

BEFORE THE IOWA DENTAL BOARD

IN THE MATTER OF :)
)
LARRY J. HANUS, D.D.S.)
3118 Cottage Grove Ave., Apt. 1) FINDINGS OF FACT,
Des Moines, Iowa 50311) CONCLUSIONS OF LAW,
) DECISION AND ORDER
License #6435)
)
Respondent)

TO: LARRY J. HANUS, D.D.S.

This matter came on for a reinstatement hearing before the Iowa Dental Board (Board) on July 10, 2007 at 2:30 p.m. in the conference room at the Board's office at 400 SW 8th Street, Ste. D, Des Moines, Iowa. The following members of the Board were present for the hearing: Deena R. Kuempel, D.D.S., Chairperson; Michael Rovner, D.D.S.; Gary Roth, D.D.S.; Lynn Curry, D.D.S.; Eileen Cacioppo, R.D.H., Elizabeth Brennan and Suzan Stewart, public members. The Respondent appeared and was represented by attorneys Charles G. Brown and Michelle Ramsey. The state of Iowa was represented by Theresa O'Connell Weeg, Assistant Attorney General. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1) and 650 IAC 51.20(13). The testimony was recorded by a certified court reporter.

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2007), to deliberate their decision. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board with the conduct of the hearing and was directed to prepare this order of the Board, in accordance with their deliberations.

THE RECORD

The record includes the Notice of Hearing; Motion to Appear Pro Hac Vice and Order Granting Motion to Appear Pro Hac Vice; testimony of the witnesses; Respondent's Pre-Hearing Brief; Respondent Exhibits A-CC and State Exhibits 1-2 (see exhibit indexes for description).

FINDINGS OF FACT

1. On September 1, 1994, the Board issued Findings of Fact, Conclusions of Law, and a Decision and Order, following a three day hearing. In its Decision and Order, the Board concluded that Respondent:

a) Failed to maintain a reasonably satisfactory standard of competency in his diagnosis and treatment of patients LS, JT, BS, SG, and BK. The Board found that the Respondent recommended unnecessary treatment for patients LS, JT, BS, and SG when he improperly diagnosed decay and inappropriately proposed performing restorations and crowns. The Board further found that the Respondent misdiagnosed a lack of marginal integrity around the existing restorations on patient JT. Finally, the Respondent inappropriately volunteered information to patients JT, BS, and BK that their dental amalgams were unsafe and should be removed.

b) Was guilty of willful and gross malpractice by his unnecessary removal of tooth structure and the recommended unnecessary removal of tooth structure.

c) Knowingly made misleading statements to dental patients when he told patients JT, BS and BK that mercury amalgam fillings are not safe and that they should do something about their silver fillings.

The Board indefinitely suspended Respondent's dental license. The Board further ordered that Respondent's license would remain suspended until he successfully completed a prior approved course of study to be taken at an accredited dental school in the areas of diagnosis, treatment planning and restorations and demonstrated a thorough clinical understanding of diagnosis and treatment planning and a thorough clinical understanding of restorative work and materials. Respondent was also required to reimburse several patients for costs of treatment within 45 days of the Board Order. Finally, Respondent was ordered to reimburse the Board for costs associated with the disciplinary proceedings, within thirty (30) days of receiving a bill from the Board. (State Exhibit 1)

2. On June 1, 2000, the Board denied Respondent's first application for reinstatement, following a hearing on May 8,

2000. At that time, Respondent had satisfied the requirement that he reimburse certain patients, although the payments had not been made in the timeframe established in the Board's Order. Respondent had made inquiry to attend a course of remedial study at the University Of Iowa School Of Dentistry, but he had not attended or completed a course. Respondent had not paid the costs of the prior hearing.

In its Findings of Fact, Conclusions of Law, Decision and Order denying the reinstatement request, the Board also made findings concerning matters that arose following Respondent's disciplinary hearing. Specifically:

a. The Board found that Respondent had sent voluminous correspondence to the Board and other agencies following his initial disciplinary hearing in 1994. The Division of Criminal Investigations (DCI) reviewed Respondent's correspondence and determined that it fit the pattern of the posse committatus or other groups who may be violent and do not recognize government. At the hearing, Respondent denied that he had ever belonged to the posse committatus or a similar group and stated that he obtained the documents that he sent the Board by computer disc and did not understand much of their content. Respondent described the documents as "nonsense" and "off the wall" and apologized if any Board member or staff felt threatened by them.

b. On March 19, 1999, Respondent was charged with felony auto theft in Wisconsin. As of the date of the reinstatement hearing, Respondent still had a pending felony charge, although it was his understanding that the charge would be reduced to the misdemeanor of operating a motor vehicle without the owner's consent.

