

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

IN THE MATTER OF)	
JAY R. BUCKLEY, 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 6782 on July 1, 1982. Respondent's license is current and will next expire on August 31, 2016. Respondent's address as reported to the Board is 6768 Douglas Avenue, Des Moines, Iowa 50322.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on January 29th, 2016, 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: 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 Jill Stuecker, 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) (2015) and 650 Iowa Administrative Code rule 30.4(16) with failure to maintain a satisfactory standard of competency in the practice of dentistry.

COUNT II

Respondent is charged under Iowa Code Section 153.34(8) (2015) and 650 Iowa Administrative Code rule 27.11 for failing to maintain patient records in a manner consistent with the protection of the welfare of the patient.

COUNT III

Respondent is charged under Iowa Code Section 272C.3(2)(a) (2015) and 650 Iowa Administrative Code rule 30.4 (23) with failing to comply with a decision of the Board imposing licensee discipline.

D. FACTUAL CIRCUMSTANCES

1. Respondent is a general dentist engaged in the practice of dentistry in Des Moines, Iowa.
2. Respondent was previously charged by the Board in December of 1999 with failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, and unprofessional conduct. Respondent entered into a Settlement Agreement with the Board which placed him on probation for five (5) years; required him to undergo a comprehensive clinical assessment and complete a course of study to address any concerns identified in the clinical assessment; required him to complete a course in dental ethics; and required him to pass the jurisprudence examination.
3. Respondent was charged by the Board in August of 2008 with obtaining a fee by fraud or misrepresentation, and failing to comply with standard precautions for preventing and controlling infectious diseases and maintaining personnel health and safety concerns related to infection control for not sterilizing hand pieces between patients. Respondent entered into a Settlement Agreement with the Board which placed him on probation for two (2) years; required him to submit a written office protocol for infection control to the Board for approval ensuring he will

fully comply with infection control requirements in the future; and required him to pay a civil penalty in the amount of one thousand dollars (\$1,000.00).

4. Respondent was charged by the Board in February 2013 for failing to maintain sanitary conditions for a dental office by not properly sterilizing dental hand pieces. After hearing, the Board issued a Decision and Order that placed Respondent's dental license on probation for a period of five (5) years and required him to obtain infection control training every year, have an infection control practice monitor, and pay a civil penalty of \$5000.00.
5. 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.
6. Board rule 27.11 requires that a dentist maintain patient records in a manner consistent with the protection of the welfare of the patient.
7. The Board received a complaint from patient MC. The complaint stated that Respondent failed to diagnose and properly treat periodontal disease. Following review of M.C.'s complaint and patient records from Respondent's office, the Board determined they had concerns with the treatment of this patient and requested additional periodontal records be obtained from Respondent's office.
8. In September 2014, multiple patient records were subpoenaed from Respondent. These records, along with the original record of complainant MC, were reviewed by a Board consultant who concluded that Respondent failed to meet the minimum standard of care on the majority of these patients due to the following:

- a. Patient MC was not treated to the standard of care. Radiographs from the patient record showed increasing bone loss during the time he was under Respondent's care. The patient records contained no documentation that active bone loss and periodontal disease was occurring, and all 0mm pocket depths were recorded. Patient MC was diagnosed with chronic adult periodontitis following his care with Respondent.
- b. Patient KDB was not treated to the standard of care. Readings indicate 5, 6, and 7mm pocket depths, and radiographs show bone loss. Respondent failed to diagnose or treat periodontal disease.
- c. Patient IG was not treated to the standard of care. The patient record indicates generalized 5mm pocket depths, and radiographs show continued bone loss. Respondent performed a single treatment of root planing, but did not place the patient on a periodontal maintenance schedule or document any diagnosis of periodontal disease.
- d. Patient MP was not treated to the standard of care. Radiographs from patient's initial visit indicated bone loss but pocket depth probing was not done. Subsequent yearly radiographs showed continued bone loss with no diagnosis or treatment documented or performed by Respondent.
- e. Patient FC was not treated to the standard of care. Radiographs from patient's initial visit indicated bone loss but pocket depth probing was not done. Respondent failed to diagnose or treat periodontal disease in this patient.

- f. Patients TR, DP, DK, HD, LM, HH, and RP were not treated to the standard of care. Scaling and root planing was performed but these patients were returned to six month recall visits rather than placed on a periodontal maintenance schedule.
- g. Patient RD was not treated to the standard of care. Radiographs showed bone loss but pocket depth probing was not done. Respondent continued to see the patient on six month recall visits without diagnosing periodontal disease.
9. Respondent has failed to comply with the stipulations of the Board's July 2, 2013 Decision and Order, including the following:
- Respondent has failed to retain the services of a Board-approved infection control trainer;
 - Respondent has failed to obtain a Board-approved infection control practice monitor;
 - Respondent has failed to submit quarterly reports to the Board;
 - Respondent has failed to pay a civil penalty of \$5,000.00; and
 - Respondent has failed to pay his disciplinary hearing fee of \$75.00.
10. In August, 2015, Respondent was questioned about his compliance and he stated to an investigator of the Board that he was unwilling to comply with the July 2nd, 2013 Decision and Order.

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 Jill Stuecker, Executive Director, at 515-281-5157.

F. PROBABLE CAUSE FINDING

On this 23rd day of October, 2015, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.


STEVEN P. BRADLEY, D.D.S.
Chairperson
Iowa Dental Board
400 SW 8th Street, Suite D
Des Moines, IA 50309

cc: Sara Scott
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319