

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

In the Matter of the Disciplinary Action
Against the Dentist License of
CONCLUSIONS
Joseph H. Wang, DDS, License No. 8136.

FINDINGS OF FACT,
AND RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Peter C. Erickson on May 12, 13, 14, 15, 19, 21 and 23, 1986, at the Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota. The last post-hearing submission was filed on October 1, 1986, at which time the record was closed.

Catherine E. Avina, Special Assistant Attorney General, Suite 136, 2829 University Avenue Southeast, Minneapolis, Minnesota 55414, appeared on behalf of the Minnesota Board of Dentistry. Joe E. Thompson, from the firm of Schmidt, Thompson, Thompson & Johnson, P.A., Crown Center, 7th Street at Litchfield Avenue, P.O. Box 913, Willmar, Minnesota 56201, appeared on behalf of the Licensee, Joseph H. Wang, DDS (hereinafter "Licensee" or "Respondent").

Notice is hereby given that, pursuant to Minn. Stat. 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Board. Exceptions to this Report, if any, shall be filed with the Board at Suite 109, 2700 University Avenue W., St. Paul, Minnesota 55114. Pursuant to Minn. Stat. 214.10, subd. 2, a board member who was consulted during the course of an investigation may participate at the hearing, but may not vote on any matter pertaining to the case.

STATEMENT OF ISSUES

The issues to be determined in this proceeding are whether: (1) the authorization of a prescription of tetracycline by Respondent constitutes a violation of Minn. Stat. 150A.08, subd. 1(5) and (10) (1982) and 150A.08, subd. 1(5) (1983 supp.) and Minn. Rule 3100.6200 (1983); and (2) Respondent made "suggestive, lewd, lascivious, or improper advances to a patient" in violation of Minn. Stat. 150A.08, subd. 1(6) (1984).

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1, Joseph H. Wang, DDS, is licensed to practice dentistry in the State of Minnesota and is a certified oral maxillofacial surgeon. Dr, Wang is 47 years old and currently maintains an oral surgery practice in Willmar, Minnesota. Dr. Wang was born in Shanghai, China and lived there for approximately 22 years. Respondent then moved to Taiwan where he went to college and dentistry school, graduating in 1964. Wang worked as a dentist in Taiwan for one year and then moved to New York to further his education as a fellow at the Guggenheim Dental Clinic. Respondent completed his fellowship in 1966 and then commenced a program in medical pharmacology at the University of Minnesota. Respondent obtained a PhD in medical pharmacology from the University in 1971. Dr. Wang then undertook an oral surgery residency at the University of Minnesota which he completed in three years. He was then appointed an assistant professor at the University of Minnesota in the oral and maxillofacial surgery department in the School of Dentistry. Dr. Wang began practicing oral surgery in Willmar, Minnesota in 1976 and does so currently.

2. Dr. Wang is married and has an 11-year-old son and a 7-year-old daughter.

3. Most of the "office" practice of an oral maxillofacial surgeon falls in the category of dentoclaveolar surgery. This involves treating conditions particularly related to the dental complex, including extractions, biopsy procedures, and other types of technical procedures relating to teeth and the jaw. The broad scope of practice of an oral maxillofacial surgeon could include the treatment of various problems concerning the head and neck which may involve trauma, different types of pathology, jaw deformity problems, and a number of different types of dental conditions.

4. Dr. Wang is a well-qualified oral surgeon and is well-liked by all of his professional associates and persons who work in his office. There have never been any complaints concerning the quality of Dr. Wang's oral surgery.

5. On September 10, 1982, Dr. Wang extracted a wisdom tooth from David Jefferson, the son of a co-tenant in the building which houses Dr. Wang's office. At the time the extraction was performed, Dr. Wang noticed that David Jefferson had acne on his face.

6. Gordon Jefferson, David Jefferson's father, contacted Ray Pierskalla,

a pharmacist in the same office building as Jefferson and Dr. Wang, to procure medication to treat his son's acne in early 1983. Mr. Jefferson stated that he was a medical doctor and told Mr. Pierskalla that he wanted to obtain accutane for his son. The pharmacist questioned use of this drug, because it was usually the drug of last resort for acne, and suggested that tetracycline be used instead. Jefferson agreed to this and Pierskalla filled a prescription of tetracycline for David Jefferson as ordered by Gordon Jefferson. Subsequently, Mr. Pierskalla became suspicious concerning

Mr. Jefferson's credentials as a medical doctor. After a check with the County Medical Association, Pierskalla discovered that Mr. Jefferson was not a licensed M.D.