In its order issued on June 1, 2000, the Board stated that before it would consider another application for reinstatement, Respondent must:

- Reimburse the Board for the costs of the original disciplinary hearing;
- Provide documentation establishing that the criminal proceedings in Wisconsin have been resolved and he has not been convicted of a felony; and
- Submit to a comprehensive mental evaluation at a facility approved by the Board and follow any recommendations for

treatment or counseling.

(State Exhibit 2)

3. Respondent filed a second reinstatement application on or about April 26, 2007. Respondent submitted documentation that his felony charge in Wisconsin had been reduced to a misdemeanor on March 15, 2005, upon his successful completion of a period of probation. Respondent reports that it took approximately three years for the criminal matter to be entirely resolved. (Testimony of Respondent; Respondent Exhibit A)

4. On October 11, 1999, a Wisconsin District Court Judge had ordered Respondent to be admitted to the Forensic Program at Mendota Mental Health Institute for the purpose of determining his competency to stand trial on the charges of Theft and Operating a Motor Vehicle Without Owner's Consent. Respondent reports that the evaluation was ordered because he was self-represented and used some of the same legal arguments that he had made in his letters to the Board following his license suspension.

The evaluation was conducted from October 12-October 26, 1999. On October 26, 1999, the examining psychiatrist issued a written report and concluded that Respondent was competent to stand trial and further concluded that he did not have any psychiatric diagnosis. Respondent did not exhibit any symptoms consistent with mental illness during his two week stay in the hospital ward. (Respondent Exhibit K)

This psychiatric evaluation was completed approximately six months prior to the first reinstatement hearing. Respondent testified that if he had known of the Board's concerns about his mental health at the time of his first reinstatement hearing, he would have submitted this evaluation report at that time. He now asks the Board to accept this evaluation in lieu of the comprehensive mental evaluation required in the June 1, 2000 Order. (Testimony of Respondent; Respondent Exhibit K)

5. Respondent has been a licensed massage therapist in Iowa since 1998 and has taught massage therapy courses. Respondent has also been active in various groups advocating legislative changes for certain health care issues, including mercury in vaccines and flu shots. Respondent submitted a number of letters of recommendation from people who have worked with him

as a massage therapist and as a lobbyist. Several witnesses testified in support of his application for reinstatement due to their interest in obtaining mercury-free dental treatment for themselves and others. (Testimony of Respondent; Sonya Swan; Carolyn Walker; Dalene Norgaard; Respondent Exhibits B-J)

6. Respondent submitted a listing of 76.5 hours of continuing dental education hours taken since April 27, 2007. He has not completed a full course of study in diagnosis, treatment planning, and restorations as required by the Board's first Decision and Order but is willing to go to the University of Illinois Dental School for assessment and to comply with any remedial education recommendations prior to the reinstatement of his license. (Testimony of Respondent; Respondent Exhibit A)

CONCLUSIONS OF LAW

650 IAC 51.34 provides the procedure for the reinstatement of a dental license that has been revoked or suspended by the Board. It provides, in relevant part:

51.34(1) Any person whose license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension.

51.34(2) If the order of revocation or suspension did not establish terms upon which reinstatement might occur,...an initial application for reinstatement may not be made until one year has elapsed from the date of the final order.

51.34(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. All proceedings upon the petition for reinstatement shall be subject to the same rules of procedure as other disciplinary matters before the board.

51.34(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to

be reinstated. The burden of proof to establish these facts shall be on the respondent.

