

**BEFORE THE DENTAL BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF)	
JOSHUA S. BROWER, D.D.S.)	NOTICE OF HEARING AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Dental Board (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 650 Iowa Administrative Code (IAC) 51.6. Respondent was issued Iowa dental license number 08023 on November 5, 1999. Respondent's license is current and will next expire on August 31, 2012. Respondent's address as reported to the Board is 37 3rd Avenue NW, LeMars, Iowa 51031.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on July 12, 2012, before the Iowa Dental Board. The hearing shall begin at 1:00 p.m. and shall be located in the conference room at the office of the Iowa Dental Board, 400 SW 8th Street, Ste. D, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 650 IAC 51.12(2) to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Iowa Dental Board, 400 SW 8th Street, Ste. D, Des Moines, Iowa 50309

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 650 IAC chapter 51. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 650 IAC 51.18. The hearing may be open to the public or closed to the public at your discretion.

5. Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 650 IAC chapter 51.17.

6. Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Sara Scott, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. Communications. You may not contact Board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties

have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Melanie Johnson, J.D., Executive Director at 515-281-5157.

B. LEGAL AUTHORITY AND JURISDICTION

1. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 153, and 272C.

2. Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 153, and 272C and 650 IAC chapters 30 and 51.

3. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 650 IAC 51.22.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

Respondent is charged under Iowa Code Section 153.34(8) (2011) for failure to maintain a satisfactory standard of competency in the practice of dentistry in violation of 650 Iowa Administrative Code Section 30.4(16).

D. FACTUAL CIRCUMSTANCES

1. Respondent is a general dentist engaged in the practice of dentistry in LeMars, Iowa.

2. Iowa Code Section 153.34(8) provides that a ground for discipline includes failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry.
3. The Board office has received multiple complaints concerning the care Respondent is providing to patients.
4. The Board received a complaint from patient J.A. A Peer Review Committee reviewed this case and concluded that the patient was not treated within the standard of care for the following reasons:
 - a. Open margins of the fixed (3) unit PFM bridge.
 - b. The bridge is in hyperocclusion and in an attempt to relieve the situation the abutment crown #29 has been perforated.
 - c. The pontic design is poor, making the area difficult to clean and the pontic does not adapt to the gingival contours. Cement is still present in the embrasure 29-30.
5. The Board received a complaint from a subsequent treating dentist regarding patient V.T. The complainant stated that all (5) of the implants that Respondent placed were in the sinus and that the restorative work was not cleansable. The complainant stated that the implant placement did not meet the standard of care.
6. A Board consultant who is a prosthodontist reviewed the care provided to patient V.T. Following review, the consultant stated that the care provided by Respondent in the #13, #14, and #15 regions did not meet the standard of care due to the following:

- a. There is radiographic evidence and clinical notes that confirm that there was no regard for the maxillary sinus during or after the placement of the dental implants and restorations.
 - b. There is radiographic evidence and clinical notes that confirms there was not appropriate room for oral hygiene around the restorations.
 - c. There is radiographic evidence and clinical notes that all five of the dental implants placed by Respondent failed to integrate.
 - d. Imtec mini (MDI) implants used by Respondent state in their product website that the implants can be placed immediately following a tooth extraction, "if you can find a solid septum of bone in or around the socket periphery that will accept a 1.8 mm width MDI or if the socket depth is so minimal that apical to the socket there is a substantial height of uninvolved virgin bone to receive the pilot drill opening; however, waiting for initial socket healing is also a reasonable approach."
 - e. The consultant stated that the conditions desired for the immediate placement of implants were not met.
 - f. According to Respondent's notes and narrative, he performed treatment on patient V.T. that he felt was either not recommended or "ill advised" at her request.
7. A Board consultant who is an oral surgeon reviewed the care provided to patient V.T. Following review, the consultant concluded that the treatment performed by Respondent did not meet the standard of care on several levels:

