

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

IN THE MATTER OF)	
DENNIS J. SCHULLER, 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 6013 on February 7, 1975. Respondent's license is current and will next expire on August 31, 2010. Respondent's address as reported to the Board is 2335 Blairsferry Road NE, Cedar Rapids, Iowa 52402.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on August 23 and 24, 2010, before the Iowa Dental Board. The hearing shall begin at 9:30 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 Phil McCollum, Interim 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(14) (2009) with the inability to practice dentistry with reasonable skill and safety by reason of illness, habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials, or as a result of a mental or physical condition.

COUNT II

Respondent is charged under Iowa Code Section 153.34(16) (2009) with allowing a dental hygienist to practice dentistry.

COUNT III

Respondent is charged under 650 Iowa Administrative Code 27.5 (2009) for failing to protect the health of his patients by assigning a dental assistant duties for which she was not qualified.

COUNT IV

Respondent is charged under Iowa Code Section 153.34(8) (2009) with failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry.

COUNT V

Respondent is charged under Iowa Code Section 153.34(1) (2009) for fraud or deceit in renewing his dental license.

COUNT VI

Respondent is charged under Iowa Code Section 153.34(5) (2009) with obtaining a fee by fraud or misrepresentation.

COUNT VII

Respondent is charged under Iowa Code Section 153.34(4) (2009) with willfully or repeatedly violating 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 VIII

Respondent is charged under Iowa Code Section 153.34(4) (2009) with willfully or repeatedly violating the rules of the Board by increasing fees to patients solely because the patients have insurance, in violation of 650 Iowa Administrative Code Section 27.7(3).

D. FACTUAL CIRCUMSTANCES

1. Respondent is a general dentist engaged in the practice of dentistry in Cedar Rapids, Iowa.
2. Dentists licensed in Iowa must maintain the ability to practice dentistry with reasonable skill and safety. Iowa Code 153.34(14).
3. A dentist shall not permit a dental hygienist to practice dentistry. Iowa Code 153.34(16).
4. In August 2009, an investigation was initiated following the receipt of a complaint. During the course of the investigation, both the Respondent and members of his staff were interviewed. Respondent was also given the opportunity to respond in writing.
5. During the course of the investigation the Board received information from the Respondent that he was using an illegal drug.
6. Respondent on a repeated basis, failed to protect the health and safety of his patients by delegating duties to personnel which legally cannot be delegated. These duties included, but are not limited to:
 - a. Respondent allowed a dental hygienist to perform examinations on pediatric patients.
 - b. Respondent allowed a dental assistant to engage in dental radiography without the proper qualifications.
7. Respondent repeatedly billed Title XIX for an extensive number of services that were unnecessary or inappropriate or not performed.

8. Numerous patient records were subpoenaed from Respondent's office and were reviewed by a Board consultant, who concluded that Respondent is not practicing to an acceptable standard of care.
9. Respondent submitted multiple dental license renewal forms to the Board office in which he fraudulently misrepresented his clinical practice of dentistry.
10. Respondent regularly charges patients covered by insurance a higher rate than patients who are not covered by insurance.
11. Respondent's dental records contained little or no evidence supporting a diagnosis or the charges he submits for payment.
12. At the Board's request, Respondent voluntarily submitted to a psychiatric/substance abuse evaluation in May 2010. The results of this evaluation indicated that the Respondent's ability to perform certain dental procedures may be impaired due to substance abuse and mental health conditions. It was recommended by the evaluating facility that the Respondent obtain treatment for his substance abuse and mental health concerns. Further, the evaluating facility recommended Respondent refrain from performing any new procedures that he is not familiar with without further clarification from the Board.
13. Since he completed that evaluation, Respondent has failed to implement the recommendations of the evaluating facility.
14. The Board is unable to restrict Respondent's practice to those dental procedures in which he is familiar, without Respondent completing a competency evaluation in order to determine clinical competence.

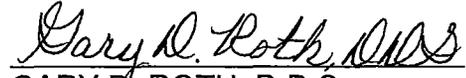
15. Respondent in July 2010, voluntarily submitted for a comprehensive health assessment at a Board approved facility. The results of this comprehensive assessment indicated:
- a. Respondent is not currently able to practice dentistry with reasonable safety and skill because of his mental health disorders.
 - b. Respondent requires treatment from a psychiatrist, a psychotherapist, and a primary care provider.
 - c. Respondent should not return to practice until all treatment providers agree that Respondent is stable; Respondent has maintained a successful period of abstinence from all mood altering chemicals, including alcohol; and Respondent has been compliant for a period of time with all treatment and monitoring.
 - d. Upon return to practice, Respondent should have a practice monitor for a minimum of 12 months to review his work, his treatment plans, and his charges.

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 14th day of July, 2010, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.



GARY D. ROTH, D.D.S.

Chairperson
Iowa Dental Board

cc: Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
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