

**BEFORE THE MINNESOTA  
BOARD OF DENTISTRY**

In the Matter of  
Craig Mrosak, D.D.S.  
License No. D8781

**STIPULATION AND ORDER  
FOR STAYED SUSPENSION**

The Minnesota Board of Dentistry (Board) is authorized pursuant to Minn. Stat. ch. 150A and Minn. Stat. § 214.10 and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received complaints against Craig Mrosak, D.D.S. (Licensee). The Board's Complaint Committee (Committee) reviewed the complaints and referred them to the Attorney General for investigation. Following the investigation, the Committee held conferences with Licensee. A mediation conference was held on March 13, 2003 with Administrative Law Judge Bruce Johnson, and as a result of the mediation the parties have agreed that the matter now may be resolved by this Stipulation and Order.

**STIPULATION**

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation. Licensee states that Licensee does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Allegations and Violations. On February 15, 2002, the Board served upon Licensee a Notice and Order for Prehearing Conference and Hearing, a copy of which is attached and incorporated herein as Exhibit A. The Notice sets forth allegations concerning Licensee's practice of dentistry. Licensee denies these allegations. However, if proven, the allegations in Exhibit A would constitute violations of Minn. Stat. § 150A.08, subd. 1(1), (6), (12) and (13); and Minn. R. 3100.3600, Minn. R. 3100.6200 A, B, D, E, I, J and L, Minn. R. 3100.6350, and Minn. R. 3100.9600, and are sufficient grounds for the disciplinary action specified below. In the interest of settling this matter and avoiding the necessity for further proceedings, the Board and Licensee are entering into this Stipulation.

C. It is the intent of the parties that this Stipulation shall have no collateral estoppel effect, res judicata effect, or other preclusive effect, and no evidentiary value in any action or proceeding in any forum or process other than proceedings before the Minnesota Board of Dentistry or another authorized licensing board or licensing agency. Nothing in this paragraph shall limit or affect the Board's obligation to fulfill any reporting requirements.

D. Disciplinary Action Licensee and the Committee recommend that the Board issue an Order as follows:

1. Stayed Suspension Licensee's license to practice dentistry in the State of Minnesota is hereby **SUSPENDED** for five years beginning March 13, 2003. The suspension is **STAYED** conditioned on Licensee's compliance with all of the conditions set forth in paragraph E, below. The suspension will be vacated by the Board on March 13, 2008, provided Licensee has complied with all of the conditions in paragraph E.

E. Conditions of Stayed Suspension Licensee shall comply with the following terms, conditions and requirements:

1. Licensee is prohibited from performing surgical and restorative implant dentistry during the stayed suspension period. Licensee may petition the Board at any time for removal of this condition, which shall be at the discretion of the Board. However, upon successfully completing 20 hours of education in implant restoration approved by the Board for dentists in Minnesota, Licensee will be allowed to replace defective existing permanent crowns on existing implants during the stayed suspension period.

2. Notification of Change of Address In the event Licensee changes his residence mailing address, he shall notify the Board in writing of his new address within thirty days.

3. Insurance Licensee shall carry a minimum of \$300,000 malpractice insurance and shall provide proof of such coverage to the Board upon request.

4. Coursework Licensee shall successfully complete the coursework described below. Within 60 days after completion of each course taken, Licensee shall provide to the Committee evidence of completion. All coursework must be approved by the Board for dentists in Minnesota. Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this Stipulation. With the exception of the prosthodontic coursework described in paragraph d below, none of the coursework taken pursuant to this Stipulation may be used by Licensee to satisfy any of the continuing dental education requirements of Minn. R. 3100.4100, subps. 1 and 2. The coursework is as follows:

a. Treatment Planning Within nine months of the effective date of this Order, Licensee shall successfully complete 40 hours of patient treatment planning coursework. The Board recommends the course offered through the University of Minnesota School of Dentistry Continuing Dental Education Department (contact Marie Baudek of CDE

to obtain registration information) or an equivalent course, with a passing grade of 70% or a letter grade of "C," or better. Licensee's signature on this order constitutes authorization for the course provider(s) to provide the Committee with a copy of Licensee's final examination and answers, if any, for this coursework, and also for the Committee to communicate with the instructor(s) after Licensee takes the course about his needs, performance and progress.