7. On Saturday, March 26, 1983, Mr. Jefferson telephoned Mr. Pierskalla from his office to order a refill of tetracycline for his son. At that time, Pierskalla questioned Jefferson concerning his drug enforcement number to ascertain Jefferson's "authority" to prescribe medication. Jefferson stated that he did not have his DEA number available at that time. Er. Wang then walked into Jefferson's office and was asked by Jefferson to authorize the prescription of tetracycline. Dr. Wang consented, talked to Pierskalla on the phone, and authorized the prescription for David Jefferson. Jefferson told Dr. Wang that because the family was leaving town on that day, it was imperative that the prescription be filled. Subsequently, Dr. Wang authorized refills of the prescription for tetracycline on April 23, July 9 and August 22, 1983.

8. Tetracycline is a legend drug as defined in Minn. Stat. Ch. 151 (1984).

9. The scope of practice an oral maxillofacial surgeon such as Dr. Wang does not include the treatment of acne unless the surgeon is contemplating a procedure which involves an incision on the facial region. Treatment of acne may then be necessitated to eliminate the risk of infection to the area which is operated on.

10. In addition to Dr. Wang's office in Willmar, he also shared a part-time office on 50th and France in Edina, Minnesota with Dr. Robert Johnson. Dr. Wang used this office only on Saturdays, to see Twin City patient referrals.

11. During the relevant time period herein, Dr. Wang employed two auxiliaries in his Willmar office, Dawn Gauer and Vicki Constans. Ms. Gauer was the receptionist and Ms. Constans assisted Dr. Wang in the operatory and recovery room. There were three auxiliaries in the Edina office; Judy Jeffrey and her two daughters, Wendy and Brenda.

12. In the spring of 1983, after Dr. Wang turned 42 years old, he scheduled himself for a complete physical examination. In addition, Dr. Wang asked a personal friend of his, Dr. Jon Standahl, a licensed consulting psychologist, to give him a series of psychological tests. Respondent told Standahl that the reason for the request was just for curiosity. Dr. Standahl agreed to this request and administered and interpreted a battery of tests. Although the results showed nothing of significance, these tests were not administered because of any perceived problems or as a basis for the diagnosis or treatment of an established problem. Dr. Standahl did not charge Dr. Wang

for this testing.

13. Because most of Dr. Wang's patients were referrals from other dentists, he usually met them for the first time when they came to his office for oral surgery. Because most patients were anxious or nervous about the surgery, which involved the used of anesthesia, Dr. Wang would try to get the patient to relax by talking to him or her. Dr. Wang would often-times tell

female patients that they were "cute" or "pretty" and ask them whether they had a lot of boyfriends. Before the anesthesia was administered, Dr. Wang would ask patients if they go to "happy hour" to explain the effect of the anesthesia.

14. Dr. Wang administered a combination of anesthetic drugs to his oral surgery patients: demerol, nitrous oxide, valium, and brevitol- All of these drugs work on the central nervous system. Demerol is a narcotic analgesic. It is a central nervous system depressant which produces analgesia when pain is present. Its main use is in the treatment of trauma pain or pain following surgery. Valium is tranquilizer and affects the limbic system of the central nervous system. It is used to relieve anxiety. Brevitol is a barbituate that produces hypnosis or sleep. It does not have an analgesic effect but does produce a state of unconsciousness. Nitrous oxide is an inhalation anesthetic and it produces a light degree of surgical anesthesia. It also has an analgesic effect but is quickly removed from the body through normal respiration. Valium, however, can remain in the body for up to 24 hours and effect normal mentation.

15. It is not uncommon for patients who are anesthetized to dream or even have hallucinations. Patients may "act out" their dreams which seem very real to them at the time they are occurring. These dreams may have a sexual "theme", especially in the case of female patients.

16. Dr. Wang uses a lighter degree of anesthesia for his patients than most other oral surgeons. Because of this, the patient requires less monitoring by an auxilliary and can respond to the "commands" of the dentist. The patient is in an "unconscious" state, however. Throughout the course of the surgery procedure, Dr. Wang will administer more anesthetic drugs if the patient begins to react to pain. Because of this light level of anesthesia, patients may dream when they are awakening. Patients may also waken from the anesthesia, fall back asleep again, and then reawaken. This process may continue until the patient fully regains consciousness.

