

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

IN THE MATTER OF)

DANIEL J. SCHUSTER, D.D.S.)

RESPONDENT.)

**NOTICE OF HEARING
AND STATEMENT OF CHARGES**

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 7896 on June 17, 1997. Respondent's license is current and will next expire on August 31, 2008. Respondent's address as reported to the Board is 902 S. 17th Street, Oskaloosa, Iowa 52577.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on April 23, 2008, before the Iowa Dental Board. The hearing shall begin at 8:30 a.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: Theresa O'Connell Weeg, 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 Constance L. Price, 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 with failure to maintain a satisfactory standard of competency in the practice of dentistry, in violation of Iowa Code Section 153.34 (8) (2007) and 650 Iowa Administrative Code Section 30.4(16).

COUNT II

The Respondent is charged under Iowa Code Section 153.34(4) (2007) with willful or 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).

D. FACTUAL CIRCUMSTANCES

1. The Board received a complaint concerning Respondent's quality of care and infection control practices.
2. An infection control inspection was conducted at Respondent's dental office and numerous deficiencies were noted, the most serious being that not all dental handpieces were sterilized between patients.
3. The records of nine patients who received orthodontic and/or TMJ/TMD treatment from Respondent were reviewed by an orthodontic consultant.
4. Following review of the records, which included the consultant's report and Respondent's response, the Board concluded:
 - a. The treatment provided by Respondent was inappropriate, unnecessary and caused potential long term damage to the dentition.
 - b. Respondent lacks an understanding of fundamental orthodontic principles necessary to treat these cases.
 - c. The patient's occlusal scheme could be adversely altered by Respondent's treatment approach.

- d. The long term stability of Respondent's treatment is questionable. Due to the limited orthodontic treatment and extrusion mechanics used, significant relapse is likely to be seen in these cases.
- e. Respondent inappropriately claimed to reverse chronic orthopedic conditions with short-term dental splint wear.
- 5. Respondent has successfully addressed all infection control concerns in his office.
- 6. Respondent has agreed to not perform any irreversible TMD procedures on patients until this matter with the Board has been resolved.

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 Theresa O'Connell Weeg, Assistant Attorney General, at 515.281.6858.

F. PROBABLE CAUSE FINDING

On this 10th day of January, 2008, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.


DEENA R. KUEMPEL, D.D.S.
Chairperson
Iowa Dental Board

Copies to: Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319