b. Recordkeeping Within nine months of the effective date of this Order, Licensee shall successfully complete four hours of instruction in recordkeeping, including instruction in the creation, maintenance, and sequencing of diagnosis and treatment plans. Within 60 days of the completion of this course, Licensee shall submit a written report (minimum of two pages) to the Committee explaining how he will apply what he has learned to his practice.

c. Patient Management. Within nine months of the effective date of this Order, Licensee shall successfully complete an individually-designed course in patient management and ethics offered by Dr. Muriel Bebeau at the University of Minnesota Dental School. This course shall consist of approximately 20 hours direct instruction, plus any homework assigned. Licensee will provide Dr. Bebeau with a copy of this Stipulation prior to commencing this course.

d. Prosthodontic Coursework Within two years of the effective date of this Order, Licensee shall complete 80 hours of instruction in Prosthodontics. Within 60 days of the completion of this coursework, Licensee shall submit a written report (minimum of two pages) to the Committee explaining how he will apply what he has learned

to his practice. Licensee will be allowed to use these prosthodontic coursework hours toward his continuing dental education credits.

5. Jurisprudence Examination Within 90 days of the effective date of this Order, Licensee shall take and pass the Minnesota jurisprudence examination with a score of at least 90%. Licensee may take the jurisprudence examination within the 90-day period as many times as necessary to attain a score of 90%; however, Licensee may take the examination only once each day. Within 10 days of each examination, Board staff will notify Licensee in writing of the score attained.

6. Pre-billing Licensee agrees neither to solicit nor to accept payment from patients prior to rendering or completing treatment.

7. Maintenance of License Fees Licensee agrees to stay current in payment of all fees associated with maintaining his dental license.

8. Continuing Dental Education Credits Licensee agrees to comply with the continuing education requirements of Minn. R. 3100.4100, subps. 1 and 2.

F. Resolution of All Actions. This Stipulation resolves all pending Board of Dentistry actions and the Isanti County District Court civil action titled, *State of Minnesota v. Craig M. Mrosak, et al.*, Case No. 30-C5-02-000224. Upon adoption of this Stipulation by the Board, the Attorney General will dismiss this lawsuit with prejudice and without cost to Licensee.

G. Additional Discipline for Violation of Order. If Licensee violates this Stipulation, the Board may impose discipline pursuant to the following procedure:

1. Temporary Revocation of the Stay for Violations If the Committee determines that Licensee has violated any term or condition of this Order, it may temporarily

revoke the stay of the suspension. The temporary revocation of the stay shall take effect upon written Notice to Licensee of revocation of the stay, which Notice shall include the allegation(s) on which the temporary revocation of the stay is based, and notice of the time and place of the hearing before the Board in accordance with paragraph G.2 below.

2. Hearing to Determine Whether to Continue or Lift the Temporary Revocation of the Stay Within 10 days of service of the written Notice of temporary revocation of the stay, unless such 10-day period is waived by Licensee, the Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph G.3 below to determine whether to continue or lift the revocation of the stay of suspension, and to determine the length of suspension in the event the suspension is continued and whether any further conditions or limitations on Licensee and Licensee's practice are appropriate. Within ten days after the Notice is received, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

3. Evidence at Hearing/ Burden of Proof/ Waiver of Hearing Before Administrative Law Judge/ Right of Appeal At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge. The record before the Board shall be limited to such affidavits and this Stipulation and Order. The Committee must prove by a preponderance of the evidence that Licensee has violated the Stipulation. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials. Nothing herein shall be construed as a waiver of Licensee's right of appeal to the Minnesota Court of Appeals from an order of the Board issued pursuant to this paragraph.

