

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

IN THE MATTER OF:)

NICHOLAS A. KUBIK, D.D.S.)

1311 McClellan Street)

P. O. Box 418)

Tama, IA 52339)

NOTICE OF HEARING

License #6785)

Respondent)

You are hereby notified that on June 18, 2004, the Board found probable cause to file a Statement of Charges against you. 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 (2003), and 650 Iowa Administrative Code Chapter 51. A copy of the Statement of Charges is attached, and sets forth the particular statutes and rules which you are alleged to have violated, and further provides a short and plain statement of the matters asserted.

IT IS HEREBY ORDERED that a disciplinary contested case hearing be held upon the Statement of Charges on Friday, August 27, 2004, before the full Board or a panel of the Board. The hearing shall begin at 9:00 a.m. and shall be located in the 1st Floor Conference Room, Iowa Board of Dental Examiners at 400 SW 8th Street, Ste D, Des Moines, Iowa. The Board shall serve as presiding officer, but the Board may request an Administrative

Law Judge make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

Within twenty (20) days of the date you are served with the Statement of Charges and Notice of Hearing, you are required by 650 Iowa Administrative Code 51.12(2) to file an Answer to the Charges. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing.

At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the Charges against you. The procedural rules governing the conduct of the hearing are found at 650 Iowa Administrative Code Chapter 51.

The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

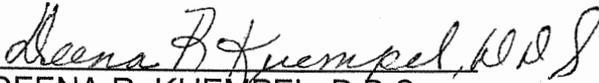
Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, IA 50319
Phone (515) 281-6858

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 Iowa Administrative Code 51.22.

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 650 Iowa Administrative Code

51.19. If you are interested in pursuing settlement of this matter, please contact Constance L. Price, Executive Director, at 515-281-5157.

Dated this 18th day of June, 2004.


DEENA R. KUEMPEL, D.D.S.
Chairperson
Iowa Board of Dental Examiners
400 SW 8th Street, Ste. D
Des Moines, IA 50309

cc: Theresa O'Connell Weeg
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, IA 50319

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IN THE MATTER OF:)	
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Tama, IA 52339)	
License #6785)	
Respondent)	

- 1) The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 153 and 272C (2003).
- 2) On July 1, 1982, Nicholas A. Kubik, the Respondent, was issued license number 6785 by the Board to engage in the practice of dentistry, subject to the laws of the State of Iowa and the rules of the Board.
- 3) License number is current and on active status until June 30, 2004.

COUNT I

Respondent is charged under Iowa Code Section 153.34(4) (2003) with willful or repeated violations of the rules of the Board by failing to comply with universal precautions for preventing transmission of infectious diseases as issued 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).

COUNT II

Respondent is charged under Iowa Code Section 153.34(4) (2003) with willful or repeated violations of the rules of the Board by failing to maintain adequate safety and sanitary conditions for a dental office in violation of 650 Iowa Administrative Code Section 30.4(17).

COUNT III

The Respondent is charged under Iowa Code Section 153.34(4) (2003) with willful or repeated violations of the rules of the Board for delegating acts to dental assistants that were beyond their training or education in violation of 650 Iowa Administrative Code Section 30.4(44).

THE CIRCUMSTANCES

1. Board rule 650-30.4(35) requires dentists to comply with universal precautions for preventing transmission of infectious diseases as issued by the CDC.
2. Board rule 650-30.4(17) requires dentists to maintain adequate safety and sanitary conditions for a dental office.
3. Board rule 650-30.4(37) requires dentists to comply with infection control standards which are consistent with the standards set forth in 875- Chapters 10 and 26.
4. Board rule 650-20.3(2) requires dentists to delegate only those duties for which a dental assistant has been trained, based on the best interest of the patient.

5. Respondent is a sole practitioner and employs two (2) registered dental assistants. Both dental assistants' registrations were issued by grandfathering, and neither assistant has been required to pass the current infection control or jurisprudence examinations.
6. Respondent delegates infection control responsibilities to dental assistants in his office.
7. Following an office inspection on May 13th, 2004, for infection control practices, it appeared that Respondent's current infection control protocols were insufficient to prevent the transmission of infectious diseases.
8. The following major deficiencies were identified during the office inspection:
 - a. Respondent failed to conduct proper sterilization monitoring to ensure the effectiveness of his sterilization equipment.
 - b. Respondent fails to comply with current OSHA regulations.
 - c. Respondent fails to dispose of regulated medical waste pursuant to current regulations.
9. Following this inspection, Respondent voluntarily agreed to close his office until he could bring his office into compliance with current standards.
10. Respondent has brought his office into compliance, and has resumed practice.

On this 18 day of June, 2004, the Iowa Board of Dental Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



DEENA R. KUEMPEL, D.D.S.

Chairperson

Iowa Board of Dental Examiners
400 SW 8th Street, Ste. D
Des Moines, IA 50309

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