- a. Lack of documentation and diagnostic studies indicating need for treatment as rendered.
 - b. Lack of appropriate guidelines and documentation of anesthetics.
 - c. Lack of knowledge of dental anatomy for implant placement.
 - d. Lack of knowledge of dental implants used.
 - e. Lack of knowledge of osseointegration techniques.
 - f. Utilization of IMTEC dental implants in a fashion not recommended by manufacturer's user information.
 - g. Respondent himself admits to having treated the patient in a manner he felt was not recommended or "ill-advised".
8. The Board received a complaint regarding the care provided to patient A.P. A Board consultant who is a general practitioner reviewed the care provided to patient A.P. and concluded:
- a. There was insufficient information to determine whether root canals were needed on teeth #'s 18 and 31, but "gross decay" and teeth that are "bothering" a patient are not reasons to do root canals. No testing of any kind is mentioned in the record. Pre-treatment radiographs should always be obtained. None were provided by Respondent.
 - b. The replacement PFM crown for tooth #31 was below the standard of care, the mesial margin being wide open.

- c. Leaving tooth #31 without a temporary crown for almost one month is also below the standard of care and could cause problems with the fit of the crown.
 - d. Treatment of tooth #24 was ultimately below the standard of care. No pulp testing was done. No pre-treatment radiograph was noted in the record. The crown is inadequate and is well below the standard of care. Record entries (10-8-07 and 5-27-09) suggest ongoing periodontal problems with tooth #24. Respondent's assessment is that the patient needs a bruxism splint "or #24 will be lost". Nowhere in the record is there mention of the ill-fitting crown.
9. A Board consultant who is a prosthodontist reviewed the care provided to patient A.P. and concluded:
- a. It was noted in the chart that root canal therapy was performed on teeth #18, 24, and 31. There were no working radiographs present and no diagnosis noted in the chart prior to the root canal therapy of #'s 18 and 31.
 - b. Periapical radiographs dated 6/26/09 show endodontic fills on teeth #18 and 31 well short of the apices with radiolucencies associated with the mesial and distal roots of #18. The record states 1/3/07 – "2 Pas of fills" but those radiographs were not present.
 - c. A crown was originally seated on tooth #31 on 10/8/07. That restoration fractured and a new restoration was fabricated and delivered on 4/21/09.

Radiographs dated 6/26/09 show a wide open mesial margin on the new restoration.

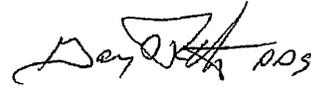
- d. A periapical radiograph dated 6/26/09 shows a very small root with a restoration on tooth #24 which has terrible adaptation to the tooth.
10. The Board received a complaint from patient W.T. A Board consultant who is a prosthodontist reviewed the care provided to patient W.T. and concluded:
- a. It was noted in the chart on 1/14/09 “Also, implants may fail due to periodontal bacteria in the mouth.” And “Also possible 1 yr failure w/implants due to perio bacteria.” Implants should not be placed in the area of known active periodontal disease.
 - b. Implants were later placed in the edentulous area in positions of #23, 24, 25, and 26, adjacent to the effected teeth and all four failed and later had to be removed.
 - c. The entry 2/4/09 states- “Simple TE #6, 7, 8, 9, 22.” Yet, the entry dated only five days later (2/9/09) states “#22 abscessed rec. ext.” and tooth #22 was extracted. Tooth #22 was obviously not extracted on February 4, 2009 as the chart indicates.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board’s settlement process are found at 650 IAC Chapter 51.19. If you are interested in pursuing settlement of this matter, please contact Melanie Johnson, J.D., Executive Director, at 515-281-5157.

F. PROBABLE CAUSE FINDING

On this 2nd day of March, 2012, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.



Gary D. Roth, D.D.S.
Chairperson
Iowa Dental Board

cc: Theresa Weeg
Sara Scott
Assistant Attorneys General
Iowa Attorney General's Office
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Des Moines, IA 50319