H. Other Procedures for Resolving Alleged Violations Violation of this Stipulation shall be considered a violation of Minn. Stat. §150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the Stipulation through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 214 based on a violation of this Stipulation, or based on conduct of Licensee before or after the date of this Stipulation which is not specifically referred to herein above.

I. Representation by Counsel Licensee is represented by Stephen Patrick Doyle and Tami L. Schroeder, who have advised Licensee regarding this Stipulation.

J. Waiver of Licensee's Rights By entering into this Stipulation and only for the purpose of this Stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Licensee and to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an Order imposing the discipline specified herein. Licensee waives the right to any judicial review of the Order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Stipulation In the event the Board in its discretion does not approve this Stipulation or a lesser remedy than specified herein, this Stipulation shall be null and void and shall not be used for any purpose by either party hereto. If this Stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and

hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Stipulation and the record.

L. Record This Stipulation, related investigative reports and documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports and documents, or summaries thereof may be filed with the Board with this Stipulation. Any reports or other material related to this matter which are received after the date the Board approves the Stipulation shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification Under the Minnesota Data Practices Act, this Stipulation and Order are classified as public data pursuant to Minn. Stat. § 13.41, subd. 5. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Information obtained by the Board pursuant to this Stipulation is considered to be active investigative data on a licensed health professional, and as such is classified as confidential data pursuant to Minn. Stat. § 13.41, subd. 4.

N. Entire Agreement Licensee has read, understood, and agreed to this Stipulation and is freely and voluntarily signing it. This Stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

O. Service and Effective Date If approved by the Board, a copy of this Stipulation and Order shall be served personally or by first class mail on Licensee's legal counsel as soon as reasonably possible. The Order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE:

Craig Mrośak  
CRAIG MROŚAK, D.D.S.

Dated: May 9, 2003

COMPLAINT COMMITTEE:

By:

Marshall Shragg  
MARSHALL SHRAGG  
Executive Director

Dated: 6/4, 2003

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**ORDER**

Upon consideration of the foregoing Stipulation and based upon all the files, records and proceedings herein,

The terms of the Stipulation are approved and adopted, and the recommended disciplinary action set forth in the Stipulation is hereby issued as an Order of this Board effective this 13 day of June, 2003.

MINNESOTA BOARD  
OF DENTISTRY

By: Freeman Rosenblum DDS  
FREEMAN ROSENBLUM, D.D.S.  
President

AG: #823360-v1

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA BOARD OF DENTISTRY**

**OAH Docket No. 11-0902-14737-2**

In the Matter of the  
Dentistry License of  
Craig Mrosak, D.D.S.  
License No. D8781

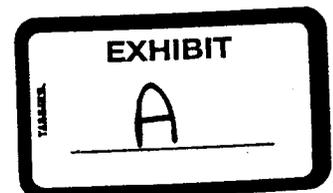
**NOTICE OF AND ORDER FOR  
PREHEARING CONFERENCE  
AND HEARING**

TO: Craig Mrosak, D.D.S., (Respondent), 233 South Ashland Street, Cambridge, Minnesota  
55008

RESPONDENT IS HEREBY NOTIFIED that the Minnesota Board of Dentistry (Board), by its Complaint Committee, has initiated proceedings to determine whether to take disciplinary action against Respondent. Disciplinary action may include the revocation or suspension of Respondent's license to practice dentistry in the State of Minnesota, the imposition of limitations or conditions upon his practice, censure or reprimand, and/or other action authorized by Minn. Stat. §§ 150A.08 or Minn. Stat. ch. 214.

IT IS HEREBY ORDERED AND FURTHER NOTICE IS GIVEN that a prehearing conference in this matter will be held at the Office of Administrative Hearings, 100 Washington Square (Washington Avenue near Marquette), Suite 1700, Minneapolis, MN 55401-2138, commencing at 1:30 p.m., April 1, 2002. The purpose of the prehearing conference is to simplify and narrow the issues for potential hearing and to explore the possibility of resolving the issues without the necessity of a hearing. Respondent is urged to attend.

