

BEFORE THE VIRGINIA BOARD OF DENTISTRY

IN RE: KIMBERLY DANEK JOHNSON, R.D.H., REINSTATEMENT APPLICANT
License Number: 0402-002442
Suspension Date: April 29, 2015
Case Numbers: 171896 and 159434

**AMENDED NOTICE OF FORMAL ADMINISTRATIVE HEARING
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that a formal hearing has been scheduled before the Board of Dentistry (“Board”) regarding your application for reinstatement of your license to practice dental hygiene in the Commonwealth of Virginia following its mandatory suspension by the Department of Health Professions.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board of Dentistry.
DATE AND TIME:	June 9, 2016 1:00 P.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. The burden rests on you, as the applicant, to demonstrate that you meet the requirements for reinstatement.

3. In considering your application, the Board will consider evidence that grounds may exist to deny your application for reinstatement of your license to practice dental hygiene, as more fully set out in the enclosed Statement of Allegations.

4. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:

- Approve your application and issue an unrestricted license to practice dental hygiene;
- Approve your application and issue a restricted license subject to terms and conditions;

- Deny your application;
- Deny your application and continue your license on indefinite suspension or revoke your license.

DEFAULT:

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBITS:

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board when discussing any allegations with you and when deliberating on your case. **These documents are enclosed only with the notice sent by UPS. Please bring these documents with you to the formal hearing.**

FILING DEADLINES:

1. Deadline for filing exhibits: **June 9, 2016**. Submit 15 copies of all documents you want the Board to consider to Donna Lee, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail.
2. Deadline for filing motions, including requests for continuance or objections to exhibits, in writing, to Sandra K. Reen at the above address: **June 9, 2016**. NOTE: Failure to object to the distribution prior to the proceeding will not affect your right to contest any information contained in these documents at the proceeding.

OTHER IMPORTANT INFORMATION:

Pursuant to Virginia Code § 54.1-2409(D), reinstatement of your license requires the affirmative vote of three-fourths of the members of the Board in attendance at the hearing.

STATEMENT OF ALLEGATIONS

The Board of Dentistry alleges that grounds exist to refuse to reinstate the license of Kimberly Danek Johnson, R.D.H., to practice dental hygiene in that:

1. Kimberly Danek Johnson, R.D.H., violated Virginia Code § 54.1-2706(2) in that, by Order entered on or about March 20, 2015, in the Circuit Court for the City of Virginia Beach, Virginia, she was found guilty of DUI-3rd conviction within five years, a felony in violation of Virginia Code §§ 18.2-266, 18.2-270 and 18.2-10, for an offense that occurred on or about July 10, 2014. She was sentenced to one year incarceration, with six months suspended, and placed on conditions to include being on good behavior for two years, payment of a fine, and the indefinite suspension of her driver's license.

2. Kimberly Danek Johnson, R.D.H., is in violation of Virginia Code § 54.1-2706(3) and (8) in that she is unsafe to practice dental hygiene due to her substance abuse/dependency and mental incompetence/mental illness. Specifically:

a. For an offense that occurred on or about October 30, 2011, Ms. Johnson was charged with Driving While Intoxicated -2nd offense within five years. Following a trial on February 23, 2012, in the General District Court of Norfolk, she was found guilty of Driving While Intoxicated, a misdemeanor, in violation of Virginia Code § 18.2-266. She was sentenced to six months in jail, with five months, 25 days suspended for a period of two years conditioned upon good behavior, payment of a fine and costs, and entry into the Virginia Alcohol Safety Action Program, ("VASAP"). Further, her driver's license was suspended for a period of twelve months after which it was restricted for six months to include installation of an ignition interlock system on any vehicle she operates.

b. Following an appeal of a conviction in the General District Court of Fairfax County, on July 17, 2012, in the Circuit Court of Fairfax County, Ms. Johnson was found guilty of Driving While Intoxicated-1st offense, a misdemeanor in violation of Virginia Code § 18.2-266, for an offense that occurred on or about October 13, 2011. She was ordered to serve 30 days in jail, with 25 days suspended, fined \$500 with \$250 suspended conditioned upon her good behavior for a period of one year, and that she enter and successfully complete the VASAP. Further, her driver's license was suspended for a period of 12 months after which she was issued a restricted permit for six months to include installation of an ignition interlock system on any vehicle she operates.

c. On March 8, 2013, in the Circuit Court of Fairfax County, Ms. Johnson was found to have violated terms of the VASAP, and was ordered to re-enter substance abuse treatment as recommended by the VASAP. Further, her probation supervision was extended to September 1, 2013.

d. On March 20, 2015, in the Circuit Court for the City of Virginia Beach, Virginia, she was found guilty of DUI-3rd conviction within five years, a felony, as further described in Allegation 1 above.

e. On or about July 10, 2014, during the course of her employment at a dental practice in Chesapeake, Virginia, Ms. Johnson was observed to be uncoordinated in her movements and her conversation was described as difficult to follow. As a result, Ms. Johnson was not permitted to treat patients and was sent home. During an interview in April, 2016, with an investigator from the Department of Health Professions, when asked whether she had ever practiced as a hygienist under the influence of drugs or alcohol, Ms. Johnson stated that while working at a practice in Chesapeake, Virginia, she was under a lot of stress and took a Xanax

prior to going to work one day, took another one about 3:00 p.m. while working that same day, “got sleepy” and was sent home.

f. Ms. Johnson has at least an eight-year history of depression and anxiety, for which she has received treatment. Her condition requires treatment, medication management, and ongoing monitoring. Specifically, during the April, 2016 interview, Ms. Johnson stated that she obtained mental health treatment about “5-10 years ago” after she had a bad reaction to some Ambien, and crashed her vehicle into a mailbox. Ms. Johnson received inpatient treatment from September 26, 2008 to October 2, 2008, at a facility and was discharged with a diagnosis of major depression, severe, recurrent; generalized anxiety disorder; rule out bipolar disorder, mixed type; alcohol dependence, severe.

g. Ms. Johnson has a history of chemical abuse and/or dependency that requires ongoing treatment and monitoring. In addition to her convictions described in Allegations 1 and 2.a-d. herein, during the April, 2016 interview, Ms. Johnson acknowledged she has consulted with a professional for alcohol abuse.

3. Kimberly Danek Johnson, R.D.H., violated Virginia Code §§ 54.1-2706(1) and 54.1-111.A(6), and 18 VAC 60-25-120(7) of the Regulations Governing the Practice of Dental Hygiene in that she submitted a Reinstatement Application, dated January 15, 2016, in which she made false statements or materially misrepresented facts. Specifically:

a. She answered “No” to the question, “Have you, within the last two years, been physically or emotionally dependent upon the use of alcohol/drugs or been treated by, consulted with or under the care of a professional for any substance abuse?” when in fact, during the April, 2016 interview, she acknowledged she has consulted with a professional for alcohol abuse.

b. She answered “No” to the question, “Have you ever received treatment for, or been hospitalized for, a nervous, emotional or mental disorder?” when in fact, Ms. Johnson received inpatient treatment at a facility from September 26, 2008 to October 2, 2008, as described in Allegation 2.f. above.

Sandra K. Reen
Sandra K. Reen
Executive Director
Virginia Board of Dentistry

June 9, 2016
Date