17. Dr. Wang's oral surgery procedures usually take one-half hour or less. Because patients are scheduled every half hour, a patient is removed from the operatory and placed in the recovery room as soon as he/she is able to be moved with the assistance of Dr. Wang and the auxilliaries. Consequently, patients are not always fully conscious when they are taken from

the operatory and placed in the recovery room. The effects of the anesthetic agents on patients varies greatly from patient to patient; some recover very quickly and are ready to leave the recovery room within 10 to 15 minutes and others require a longer time to regain the consciousness necessary for them to be able to leave. Dr. Wang requires that patients undergoing oral surgery have someone else with them to provide transportation from the office. Because the effect of the anesthesia on a patient cannot be determined prior to its administration, it is not safe to allow a patient to drive home or leave the office unaccompanied.

18. During the oral surgery procedure, Dr. Wang or his auxilliary may come into contact with the patient's upper body. In the process of removing wisdom teeth, Dr. Wang must "maneuver" to get the proper angle and leverage. A suction tube is placed in the patient's mouth and is draped over the patient's

chest. A "bib" is placed over the patient's upper body and secured around the patient's neck.

19. Nitrous oxide is administered to the patient through a mask placed over the patient's nose. Valium, brevitol and demerol are administered intravenously, usually in the patient's right arm.

20. In order to speed-up the patient's recovery from anesthesia and "return" to consciousness, Dr. Wang rubs the patient's upper arm and shoulders to provide tactile stimulation.

21. Diane Clark is a 24-year-old female who was treated by Dr. Wang in the spring and summer of 1983. Ms. Clark was referred to Dr. Wang for the removal of her wisdom teeth by Dr. Michael Gardner, a "general" dentist who had an office in the same building as Dr. Wang. Dr. Wang saw Diane Clark in April of 1983 for an initial examination. He next saw her in May for the removal of two wisdom teeth and again in June, to remove the remaining wisdom teeth. Ms. Clark's last appointment was on July 5, 1983, to have her sutures removed.

22. Before the June, 1983 appointment to remove the last wisdom tooth, Diane Clark had become engaged and received a ring. When she came to the June appointment, Ms. Clark showed the ring to the auxiliaries and talked about her engagement. At that time, Dr. Wang told Ms. Clark that she was a "sweetheart" and that she had "broken his heart" because of the engagement. On July 5, 1983, the suture removal appointment, Ms. Clark was led into a room across from the office laboratory and seated in a dental chair. Ms. Constans was working in the laboratory at that time and talked with Ms. Clark across the hall briefly. Ms. Constans could see Ms. Clark sitting in the chair from her vantage point in the laboratory. When Dr. Wang came into the room to remove the stitches, he again stated that Ms. Clark was a "sweetheart" and that she had "broken his heart". After the stitches were removed, Diane Clark got out of the dentist chair on the right side and Dr. Wang embraced her. Ms. Clark pulled away, walked around the chair and entered the hallway leading to the door to the waiting room area. During this time, Ms. Constans was working

in the laboratory across the hall. She observed Ms. Clark leave the room and start down the hallway. Ms. Constans then took a tray of instruments into the operatory in preparation for the next surgical patient.

23. Just as Diane Clark was at the door leading to the waiting room, Dr. Wang came into the hallway and said something to her which made her stop. Dr. Wang approached her and attempted to kiss her. However, Ms. Clark turned her head and the "kiss" glanced off her cheek. Ms. Clark then hurried out of the office and told her future mother-in-law what had transpired. The mother-in-law, Genevieve Clark, had been waiting for Diane Clark in the car in the parking lot.

24. The receptionist's chair in Dr. Wang's office is located less than five feet away from the door leading to the waiting room area. The receptionist can view the area on the inside of the door from her job station in the chair.

25. Carmen Lee Jamison was treated by Dr. Wang in the fall of 1983 for the removal of her wisdom teeth. Ms. Jamison had three appointments with

Dr. Wang. The first was in September for an initial examination, the second was on September 20, 1983 for the removal of her top wisdom teeth, and the third was on October 20, 1983 for the removal of her other wisdom teeth. Ms. Jamison is currently 24 years old.