If Respondent fails to appear at the prehearing conference or any settlement conference in this matter without the prior consent of the Administrative Law Judge, Respondent shall be deemed in default and the allegations or issues set forth herein may be taken as true or deemed



proved without further evidence, and the Board may revoke and/or take other action against Respondent's license to practice dentistry in the State of Minnesota.

IT IS FURTHER ORDERED AND FURTHER NOTICE IS GIVEN that a hearing in this matter will be held at a time and place to be decided by the Administrative Law Judge at the prehearing conference. Respondent is urged to attend. If Respondent fails to appear at the hearing in this matter without the prior consent of the Administrative Law Judge, or if Respondent fails to comply with any order of the Administrative Law Judge, Respondent shall be deemed in default and the allegations or issues set forth in this notice may be taken as true or deemed proved without further evidence, and the Board may revoke and/or take other action against Respondent's license to practice dentistry in the State of Minnesota.

#### **BACKGROUND**

The Committee received complaints against Respondent which were referred to the Minnesota Attorney General's Office (AGO) for investigation. On February 1 and April 26, 2001, the Committee held conferences with Respondent to discuss the information in the Attorney General's Office (AGO) Investigative Report and to review patient records. Based on the discussions at both conferences, the Committee continued its investigation. In addition, the Committee received new complaints against Respondent, which were referred to the AGO for investigation. The Committee issued its Notice of Opportunity to Respond to New Allegations on January 16, 2002. Respondent requested and received a time extension to February 13, 2002, to respond to the Committee. Respondent failed to do so. Based on the investigative reports, correspondence, and conferences with the Respondent, the Committee discovered the deficiencies described below.

## II.

### ALLEGATIONS

#### Fraud, Unprofessional Conduct, Substandard Implant and Prosthodontic Treatment and Failure to Complete Treatment or Failure to Complete Treatment in a Timely Manner

1. Respondent has engaged in unprofessional conduct and perpetrated fraud upon patients in that he has provided substandard implant and prosthodontic treatment to patients and accepted payment for that treatment which he failed to complete or failed to complete in a timely manner.

a. Respondent failed to complete prosthodontic treatment for patient 1.

1) In December 1998, patient 1 saw Respondent for a consultation concerning the placement of crowns and a bridge for eleven maxillary (upper) teeth. Patient 1 was told that treatment should take only two weeks from start to finish.

2) On January 22, 1999, Respondent began treatment. By July 9, 1999, patient 1 had had two sets of temporary crowns, which had caused her pain. On that date, Respondent placed the permanent crowns and bridge, but they did not fit. Respondent removed them and returned them to the dental lab for adjustment. Patient 1 waited seven and a half hours in Respondent's office for her crowns. Her eleven maxillary teeth were exposed and she was in pain. At 9:00 p.m., Respondent placed crowns on eight of patient 1's teeth and placed the bridge temporarily because it did not fit. Beginning July 16, 1999, patient 1 tried many times to make an appointment with Respondent to adjust her crowns, but she was unable to do so because neither he nor his staff answered her phone calls or her messages.

3) As of September 17, 1999, patient 1 had an appointment with Respondent to place her bridge, but was told that the bridge wasn't ready. Patient 1 complained

that she was in pain, the gingival area above teeth numbers 8 and 9 was swollen and sore, her teeth were sensitive to heat and cold, and the crowns were rough. During this appointment, Respondent decided that all the crowns should be re-done in stages, because patient 1 could not physically handle the trauma of having all eleven teeth done at the same time.

4) Treatment was sporadic though mid-July 2000. Patient 1 had her last appointment with Respondent on July 18, 2000. Patient 1 was dissatisfied with the treatment she had received and contacted Respondent's office many times and left messages on his answering machine. Neither Respondent nor any member of his staff returned her calls when one of her right maxillary crowns fell off. Patient 1 saw another dentist on August 14, 2000.

