

REPORT NUMBER 100 OF THE ACADEMIC APPEALS BOARD

June 9th, 1986

To the Academic Affairs Committee,
University of Toronto.

Your Board reports that it held a hearing on Monday, June 9th, 1986 at 12:00 noon, in the Board Room, Simcoe Hall at which the following were present:

Professor J. B. Dunlop (In the Chair)	Mrs. J. Nagy
Professor S. Aster	Mrs. J. Uyede
Professor W. J. Callahan	
Principal P. W. Fox	Ms. Irene Birrell, Secretary

In Attendance:

Mr. *N.*
Mr. K. B. Danson, Danson & Zucker
Dr. Kathleen Mickle
Dr. Joseph Fischer
Dean A. R. Ten Cate, Faculty of Dentistry
Dr. J. Brown, Faculty of Dentistry

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

MR. N. On June 9th, 1986 the Academic Appeals Board heard the appeal of *MR. N.* against a decision of the Academic Appeals Committee of the Faculty of Dentistry dismissing his appeal against a decision to refuse him further registration as a result of his failure in the supplemental examination in second year Restorative Dentistry. The decision of the Board is that the appeal should be allowed and the appellant permitted to repeat second year dentistry, although one member of the Board wished it recorded that he dissented from this decision.

Restorative Dentistry is a pre-clinical course which the appellant failed on his first attempt during the regular examination period, and which he failed again on a supplemental. Ordinarily this would result in his being refused further registration under the Faculty's regulations. However the appellant presented evidence of physical circumstances which he said had interfered with his ability to perform effectively on the supplemental and in the view of the Board these circumstances could well have made a difference between the appellant's failure and a passing grade. Because of the serious consequences of the second failure it was the Board's view that it would not be fair effectively to terminate the appellant's career in such circumstances. On the other hand, a year having elapsed since the appellant underwent the supplemental examination, to require him to undergo a second supplemental would be tantamount to condemning him to fail.

Restorative Dentistry is a course involving the performance of a number of procedures that require psycho-motor skills. Because the skills require constant practice students who are undergoing a supplemental examination are allowed a number of days of practice time in the laboratory to regain the dexterity they may have lost in the six weeks or so since their final examination. In the appellant's case, the supplemental examination was on Friday, June 28th, 1985 and the practical session by way of preparation was from Monday, June 24th to Thursday, June 27th. On Wednesday, June 26th the appellant developed a spastic colon and missed the practice session that afternoon and on Thursday morning. He went to his family physician on Wednesday afternoon. At the beginning of the examination on Friday morning the instructor responsible for the course asked the 6 students who were taking the examination whether they were ready to proceed. The appellant indicated that he was, although he told the Board that he was still in considerable pain and he went to see his doctor again after the examination.

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The appellant did not file a petition within the time limit prescribed by the Faculty's regulations i.e., by the end of the examination period. In fact, it was not clear to the Board when the petition was filed but his appeal to the Academic Appeals Committee of the Faculty was heard on August 21st, 1985.

The appellant gave evidence to the Board as to his physical discomfort on June 26th, 27th and 28th. A letter from his family physician certified that he had been treated for a spastic colon on June 26th and June 28th. Testimony from a specialist in anaesthesia established that the degree of pain associated with the appellant's condition would be such that it could not be ignored and that treatment of the symptoms would be unlikely to help much. It would be difficult in the circumstances to concentrate on an examination. The condition would likely be stress related and would clear up when the stressful situation was over. This witness also said that the victim would not necessarily manifest any physical signs of the pain.

Notwithstanding, therefore, the appellant's assertion at the beginning of the examination that he was ready to proceed, the Board had no reason to doubt that in fact he was seriously hampered by his physical condition. Here the Board seems to diverge from the view of the Academic Appeals Committee, perhaps because of different evidence. The Academic Appeals Committee stated:

You brought evidence to the Committee that you had been ill and sought medical treatment during the week of preparation for the supplemental examination, and felt unwell on the day of the supplemental examination itself. The Faculty's evidence was that you had presented no information concerning your illness at the time of the supplemental examination. The course director learned of your absence during the preparation period and on the morning of the examination asked if all students were well and ready to proceed. You did not indicate to him then that you had a physical problem or that you felt unwell. You informed the Committee that you were aware of the consequences of failure on the supplemental examination. The Committee denies your second request to write a second supplemental examination in Restorative Dentistry. The Committee considered that the supplemental preparation period and the examination were conducted fairly, and that you had opportunities at the time of the examination to inform the course director of your physical problems.

Without suggesting that there has been any unfairness on the part of the Faculty in the conduct of the preparation period and the examination, and without denying that the appellant had opportunities to make his condition known, the Board reaches a different conclusion from that which seems to be implied in the reasons of the Academic Appeals Committee, namely, that the pain can not have been serious. The Board feels that the appellant's failure to disclose his circumstances was more likely to have been the result of his personal reticence, his desire to get the supplemental examination over with and his lack of certainty about what would happen if he did not do the supplemental that day.

There remains the matter of the student's failure to file a petition within the time specified in regulations. However, such regulations are not inflexible and where the delay is short, and creates no prejudice to the Faculty in its ability to respond to the petition it is the Board's view that a student's potential professional career should not be terminated by a strict application of the regulation.

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It was asserted that the appellant had been a weak student throughout the year but it was also clear that had he passed his supplemental examination he would have been entitled to proceed. The appellant not having had an opportunity to do the supplemental under reasonable physical conditions, the Board feels that he should have another chance. As already indicated, it could only be through a repetition of the year.

The Board intends no criticism of the Faculty. Its treatment of the appellant throughout the year and on the supplemental was fair. It is simply that circumstances not known to the Faculty at the time affected the fairness of the process. While the Academic Appeals Committee seems to have been skeptical about the evidence of the appellant's illness, the Board hearing the case afresh was not.

Appeal allowed.

Secretary
July 7th, 1986

Chairman

