

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

IN THE MATTER OF

PHELAN R. THOMAS, D.D.S.

RESPONDENT

CASE NOS. 18-0076 & 18-0116

**NOTICE OF HEARING AND
STATEMENT OF CHARGES**

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), 272C.3(1)(e), and 650 Iowa Administrative Code (IAC) 51.6. Respondent was issued Iowa dental license number 07198 on November 24, 1986. Respondent’s license is currently active and will next expire on August 31, 2020. Respondent’s office address as reported to the Board is 4100 University Ave, Ste 105, West Des Moines, Iowa 50266.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on January 24, 2019 before the 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 the 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. Prehearing Conference. Any party may request a prehearing conference to discuss evidentiary issues related to the hearing in accordance with 650 IAC 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: Laura Steffensmeier, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.7.

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 17A, 147, 153, and 272C (2018).

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 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) and 650 IAC 30.4(16) with failing to maintain a reasonably satisfactory standard of competency in the practice of dentistry.

COUNT II

Respondent is charged under Iowa Code section 153.34(4) and 650 Iowa IAC 30.4(7) with improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient or a coworker.

COUNT III

Respondent is charged pursuant to Iowa Code section 153.34(4) and 650 IAC 30.4(35) with failing to comply with the standard precautions for preventing and controlling infectious disease and managing personnel health and safety concerns related to

infection control, as required or recommended for dentistry by the Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services.

D. FACTUAL CIRCUMSTANCES

1. Respondent is a general dentist engaged in the practice of dentistry in West Des Moines, Iowa.

2. Respondent has demonstrated a pattern of making improper remarks to and exhibiting inappropriate behavior with female patients and rotation students.

3. Respondent was ordered to undergo an evaluation. The evaluation concluded Respondent lacks competence in the core competency area of professionalism.

4. Respondent made improper advances to rotation students.

5. Respondent previously had a relationship with a patient.

6. Iowa law requires dental offices to comply with all requirements and recommendations contained within the CDC's Guidelines for Infection Control in Dental Health-Care Settings.

7. On August 15, 2018, a Board investigator performed an infection control inspection at Respondent's practice location and noted the following deficiencies: failure to have written policies in place for exposure prevention and management, failure to appropriately change and wear gloves, improperly loading sterilizers, failure to have policies or a management program for disposal of medical waste and expired medication.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 650 IAC 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 12th day of October, 2018, the Iowa Dental Board found probable cause to file this Notice of Hearing and Statement of Charges.

Handwritten signature of Steven P. Bradley in black ink, with the initials "D.D.S." written to the right of the signature.

STEVEN P. BRADLEY, D.D.S.
Chairperson
Iowa Dental Board

Copies to:

Laura Steffensmeier
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319
ATTORNEY FOR THE STATE

J.R. "Lynn" Böes
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
The Davis Brown Tower
215 10th St, Ste 1300
Des Moines IA 50309
ATTORNEY FOR RESPONDENT