5) On January 22, 1999, patient 1 had pre-paid \$4,000 to Respondent for her treatment. She received a discount for paying in advance.

b. Respondent failed to complete the placement and restoration of 19 implants for patient 2 (YOB: 1927).

1) In response to Respondent's advertisement of a "special senior program" for implant treatment that she saw in a "Senior News" publication, patient 2 made a consultation appointment with Respondent on December 11, 1996.

2) On January 5, 1997, Respondent began treatment for 19 implants. By March 1999, when patient 2 left Respondent's practice, he had placed the implants but had not restored them.

3) Since shortly before she began treatment with Respondent, patient 2 had been without any teeth and could eat only soft foods.

4) On March 18, 1999, patient 2 sought to have her implants restored by another dentist. On several occasions, before he was able to complete the implant treatment,

the subsequently treating dentist had to surgically remove the gingiva which had grown around and over the patient's lower implants.

5) Patient 2 had paid Respondent \$16,400 (\$8,323.20 in January 1997 and \$8076.80 in September 1997).

c. Respondent failed to complete the placement and restoration of 8 implants for patient 3.

1) Patient 3 began seeing Respondent in the 1980s. In October 1995, Respondent began treatment that included 8 dental implants and restorations. Respondent told patient 3 that the treatment would take 18 to 24 months from "healing to crowns". The first implants were placed in October 1995; the last implants were placed in October 1997. None were restored. Respondent crowned all of patient 3's remaining natural teeth in September 1998, but failed to document why these teeth needed crowns. He placed a second set of crowns on these teeth in August 1999. Respondent did not charge patient 3 for these crowns.

2) Patient 3 paid a total of \$13,000 for this treatment (\$2,000 in October 1995; \$4,000 in April 1996; and \$1,200 in March 1997).

3) In March 2000, patient 3 developed an infection and saw an oral surgeon. The oral surgeon eventually removed all of her implants due to the lack of osseous integration and subsequent infection.

d. Respondent failed to complete the placement and restoration of 5 implants for patient 4 (YOB: 1924) in a timely manner.

1) In May 1999, patient 4 began treatment with Respondent for the placement and restoration of 5 implants. The work was completed in August 2001.

2) Patient 4 had paid Respondent \$5,000 in May 1999 and \$3,000 a year later.

e. Respondent failed to complete treatment of four of patient 5's teeth for crowns.

1) Patient 5 began seeing Respondent in the mid 1980s. On May 21, 2001, Respondent prepared 4 of her teeth for crowns. He told patient 5 that the permanent crowns would be ready in 2 weeks. Two weeks later patient 5 tried to contact Respondent by telephone at his practice and at his home. He did not return her calls. He did not place the crowns.

2) Patient 5 had paid Respondent \$500 on May 21, 2001 and \$1700 on May 22, 2001.

3) Another dentist completed the crowns on August 21, 2001 for an additional \$270.

f. Respondent failed to complete treatment for patient 6.

1) Patient 6 began treatment with Respondent for teeth whitening, a 3-unit bridge, and 1 crown on April 20, 2001. Respondent canceled her appointments scheduled for May 12 and May 19, 2001 without explanation. Patient 6 left many messages on Respondent's office answering machine. He did not return her calls. On May 23, 2001, patient 6 had another appointment with Respondent. He told her that her bridge was not ready. After this appointment, patient 6 again left many messages for Respondent, but he did not respond.

2) On June 13, 2001, patient 6 received a note from Respondent saying that her bridge and crowns were ready and he would call her to schedule an appointment. He did not call patient 6 or schedule an appointment.

3) Another dentist completed her dental work in July 2001.

4) Patient 6 had paid Respondent \$2400 (\$400 on April 20, 2001 and the balance by credit card).

g. Respondent failed to complete treatment on 18 implants for patient 8.

1) Patient 8 had his first appointment with Respondent on March 6, 1996. He was to place and restore 18 implants. Respondent estimated that treatment would take six months.

