

BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF IOWA

THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JOHN J. HESS, Jr., D.D.S., RESPONDENT

STATEMENT OF CHARGES,

SETTLEMENT AGREEMENT and FINAL ORDER
(combined)

COMES NOW the Iowa Board of Dental Examiners (the Board), and John J. Hess, D.D.S. (Respondent), on August 27th, 2004, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into the following combined Statement of Charges, Settlement Agreement and Final Order.

STATEMENT OF CHARGES

1. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 153 and 272C (2003).
2. Respondent was issued license number 5223 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 5223 is current and on active status until June 30, 2004.

COUNT I

Respondent is charged with failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, in violation of Iowa Code Section 153.34 (9) (2003) and 650 Iowa Administrative Code Section 30.4(16).

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 records in a manner consistent with the protection of the welfare of the patient, in violation of 650 Iowa Administrative Code Section 27.11.

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 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).

THE CIRCUMSTANCES

4. The Board subpoenaed nine (9) patient records from Respondent's dental office and sent them to a Board consultant for review.
5. The Board consultant reviewed these patient records and concluded that the standard of care was not met in any of these cases. The violations of the standard of care included the following:
 - a. Not a single chart had diagnostic x-rays or periodontal probings.

- b. Entries were incomplete, sometimes not legible, and many were made in pencil.
 - c. On patient H.D., Respondent performed a root canal without x-rays and failed to use a rubber dam.
 - d. Respondent performed extractions without the use of x-rays and without informed consent.
6. Board rule 650-30.4(35) requires dentists to comply with universal precautions for preventing transmission of infectious diseases, as issued by the CDC.
7. Board rule 650-30.4(17) requires dentists to maintain adequate safety and sanitary conditions for a dental office.
8. The Respondent is a sole practitioner and employs no dental assistants or other staff.
9. 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.
10. The following major deficiencies were identified during the office inspection:
- a. Respondent failed to wear gloves during procedures when a potential existed for contacting blood, saliva, or mucous membranes.
 - b. Respondent failed to conduct proper sterilization monitoring to ensure the effectiveness of his sterilization equipment.
 - c. Respondent failed to properly clean clinical contact surfaces between patients.

d. Respondent regularly failed to dispose of regulated medical waste pursuant to current regulations.

11 Following this inspection, Respondent voluntarily agreed to close his office until he could bring his office into compliance with current standards.

SETTLEMENT AGREEMENT

12. The Respondent shall voluntarily surrender his dental license effective the date of this Order.

FINAL ORDER

13. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

14. By entering into this combined Statement of Charges, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.

15. This combined Statement of Charges, Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.

16. This combined Statement of Charges, Settlement Agreement and Final Order, is subject to a approval of the Board. If the Board fails to approve this combined Statement of Charges, Settlement Agreement and Final Order, it shall be of no force or effect to either party.

17. The Board's approval of this Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.

John J. Hess, Jr., D.D.S.
John J. Hess, Jr., D.D.S.
Respondent

Subscribed and sworn to before me on July 19, 2004.

Todd B. Holtz

Todd B. Holtz
Iowa Notarial Seal
Commission Number: 223900
My Commission Expires: Aug. 9, 2005

Notary Public, State of Iowa

This combined Statement of Charges, Settlement Agreement and Final Order is approved by the Board on August 27, 2004.

Deena R. Kuempel, DDS
Deena R. Kuempel, D.D.S., Chairperson
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