regulations thereunder.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that Applicant violated §4-505 of the Act, Code Ann. Md., 2009 Repl. Vol.

(a) The Board of Dental Examiners shall:

(1) Define, for the purpose of this section, the terms “dental radiation technologist” and “practice dental radiation technology”;

(2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist; and

(b) The qualifications required of applicants for Board certification as a dental radiation technologist shall include requirements established by:

(1) The American Dental Association; or

(2) Any applicable federal standards for training and certification.

Accordingly, the Board adopted the following regulations regarding Dental Radiation Technologist, Code Md. Regs. Tit.10, § 44.19. (April, 12, 2004, and following):

### 3. Qualifications.

A. Except as otherwise provided in these regulations, to qualify to be certified as a dental radiation technologist, an applicant shall be an individual who:

(2) Is of good moral character;

#### §.11 Penalties for Violations of These Regulations.

A. Subject to the hearing provisions of this chapter, the Board may deny a certificate to practice dental radiation technology, reprimand any certified dental radiation technologist, place any certified dental radiation technologist on probation, or suspend or revoke the certificate of any certified dental radiation technologist, if the holder of the certificate:

(5) Is disciplined by a disciplinary authority of any other state or jurisdiction or is convicted or disciplined by a court in any other state or jurisdiction for an act that would be grounds for disciplinary action under this regulation;

(7) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside[;].

**ORDER**

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the Applicant and the Board and over the objection of the Administrative Prosecutor, it is this 20TH day of JULY, 2011, by a majority of a quorum of the Board,

**ORDERED** that the Applicant's certification to practice is hereby GRANTED, and the Applicant is placed on two years Probation, with no conditions.

**ORDERED** that the Consent Order is effective as of the date of its signing by the Board; and be it


**ORDERED**, that should the Board receive a report that the Applicant has violated the Act, after providing the Applicant with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Applicant, including suspension or revocation. The burden of proof for any action brought against the Applicant as a result of a breach of the conditions of the Order shall be on the Applicant to demonstrate compliance with the Order or conditions; and be it

**ORDERED** that the Applicant shall practice in accordance with the laws and regulations governing the practice of a Dental Radiation Technologist in Maryland; and be it further

**ORDERED** that, at the end of the Probationary period, the Applicant may petition the Board to be reinstated without any conditions or restrictions on her certificate, provided that she can demonstrate compliance with the conditions of this Order. Should the

Applicant fail to demonstrate compliance, the Board may impose terms and conditions of Probation, as it deems necessary;

**ORDERED** that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

  
T. Earl Flanagan, Jr., DDS, President  
State Board of Dental Examiners

CONSENT


I, Esther He Evans, by affixing my signature hereto, acknowledge that:

1. I, Esther He Evans, acknowledge that I am represented by counsel, Alex Leikus, and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

2. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

3. I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

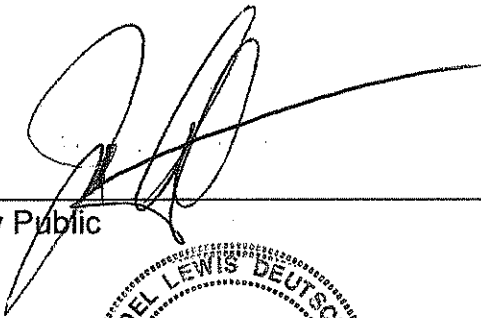
07-13-2011  
Date

  
Esther He Evans

STATE OF Maryland  
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 13 day of July, 2011, before me, Joel Lewis Deutsch, a Notary Public of the foregoing State and (City/County),  
(Print Name)  
personally appeared Esther He Evans, Dental Radiation Tech Applicant, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

  
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Notary Public

My Commission Expires: 11/9/13