2) When patient 8 left Respondent's practice in August 2001, he had placed the implants, but had not restored them.

3) By August 30, 1996, patient 8 had paid Respondent approximately \$24,000 for the proposed treatment.

4) Another dentist completed treatment of patient 8's lower teeth in approximately 3-4 weeks in the fall of 2001. Patient 8 paid this dentist an additional \$6,000.

5) At one point, patient 8 was without any lower teeth for 9 months. He had broken a denture for his lower arch and Respondent was unable to repair it.

h. Respondent failed to complete treatment of an implant and restoration for patient 9.

1) Respondent placed an implant for patient 9 on May 16, 2000. It was not restored.

2) Patient 9's mother had paid Respondent \$1,694.55 on March 16, 2000 for the implant and restoration.

i. Respondent failed to provide services, 18 implants and restorations, within a reasonable time for patient 12 (YOB: 1925).

- 1) Respondent placed 18 implants for patient 12 between March 1996 and May 1997.
- 2) Films dated May 15, 2000 indicate that 3 implants in the patient's upper right quadrant and 3 implants in the maxillary anterior area were not restored.
- 3) Patient 12 had paid Respondent approximately \$14,500 before treatment began.

Unprofessional Conduct, Abandonment of Patients, Failure to Respond to Patients' Telephone Calls and Requests for Records

2. Respondent has engaged in unprofessional conduct, abandoned patients, failed to respond to patients' telephone calls, canceled appointments with no notice or explanation, and failed to provide patients with their records.

a. Approximately one year into treatment, Respondent began coming late to patient 3's appointments. On at least two occasions, patient 3 waited longer than an hour to see Respondent who then rescheduled her appointments.

b. Between May 1999 and August 2001, Respondent regularly canceled, rescheduled, and postponed patient 4's appointments.

c. As described above, Respondent failed to respond to telephone calls from patients 1 and 5.

d. As described above, Respondent canceled appointments with patients 1 and 6 with no notice or explanation. He also failed to return their phone calls.

e. Patient 7 (YOB: 1938) had been a patient of Respondent's for nearly 20 years when she developed tooth pain in July 2001.

1) She was unable to reach him at his Plymouth office and was informed that he had moved his practice to Cambridge, MN. She called the Cambridge office several times and left messages, but received no response. She sent Respondent a letter and phoned his home. Again, he did not respond.

2) She began treatment with another dentist, but has been unable to obtain her dental records from Respondent.

f. On at least 12 occasions, patient 8 had appointments with Respondent, but no work was done. At these appointments, patient 8 would often wait at least an hour to see Respondent who would say he was "not ready for him." Patient 8 had to reschedule these appointments.

g. Respondent frequently canceled or was late to appointments with patient 9. He failed to return telephone calls from his Plymouth and Cambridge practices regarding this patient.

h. Patient 10 has seen Respondent for dental treatment for approximately 12 years. In August 2001, she went to his Plymouth office and was told he had left the office in July. She was given his new phone number. She telephoned him and asked him to send her records to her. He said he would. As of October 18, 2001, Patient 10 had not received her records.

i. Patient 14 had an initial appointment with Respondent on November 16, 2001. Respondent was late for the appointment, did not greet patient 14 upon entering the operatory, and proceeded to inject her with novocaine in a rough manner. Although he had told her he would return in 10 minutes, he had not returned after 25 minutes. There were no other patients in the office. A dental assistant explained that she had tried to get Respondent to see

patient 14, but he remained in his office with the door closed. Patient 14 left the office, having received no dental treatment.

