

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

IN THE MATTER OF)	
ROBERT J. FOUST, 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 7930 on July 1, 1998. Respondent's license is current and will next expire on August 31, 2010. Respondent's address as reported to the Board is 475 S. 50th Street, Suite 300, West Des Moines, Iowa 50265.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on April 15, 2009, before the Iowa Dental Board. The hearing shall begin at 1:00 p.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

4. 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).

D. FACTUAL CIRCUMSTANCES

5. The Board has received information from multiple dentists expressing concern regarding the quality of the dental work Respondent is providing to patients.

The records of fourteen (14) of Respondent's patients were reviewed and multiple instances of substandard care were identified which showed frequent substandard care.

This substandard care includes, but is not limited to, the following:

- a. On patient TWP, Respondent failed to diagnose obvious decay visible radiographically on tooth #15.
- b. On patient LB, Respondent failed to diagnose decay on tooth #4 which ultimately resulted in the patient having to undergo root canal therapy.
- c. On patient DM, Respondent performed a root canal on tooth #13, with excessive removal of tooth structure. The tooth later fractured and required extraction.
- d. On patient ED, Respondent failed to diagnose obvious decay visible on teeth #3 and #15.
- e. On patient KR, Respondent placed a composite on tooth #18 with deficient margins. The restoration later debonded and Respondent failed to recognize this.
- f. On patient RH, Respondent performed pulpotomies on teeth #23 and #24. Respondent failed to utilize a rubber dam and the patient swallowed the file during the procedure. Radiographs showed both root canals to be well short of the apex. Respondent retreated both root canals, the end result still being less than ideal.

- g. On patient SE, Respondent failed to diagnose decay on a tooth that later resulted in root canal therapy. The final film for the root canal fails to show the apex.
- h. On patient AS, Respondent placed crowns on teeth #4 and #5. Both of these crowns have open contact areas. A large carious lesion was later found under the crown on tooth #5.
- i. On patient SS, Respondent failed to diagnose and remove decay on tooth #13. This tooth later required a crown due to deep decay.
- j. On patient WW, Respondent cemented a crown on #30 with open contacts.
- k. On patient JM, Respondent placed seven composite restorations, five of which had to later be replaced.
- l. On patient AM, Respondent misdiagnosed a root canal on #30 resulting in unnecessary treatment. Respondent failed to diagnose decay on teeth #2, #4, and #29, failed to refer retreatment of root canal therapy for teeth #13, and #14, and failed to replace crowns on #13 and #14 for open margins. Respondent also failed to properly place filling on #15 with closed contact after repeated tries.
- m. On patient KB, Respondent failed to locate a canal on #18 and root strength was compromised as a result. Respondent provided a substandard root canal, post, and crown on #20.

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 16th day of January, 2009, 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