...
51.34(6) The order to grant or deny reinstatement shall include findings of facts and conclusions of law. If reinstatement is granted, terms and conditions of licensure may be imposed. Such terms and conditions may include restrictions on the licensee's practice. This order will be published as provided for in rule 51.11(153)

The Board was persuaded that the preponderance of evidence in the record supports the Respondent's request to reinstate his dental license, provided he fully complies with the prerequisites and requirements outlined in this Decision and Order. Based on its review of the entire record, including but not limited to Respondent's testimony and demeanor at hearing and review of the 1999 mental evaluation report, the Board was persuaded not to require Respondent to undergo an additional mental evaluation at this time. The Board was not persuaded to allow Respondent to delay payment of the costs from his initial disciplinary hearing until after reinstatement. Payment of these costs is long overdue and must be satisfied prior to any reinstatement. In addition, in order to satisfy the Board that he is professionally ready to resume the practice of dentistry and that it is in the public interest for him to do so, Respondent must complete a comprehensive clinical assessment at the University of Illinois Dental School, complete any recommended remedial education, and successfully complete a regional dental exam, all prior to his reinstatement.

DECISION AND ORDER

IT IS THEREFORE ORDERED that prior to reinstatement of his Iowa dental license, Respondent must:

1. Submit to a comprehensive evaluation of his professional dental knowledge and skills at the University of Illinois Dental School and complete any remedial education recommended as a result of the evaluation. The Respondent has been absent from practice of dentistry for 13 years. All costs associated with this Order are the sole responsibility of respondent.

- a. Following successful completion of the evaluation,

the Respondent shall advise the university to report the results directly to the board. The report shall include a narrative evaluation of respondent's participation in the evaluation and any other information relative to respondent's ability to return to practice including any future practice recommendations.

b. In the event remedial education is indicated, the Respondent shall direct the university to prepare a proposed remedial education to address any concerns or deficiencies identified during Respondent's evaluation. The remedial education shall be conducted in an accredited dental school and be prior approved by the board.

c. Following completion of the remedial education, Respondent shall advise the supervising faculty to contact the Board to verify that the Respondent has successfully completed the education. The verification from the university shall include a written report relative to respondent's successful completion of the education, a narrative evaluation of his participation in the program, and any other information relative to Respondent's abilities in the practice of dentistry and any recommendations regarding Respondent's future practice. Respondent shall comply with any future practice recommendations.

d. The Board shall review the report from the university to determine if the respondent has successfully completed the education.

2. Following completion of all recommended remedial education, respondent shall successfully complete either the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS/ADEX) or the examination administered by the Western Regional Examining Board, Inc. (WREB).

3. Reimburse the Board for the costs of the disciplinary hearing as ordered by the Board on September 1, 1994.

4. Complete the reinstatement application by submitting the proof of attendance forms for the seventy-five hours of continuing education required for reinstatement as well as all applicable past licensure and reinstatement fees.

Following completion of the above enumerated requirements, the Board will issue an Order reinstating Respondent's dental license no. 6435. Respondent's license will immediately be placed on PROBATION for a period of five (5) years subject to any terms or recommendations suggested by either the evaluating facility or remedial training program in addition to the following terms of probation:

- A. Respondent's practice and his records shall be subject to random reviews by the Board or a designee of the Board. Respondent shall fully cooperate with random, unannounced visits and record requests from a designee of the Board.
- B. Respondent shall appear before the Board upon request at such time and place as the Board so designates.
- C. Respondent shall submit quarterly written reports on the form provided by the Board on or before the first day of January, April, July, and October of each calendar year detailing his compliance with all of the terms of the Reinstatement Order as well as a personal statement as to his progress.
- D. Respondent shall fully and promptly comply with all the pertinent Orders of the Board and the statutes and Board rules regulating the practice of dentistry in Iowa.
- E. All costs associated with this Order are the sole responsibility of Respondent. Respondent's remittance for costs shall be made promptly.
- F. Any violation of the terms of this Order is grounds for further disciplinary action upon notice and opportunity for hearing for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

Dated this 26th day of July, 2007.



Deena R. Kuempel, D.D.S.
Chairperson
Iowa Board of Dental Examiners

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Charles G. Brown
316 F St., N.E., Suite 210
Washington, DC 20002 [CERTIFIED}

Michele M. Ramsey
Duncan, Green, Brown & Langeness, P.C.
400 Locust Street, Suite 380
Des Moines, Iowa 50309 [CERTIFIED]

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A and Iowa Code section 153.33.