### SUBSTANDARD RECORDKEEPING

3. a. Respondent has failed to obtain or adequately document, or update his patients' medical histories (patients 2,3,5,6,7,8,9,11,12 and 13).

b. Respondent has failed to adequately document reasons for his patients' visits (patients 2,3,5,6,7,8,9,11,12 and 13), their diagnoses (patients 2,4,5,6,7,8,9 and 11), their specific and sequenced treatment plans (patients 3,5,6,7,8,9,11,12 and 13), and their periodontal conditions and probings (patients 2,3,4,7,11 and 12).

c. Respondent has failed to adequately document that he has obtained an informed consent to treatment from his patients or that he has discussed treatment options beyond costs and fees with them (patients 2,3,4,6,8,12 and 13).

d. Respondent has failed to adequately document the type or amounts of materials used or medications given or prescribed during treatment (patients 2,3,4,6,7,9,11,12, and 13).

e. Patients 4,5,7,8,11,12, and 13 have x-rays of non-diagnostic value, or x-rays that are not identified by patient name or date or are missing from their charts.

### Substandard Periodontal Care

4. Respondent provided substandard periodontal care to some of his patients.

a. Respondent failed to provide adequate periodontal care to patients 2, 4, and 11; their charts show no indication that he completed a periodontal assessment or provided periodontal treatment.

b. Respondent failed to provide adequate, regular periodontal care to patient 3. Her chart shows no probing measurements.

c. Respondent failed to provide adequate periodontal care to patient 7. He documented periodontal examinations from June 29, 1989, to December 6, 1994, only, despite writing a February 12, 1996, progress note "...watch bone loss furcations."

d. At patient 12's initial visit on March 18, 1996, Respondent noted "lower teeth very mobile, pus around infected teeth." Despite this note, the chart contains no record that Respondent completed a periodontal assessment or provided periodontal treatment.

#### Substandard Conscious Sedation

5. Respondent has not demonstrated to the Board his competence to provide conscious sedation to his patients as required by the Board's rules. Minn. R. 3100.3600.

6. Respondent has provided substandard conscious sedation to his patients.

a. He provided conscious sedation to patients 2, 3, 8, 12, and 13 without documenting dosages, monitors, apparent escorts or vital signs.

#### Non-Cooperation

7. Respondent has failed to cooperate with the Board. He has refused to produce records as directed by the Board.

a. On July 10, 2000, the Board sent Respondent a certified letter notifying him of a complaint by patient 1 and asking him to respond to it. He did not.

b. On December 26, 2000, the Board sent Respondent a Subpoena Duces Tecum for 2 patient records. He did not produce the records.

c. On January 16, 2001, Respondent was sent a Notice of Conference for a conference scheduled February 1, 2001. He was asked to provide the Committee with two patient records. At the conference he brought only portions of the records. Due to the incomplete records, the Committee had to reschedule the conference.

d. On March 8, 2001, the Committee sent Respondent a certified letter asking him to provide it with the complete records of 3 patients by March 15, 2001. He failed to do so, stating he had not received the March 8 certified letter.

#### **GROUND FOR DISCIPLINARY ACTION**

The foregoing conduct would constitute grounds for disciplinary action:

1. Fraud or deception in connection with the practice of dentistry or the securing of a license or annual registration certificate, within the meaning of Minn. Stat. § 150A.08, subd. 1(1);

2. Conduct unbecoming a person licensed to practice dentistry and/or conduct contrary to the best interest of the public, specifically:

a. Personal conduct which brings discredit to the profession of dentistry, within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 A;

b. Gross ignorance or incompetence in the practice of dentistry and/or repeated performance of dental treatment which falls below accepted standards, within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 B;

c. Charging a patient an unconscionable fee or charging for services not rendered within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 D;

d. Performing unnecessary services, within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 E;

e. Fraud upon a patient, third party payer, or others relating to the practice of dentistry, within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 I;

f. Failure to cooperate with the Board, its agents or those working on behalf of the Board, within the meaning of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200J and 3100.6350;

3. Failure or refusal to attend, testify, or produce records as directed by the Board, within the meaning of Minn. Stat. § 150A.08, subd. 1(12); and

4. Failure to make or maintain adequate dental records on each patient, within the meaning of Minn. R. 3100.9600;

5. Failure to demonstrate competence to provide conscious sedation to patients as required by Minn. R. 3100.3600.

#### ISSUES

The issues to be determined at the hearing are:

1. Whether Respondent engaged in the conduct alleged above; and
2. Whether Respondent's conduct constitutes grounds justifying the Board to take disciplinary action against Respondent's license.

