

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

In re: Wendi L. Favreau
License No. 014-81639

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Docket No. 2011-723(DA)

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Board Members Participating:

Richard A. Dickinson, D.D.S., Chair
Katherine Silloway, DDS, Vice Chair
John Lavoie, D.D.S.,
John C. Langfeldt, D.D.S.
Gertrude M. Hodge, public member
Raymond N. McCandless, public member
Joanne Bugbee, R.D.H.
Randall Miller, D.D.S.
Dixie Vallie, D.A.
Jennie Reed, R.D.H.

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: pro se

Presiding Officer: Larry S. Novins

**Findings of Fact, Conclusions of Law,
and Order**

The Board of Dental Examiners held a hearing in the above matter on April 11, 2012 at the Office of Professional Regulation hearing room at the National Life Building in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any charge, it must prove the charge by a preponderance of the evidence.

Findings of Fact

Based upon the evidence presented, the Board finds as follows:

1. Ms. Favreau is registered as a dental assistant and is subject to the disciplinary authority of this Board. 26 V.S.A. §§ 767 and 809, 3 V.S.A. §§ 129 and 129(a), the Rules of the Board of Dental Examiners and the Rules of the Office of Professional Regulation. The Board has authority to impose a civil penalty of up to \$1,000.00 for unauthorized

- practice. 3 V.S.A. § 127(b).
2. Ms. Favreau began practicing in Vermont as a dental assistant in July, 2009. She had previously practiced in New Hampshire where registration as a dental assistant is not required.
 3. Ms. Favreau did not register with the Board until September 30, 2011, approximately fourteen months later.
 4. The parties concede that Ms. Favreau was obligated by Vermont law to become registered with the Board.
 5. No evidence at the hearing supported any allegation that Ms. Favreau did not practice competently.
 6. Ms. Favreau's testimony showed that the office in which she worked did not advise her of the Board's administrative rules. Ms. Favreau's failure to register was not intentional. Her failure to register was not related to patient, client, or customer care.

Discussion

Given the unique facts of this case we determine that ordering a monetary civil penalty does not constitute a finding of unprofessional conduct. 3 V.S.A. § 129(a)(3).

Conclusions of Law

1. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3):** 3 V.S.A. § 129a(a)(3) defines unprofessional conduct to include failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. Because this statute defines a violation as "unprofessional conduct," we decline to find a violation. This charge is dismissed.
2. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** The State has not proved by a preponderance of the evidence that Ms. Favreau failed to practice competently. This charge is dismissed.
3. **Re: Alleged violation of 3 V.S.A. § 127(b).** This statute allows imposition of a civil penalty by the Board of not more than \$1,000.00 when there has been proof of practice without authority. The parties agreed that Ms. Favreau practiced without legal authority. Under this section we will impose a monetary civil penalty. ***This is not a finding of unprofessional conduct.*** 3 V.S.A. § 129(a)(3).

Order

Ms. Favreau shall be assessed a monetary civil penalty of \$250 which shall be paid within 60 days of the entry of this Order.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Dental Examiners.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Bldg., North, FL2, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Dental Examiners

By: Richard A. Dickinson DDS
Richard A. Dickinson, D.D.S., Chair

Dated: April 11, 2012

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/12/12