26. During the October 20, 1983 surgery, Dr. Wang was assisted by Vicki Constans. Ms. Jamison's appointment was at 3:00. Because Ms. Constans had to leave work at 4:15 for of a doctor appointment, she was very busy, trying to get her work completed before she had to leave. Consequently, some "normal" office procedures (in Carmen Jamison's case, asking whether she had eaten before she arrived for the appointment) were not followed. Ms. Jamison was wearing a sweatshirt, corduroy jeans and tennis shoes on that day. After the surgery had been completed, Ms. Jamison awoke from the anesthesia and noticed that it was 3:20. Right after she awoke, Dr. Wang touched one of Ms. Jamison's breasts, rubbing it in a circular motion. Dr. Wang stated to her, "I bet you have a lot of guys chasing you." Jamison responded, "No, I have not been out on a date for about a year and a half." Dr. Wang then said, "You have not had sex for a year and a half?" Jamison did not respond. Dr. Wang then touched Jamison's other breast in the same manner as the first. Dr. Wang then told Jamison that she should go into the bedroom to rest. Dr. Wang assisted Ms. Jamison into the recovery room where she was placed on a cot. During the time that the "touching" occurred Ms. Constans was not in the operatory.

27. It was Dr. Wang's usual practice to have an auxilliary with him in the operatory at all times when a surgical procedure was being done. The presence of an assistant is necessary for two reasons: (1) to help monitor the patient and assist if a medical emergency should arise; and (2) to be an "observer" in case accusations of improper conduct on the part of the dentist are made.

28. Nancy Gormley is a 24-year-old female who was treated by Dr. Wang at the Edina office on February 11, 1984 for the removal of wisdom teeth. Ms. Gormley was referred to Dr. Wang by Dr. Robert Johnson. Ms. Gormley's husband and two children accompanied her to the appointment. Ms. Gormley was separated from her husband at that time, however. Judy Jeffrey and her two daughters, Wendy and Brenda, were working in the office on that day,

29. After the surgery had been completed, Nancy Gormley was taken to the recovery room. Because Ms. Gormley was coming out of the anesthesia rather slowly, Judy Jeffrey was observing her in the recovery room. Ms. Jeffrey stood by a door leading into the operatory because she was waiting for the next patient to arrive. When Dr. Wang came into the recovery room,

Ms. Jeffrey left, briefly. Nancy Gormley was in a dental chair which had been positioned vertically.

30. Dr. Wang came into the recovery room to observe Ms. Gormley and sat on her right side. Ms. Gormley had her right arm positioned on the arm rest and her left arm was across her stomach. Dr. Wang asked Ms. Gormley if she had a lot of boyfriends, if she got asked out a lot and if she got lonely for male companionship. Dr. Wang then asked her if she would like him to provide her with male companionship. Nancy Gormley responded negatively to all of these questions. At the same time as the conversation was going on, Dr. Wang began rubbing Ms. Gormley's left hand which was laying across the upper part of her

stomach. As he rubbed his hand on her hand, he also rubbed his hand against her breasts. Ms. Gormley pulled her left hand away when she felt the contact with her breasts.

31. Later during the "recovery", Mr. Gormley came into the recovery room, holding their one-year-old son and accompanied by their three-year-old daughter. He stayed only for a moment because the baby was heavy. Dr. Wang moved around to Ms. Gormley's left side after her family entered the room. After Mr. Gormley left with the baby the three-year-old daughter remained in the room for just a moment. Dr. Wang stood, told the young girl that she was just as cute as her mommy, and briefly leaned against Ms. Gormley's left shoulder. Ms. Gormley felt Dr. Wang's wallet, which he keeps in his right front pants pocket, pressed against her shoulder. She thought this was Wang's penis and rolled her body away from him. After the daughter left the room, Dr. Wang returned to Ms. Gormley's right side. Gormley told him that she wanted to go but Dr. Wang stated that she needed to stay for a few more minutes because he was afraid that he would not be able to see her again. Dr. Wang then looked at Ms. Gormley and asked her if she thought he was handsome. Gormley responded sarcastically that she thought he was. Nancy Gormley then left the office, assisted by her husband because she was still feeling the effects of the anesthesia. Nancy Gormley told her husband what had occurred in the recovery room several days later.

32. In April of 1984, a grand jury was convened as the result of an investigation of alleged improper conduct by Dr. Wang. There was no indictment returned as a result of the grand jury proceeding.