The enumeration of the foregoing allegations and issues does not restrict the committee from alleging additional facts and violations in future proceedings.

## ADDITIONAL NOTICES

1. This proceeding has been initiated pursuant to and will be controlled by Minn. Stat. §§ 14.001 to 14.69 (the Minnesota Administrative Procedure Act), 148B.18 to 148B.289, 214.10 and 214.103, and Rules for Contested Cases of the Office of Administrative Hearings, Minn. R. 1400.5100 to 1400.8400. Copies may be purchased from the Department of Administration, Minnesota's Bookstore, Room 110A, 117 University Avenue, St. Paul, Minnesota 55155, telephone: (651) 297-3000. Further information about contested case proceedings and copies of state statutes and rules may be obtained online at the following websites: [www.oah.state.mn.us](http://www.oah.state.mn.us); [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us); and [www.socialwork.state.mn.us](http://www.socialwork.state.mn.us).

2. Pursuant to Minn. Stat. §§ 214.10 and 214.103, the decision to initiate this proceeding was made by the Complaint Committee and not by the Board as a whole. Rosellen M. Condon, Assistant Attorney General, is representing the Committee in this matter. After the hearing, the record and the administrative law judge's report will be forwarded to the Board to make a final decision. Members of the Committee will not participate in the Board's deliberations in this matter. In addition, the Board will be advised by an attorney other than Ms. Condon.

3. The Honorable Barbara L. Neilson, Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, MN 55401-2138, telephone (612) 341-7604, will preside as Administrative Law Judge at the prehearing conference, the hearing, and in all other aspects of this hearing unless the parties are notified otherwise.

4. At the hearing, the Committee and Respondent will be given an opportunity to be heard orally, to present witnesses, to cross-examine witnesses, and to submit evidence, written data, statements or arguments in these proceedings. The Committee may request the Chief Administrative Law Judge to use a court reporter to record the testimony taken at the hearing.

5. All parties are requested to bring to the hearing all documents, records, and witnesses needed to support their position. Subpoenas needed to compel the attendance of

witnesses or the production of documents may be obtained pursuant to Minn. R. 1400.7000 (1999).

6. The Board is required by law to keep some data not public. *See* Minn. Stat. § 148.285. The parties in this action are required to advise the Administrative Law Judge if “not public” data is offered into the record. If data classified as not public is admitted into evidence, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2 (2000).

7. The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

8. Respondent may choose to be represented by an attorney in these proceedings, may represent himself, or be represented by a person of Respondent's choice if not otherwise prohibited as the unauthorized practice of law.

9. The Committee's attorney, Rosellen M. Condon, Assistant Attorney General, Suite 1400, NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2131, (651) 297-8835, may be contacted to discuss informal disposition of this matter pursuant to Minn. R. 1400.5900 or discovery pursuant to Minn. R. 1400.6700 and 1400.7000.

10. A Notice of Appearance must be filed with the Administrative Law Judge identified above within 20 days after the date of service of this Notice of and Order for Prehearing Conference and Hearing by any party intending to appear at the contested case hearing. Respondent also should serve a copy of the Notice of Appearance on the Committee's attorney.

11. IF RESPONDENT NEEDS A REASONABLE ACCOMMODATION FOR A DISABILITY in order to participate in the hearing process, such an accommodation can be made available upon request. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If Respondent requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an

accommodation, Respondent may contact the Office of Administrative Hearings at 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401, or may call (612) 341-7610 (voice) or (612) 341-7346 (TDD).

Dated: February 15<sup>th</sup>, 2002

MINNESOTA  
BOARD OF DENTISTRY

  
\_\_\_\_\_  
MARSHALL SHRAGG  
Executive Director

AG: #548761-v1