

BEFORE THE DENTAL BOARD OF THE STATE OF IOWA

IN THE MATTER OF THE NOTICE OF HEARING FOR

TIMOTHY J. HAGARTY, D.D.S., RESPONDENT

COLFAX, IOWA

NOTICE OF HEARING, SETTLEMENT AGREEMENT AND FINAL ORDER

(combined)

COMES NOW the Iowa Dental Board (the Board), and Timothy J. Hagarty, D.D.S., (Respondent), on April 15, 2009, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into the following combined Notice of Hearing, Settlement Agreement and Final Order.

NOTICE OF HEARING

1. A hearing on this matter will not be held as the Board and Respondent have entered into the following combined Notice of Hearing, Settlement Agreement and Final Order.
2. Respondent was issued license number 05841 by the Board to engage in the practice of dentistry on July 3, 1972, subject to the laws of the state of Iowa and the rules of the Board.
3. License number 05841 is current and expires August 31, 2010.

LEGAL AUTHORITY AND JURISDICTION

4. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 153 and 272C (2007).

SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

5. The Respondent is charged under Iowa Code Section 153.34(4) (2007) with repeated violations of the rules of the Board by failing to comply with standard precautions for preventing and controlling infectious diseases and managing personnel health and safety concerns related to infection control, as required or recommended for dentistry by the Centers for Disease Control of the United States Department of Health and Human Services (CDC) in violation of 650 Iowa Administrative Code Section 30.4(35).

STATEMENT OF MATTERS ASSERTED

6. An infection control inspection was conducted at Respondent's dental office and numerous deficiencies were noted, the most serious being:
 - a) Failure to properly monitor all heat sterilizers.
 - b) Failure to maintain written policies and procedures as required by the Center for Disease Control (CDC) and/or OSHA.
7. Respondent has successfully addressed all concerns following said inspection.

SETTLEMENT AGREEMENT

THEREFORE, IT IS HEREBY ORDERED that Respondent's license to practice dentistry in the state of Iowa shall immediately be placed on probation for a period of two (2) years from the date of this Order subject to the following terms:

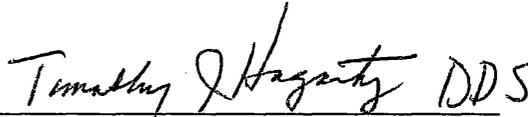
8. Respondent shall obtain continuing education hours in the areas of infection control during the 2009-2010 biennium. The continuing education shall be prior approved by the Board.
9. Respondent shall successfully complete the dental assistant infection control examination within sixty (60) days of the date of this Order.
10. Respondent shall ensure that all staff members who perform infection control duties in his office pass the Iowa dental assistant infection control examination within sixty (60) days of the date of this Order.
11. Respondent shall fully cooperate with random unannounced visits by agents of the Board.
12. Respondent shall be responsible for all costs associated with compliance with this Order, and shall also be responsible for all costs incurred by the Board in the monitoring of this Order to determine compliance. Respondent shall promptly remit one hundred (\$100.00) dollars on or before the first day of January, April, July, and October, of each calendar year for such costs while on probation.
13. Respondent agrees to submit a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00) within sixty (60) days of the date of this Order.

14. Respondent shall upon reasonable notice, and subject to the provisions of 650 Iowa Administrative Code 31.6, appear before the Board at the time and place designated by the Board.
15. Periods of residency outside of the state of Iowa may be applied toward period of probation if approved by the Board prior to the commencement of the out of state residency. Notice of any change of residence must be provided to the Board within fourteen (14) days of the change.
16. Respondent shall submit quarterly reports to the Board detailing his compliance with the terms and conditions of this Order. Respondent shall ensure that the reports are submitted prior to the first day of January, April, July, and October, of each calendar year.

FINAL ORDER

17. This combined Notice of Hearing, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.
18. By entering into this combined Notice of Hearing, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing and related Board file, and waives any objections to the terms of this Settlement Agreement.
19. This combined Notice of Hearing, Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.
20. Respondent acknowledges that he has the right to be represented by counsel in this matter.

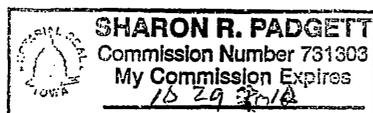
21. This combined Notice of Hearing, Settlement Agreement and Final Order become public records available for inspection and copying upon execution of this agreement in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.
22. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.
23. Respondent acknowledges that no member of the Board, nor any employee, nor attorney for the Board, has coerced, intimidated, or pressured him, in any way whatsoever, to execute this Order.
24. This combined Notice of Hearing, Settlement Agreement and Final Order, is subject to approval of the Board. If the Board fails to approve this combined Notice of Hearing, Settlement Agreement and Final Order, it shall be of no force or effect to either party.
25. The Board's approval of this combined Notice of Hearing, Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.


Timothy J. Hagarty, D.D.S.
Respondent

Subscribed and sworn to before me on 3-17-09, 2009.



Notary Public, state of Iowa



This combined Notice of Hearing, Settlement Agreement and Final Order is approved by the Board on April 15, 2009.


DEENA R. KUEMPEL, D.D.S., Chairperson
Iowa Dental Board
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Des Moines, IA 50309-4687

cc: Theresa O'Connell Weeg
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