

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

**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**MASIH SAFABAKHSH, D.D.S, RESPONDENT**

**FILE NO. 10-189, 11-159**

**EMERGENCY ADJUDICATIVE ORDER**

**COMES NOW** the Iowa Dental Board, and finds that on December 20, 2011, it was presented with evidence which establishes that Respondent's continued unrestricted practice of dentistry constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained in that investigation is as follows:

**FINDINGS OF FACT**

1. Respondent is a general dentist engaged in the practice of dentistry in Cedar Rapids, 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. In January and October 2011, patient records were subpoenaed from Respondent following receipt of complaints. Respondent was also given the opportunity to respond in writing.

4. Respondent's clinical records were reviewed by a Board consultant who concluded that Respondent is not practicing to an acceptable standard of care in the area of orthodontics. The consultant's findings were as follows:
  - a. Respondent, on multiple patients, used a dental bur to excessively reduce the contacts of several posterior teeth in order to attain separation of the teeth for placement of orthodontic bands; due to this these teeth were severely and irreversibly damaged and will require restoration.
  - b. Respondent's clinical records lack evidence of orthodontic diagnosis and treatment plan.
  - c. Respondent's treatment of these patients does not meet the standard of care.

#### **CONCLUSIONS OF LAW**

5. The facts set forth above indicate that Respondent cannot continue to engage in orthodontics for new patients at this time.
6. The facts set forth above establish that Respondent's continued practice of permanently removing tooth structure during orthodontic treatment poses an immediate danger to the public health, safety and welfare.
7. The facts set forth above establish that Respondent appears to have repeatedly violated Board statutes and rules by failing to maintain a reasonably satisfactory standard of competency in the practice of dentistry, in violation of Iowa Code Section 153.34(8) (2011); and 650 Iowa Administrative Code 30.4(16).

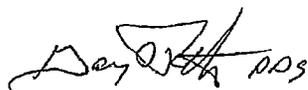
8. The Board concludes that this matter has been fully investigated and that this investigation has been sufficient to ensure that the Board is proceeding on the basis of reliable information. Respondent's records have been reviewed by a Board consultant, who identified numerous violations of the standard of care in Respondent's practice of orthodontics, specifically inter-proximal reduction.
9. Specific circumstances which pose an immediate danger to the public health, safety, and welfare have been identified and determined to be ongoing. Respondent's continued practice of permanently removing tooth structure during orthodontic treatment poses an immediate danger to his patients' dental health.
10. The Board does not believe the imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare for the reasons identified in paragraph 4, above.
11. The Board finds that the immediate suspension of Respondent's ability to initiate orthodontic treatment for new patients and to use any dental bur or cutting tool to attain separation for the placement of orthodontic bands is necessary to avoid immediate danger to the public health, safety, and welfare, until this case is finally resolved.

### **ORDER**

**IT IS HEREBY ORDERED,** in accordance with Iowa Code Section 17A.18A (2011) and 650 IAC 51.30, that the dental license of Respondent, Masih Safabakhsh, D.D.S., is suspended from initiating orthodontic treatment for any new patients, and suspended from the practice of using a dental bur or other cutting tool to attain

separation of teeth for the placement of orthodontic bands for all existing patients. Respondent shall immediately cease and desist from accepting any new patients for orthodontic treatment. Respondent shall also immediately cease and desist from using a dental bur or other cutting tool to attain separation of teeth for the placement of orthodontic band for all existing patients. Respondent may continue to practice all other aspects of the practice of dentistry. Respondent shall be notified immediately of this Order pursuant to 650 IAC 51.30(3).

A hearing on this Emergency Adjudicative Order and the Statement of Charges, which have been filed concurrently with this Order, shall be held on February 1, 2012 at 10:00 a.m. The hearing will be held at the Board office, located at 400 S.W. 8<sup>th</sup> Street, Suite D, Des Moines, Iowa.



GARY D. ROTH, D.D.S., Chairperson  
Iowa Dental Board  
400 S.W. 8<sup>th</sup> Street, Suite D  
Des Moines, Iowa 50309-4687

cc: Theresa O'Connell Weeg  
Sara Scott  
Assistant Attorneys General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor Hoover Bldg.  
Des Moines, IA 50319

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

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<b>IN THE MATTER OF</b>	)	
<b>MASIH SAFABAKHSH, D.D.S.</b>	)	<b>NOTICE OF HEARING AND STATEMENT OF CHARGES</b>
<b>RESPONDENT.</b>	)	

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**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 07660 on June 18, 1993. Respondent's license is current and will next expire on August 31, 2012. Respondent's address as reported to the Board is 1515 Blairs Ferry Rd. NE, Cedar Rapids, Iowa, 52402.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on February 1, 2012, before the Iowa Dental Board. The hearing shall begin at 10:00 a.m. and shall be located in the conference room at the office of the Iowa Dental Board, 400 SW 8<sup>th</sup> 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 8<sup>th</sup> 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: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> 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).

### **COUNT II**

Respondent is charged under 650 Iowa Administrative Code Section 30.4(8) with gross malpractice in the practice of dentistry.

#### D. FACTUAL CIRCUMSTANCES

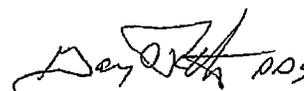
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### **E. SETTLEMENT**

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 20th day of December, 2011, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.

A handwritten signature in black ink, appearing to read "Gary D. Roth" with the initials "D.D.S." written to the right of the name.

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

cc: Theresa O'Connell Weeg  
Sara Scott  
Assistant Attorneys General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor Hoover Bldg.  
Des Moines, IA 50319