

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

**IN THE MATTER OF  
THOMAS COONEY, D.D.S.  
RESPONDENT**

**CASE NOS. 19-0181, 20-0011, 20-0143  
& 20-0198**

**NOTICE OF HEARING, STATEMENT  
OF CHARGES, AND EMERGENCY  
ADJUDICATIVE ORDER**

**COMES NOW** the Iowa Dental Board (“Board”) and files this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order against Thomas Cooney, D.D.S. (“Respondent”), pursuant to Iowa Code sections 17A.12(2), 17A.18(3), 17A.18A, and 272C.3(1)(e), and 650 Iowa Administrative Code (IAC) 51.6 and 51.30. Respondent was issued Iowa dental license number 07310 on July 1, 1988. Respondent’s license is currently active and will next expire on August 31, 2022. Respondent’s address as reported to the Board is 215 N. Buxton, Indianola, Iowa 50125.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on January 28, 2021, before the Board. The hearing shall begin at 9:00 a.m. Due to the ongoing COVID-19 public health emergency, the hearing will be held electronically via the Zoom platform. At the time of your hearing, use the following information to join the meeting: <https://us02web.zoom.us/j/81749176498?pwd=QjJ2R2d3czVVcjU4anM2RGFzV0hvUT09>. The Zoom meeting ID is 817 4917 6498 and the meeting passcode is 344905. If you prefer to participate telephonically, please use the phone number 1-312-626-6799, using the meeting ID 817 4917 6498 and the passcode 344905.

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 8<sup>th</sup> Street, Ste. D, Des Moines, Iowa 50309 or via email to [deeann.argo@iowa.gov](mailto:deeann.argo@iowa.gov).

3. Presiding Officer. The Board shall serve as presiding officer at the contested case hearing, but the Board hereby delegates to an Administrative Law Judge from the Department of Inspections and Appeals the authority to make initial rulings on prehearing matters, and requests the administrative law judge 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 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, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319 or via email to [laura.steffensmeier@ag.iowa.gov](mailto:laura.steffensmeier@ag.iowa.gov).

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 (2020).

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 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 pursuant to Iowa Code section 153.34(4) and 650 IAC 30.4(7)"e" with failure to comply with an order of the board.

### **COUNT II**

Respondent is charged pursuant to Iowa Code section 153.34(4) and 650 IAC

30.4(6)"b" with failure to comply with standard precautions for preventing and controlling infectious diseases 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 of the United States Department of Health and Human Services and the Iowa occupational safety and health administration.

### **COUNT III**

Respondent is charged pursuant to Iowa Code section 153.34(4) and 650 IAC 30.4(6)"a" with failure to maintain adequate safety and sanitary conditions for a dental office.

### **COUNT IV**

Respondent is charged pursuant to Iowa Code section 153.34(4) and 650 IAC 30.4(2)"j" with repeatedly failing to maintain patient records in accordance with the requirements set forth in 650 IAC 27.11.

### **COUNT V**

Respondent is charged pursuant to Iowa Code section 153.34(4) and 650 IAC 30.4(8)"e" for retaliating against any person for filing a complaint with the board.

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent is a general dentist engaged in the practice of dentistry in Indianola, Iowa.
2. Respondent is currently on probation pursuant to Board Orders dated August 3, 2018 and June 5, 2020.
3. Respondent is non-compliant with the terms of his probation based on the following:

- a. Respondent has not remedied the deficiencies identified in an infection control inspection performed on April 10, 2019.
- b. Respondent did not timely initiate infection control monitoring.
- c. Respondent has not timely submitted or thoroughly completed required quarterly reports or probation fees.
- d. Respondent failed to submit required letter to the Board explaining what Respondent learned from the completed Infection Control coursework and describe any changes that will be made to Respondent's practice in light of the coursework

4. On December 18, 2020, Respondent's infection control monitor performed an on-site inspection at Respondent's dental office. The inspection revealed Respondent was non-compliant with infection control requirements. In addition, Respondent was non-compliant with the Board's Guidelines for the Safe Transition Back to Practice, which are mandatory per Proclamation of Disaster Emergency, most recently issued by Governor Reynolds on December 9, 2020.

5. After multiple complaints, a consultant reviewed a sampling of Respondent's patient records and concluded that he failed to meet the standard of care for documentation.

6. Respondent has repeatedly dismissed from his practice patients who have submitted board complaints.

## **E. EMERGENCY ADJUDICATIVE ORDER**

### ***FINDINGS OF FACT***

The Board finds sufficient evidence to support each factual circumstances

identified in Section D, above.

### ***CONCLUSIONS OF LAW***

Based on these findings of fact, the Board concludes Respondent has violated the laws cited in Counts I, II, III, IV, and V, identified in Section C, above.

### ***POLICY REASONS***

Respondent is already on probation for failing to comply with infection control standards and continues to be non-compliant. In addition, Respondent is not following the COVID-19 safety protocols that have been mandated to ensure dental services are provided safely during the pandemic. Respondent's continued ability to practice poses an immediate danger to the public health, safety, and welfare. The only way to prevent Respondent from posing an immediate danger is to prohibit him from practicing.

### ***ORDER***

Respondent's dental license is INDEFINITELY SUSPENDED, effective immediately, and until further order of the Board. A hearing regarding this Emergency Adjudicative Order is scheduled as set forth in Section A, above.

### **F. 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.

### **G. PROBABLE CAUSE FINDING**

On January 6, 2021, the Iowa Dental Board found probable cause to file this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order.



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WILLIAM MCBRIDE  
Chairperson  
Iowa Dental Board

Copy to:

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Des Moines, IA 50309  
ATTORNEY FOR RESPONDENT