33. At the present time, Dr. Wang employs three auxiliaries in his Willmar office. Two of these assistants may be present in the operatory at the time a surgical procedure is being done. In addition to using more auxiliaries, Dr. Wang video tapes all surgical procedures which involve the use of anesthetic drugs. Dr. Wang has also consciously stopped referring to female patients as being cute or pretty or inquiring about boyfriends.

Based upon the foregoing findings of fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Minnesota Board of Dentistry have jurisdiction over this matter pursuant to Minn. Stat. 150A.08 and 14.50 (1984). The Notice and Order for Prehearing Conference and Hearing issued by the Board in this matter was in all respects proper as to form and content.

2. Dr. Wang violated Minn. Stat. 150A.08, subd. 1(5)(1984) by

prescribing tetracycline to David Jefferson and authorizing refills on that prescription through August of 1983.

3. Dr. Wang violated Minn. Stat. 150A.08, subd. 1(6)(1984) and Minn. Rule 3100.6200(C) by his conduct as set forth above in Findings 22, 23, 26, 30 and 31.

Based upon the foregoing Conclusions, and for the reasons set forth in the Memorandum below, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Minnesota Board of Dentistry take appropriate action based upon the Findings and Conclusions set forth herein.

Dated this 30 day of October, 1986.

PETER C. ERICKSON
Administrative Law Judge

MEMORANDUM

Pertinent Statutes and Rules

Minn. Stat. 150A.08, SUSPENSION, REVOCATION, LIMITATION, MODIFICATION OR DENIAL OF LICENSE.

Subdivision 1. Grounds. The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or dental hygiene or the registration of any dental assistant upon any of the following grounds:

(5) Improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

Minn. Rule 3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.
"Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant or conduct contrary to the best interests of the public", as used in Minnesota Statutes, section

150A.08, subdivision 1, clause (5) of the act, shall include the

indiscriminate and repeated prescribing or dispensing of any drug which under the circumstances has no therapeutic value; the failure to maintain adequate safety and sanitary conditions for a dental office; and the act of a dentist, hygienist, or registered assistant in:

C. making suggesting suggestive, lewd, lascivious, or improper advances to a patient;

Respondent argues that because the pharmacist, Mr. Pierskalla, cannot recall whether Dr. Wang affirmatively authorized refills on the prescription for tetracycline, and Dr. Wang denies that he authorized any refills, the refills themselves cannot constitute a basis for an alleged violation.' However, the Board's investigator testified that Dr. Wang told him that he had authorized refills for the prescription. Additionally, the pharmacy records show that three refills were made on the prescription and after each of them there is hand-written "OK Dr. Wang." Mr. Pierskalla testified that these "OKs" may have been the result of Mr. Jefferson telling him that Dr. Wang had okayed the refill. However, by that time, Pierskalla's suspicions of Jefferson had been confirmed and the Judge doubts whether Jefferson's word would have been accepted by the pharmacist. Consequently, the Judge has found that the Board has proved, by a preponderance of the evidence, that the refills on the prescription for tetracycline were authorized by Dr. Wang. Two of these refills were authorized after the affective date of Minn. Stat. 150A.08, subd. 1(5). The record is clear that prescribing tetracycline to treat David Jefferson's acne was outside the scope of Dr. Wang's practice in this instance.

1 Minn. Stat. 150A.08, subd. 1(5) did not become effective until April 30, 1983. The prescription for tetracycline was authorized by Dr. Wang on March 26, 1983.

2 During cross-examination, Dr. Wang testified that after he removed David Jefferson's wisdom teeth, he later treated Jefferson for some minor pain in the wisdom tooth area and for lesions on his face, lip and chin. However, Respondent has no records to support this testimony and David Jefferson was

not called to testify concerning later treatment by Dr. Wang. The Judge has concluded that this testimony by Dr. Wang was a fabricated reason to legitimize authorizing refills of the prescription.

As the Findings of Fact above indicate, the Judge has believed the testimony of Diane Clark, Carmen Jamison and Nancy Gormley. Respondent has argued that their testimony should not be believed because: (1) Ms. Gormley and Ms. Jamison were just coming out of anesthesia at the time the incidents occurred so it is more likely that they dreamed the touchings and improper conversation from Dr. Wang; (2) of the improbability that Dr. Wang could have embraced Diane Clark and attempted to kiss her when either of the auxiliaries present could have seen what was happening; (3) Vicki Constans testified that she was in the operatory with Carmen Jamison at all times and Judy Jeffrey testified that she was in the recovery room with Nancy Gormley at all times; (4) Dr. Wang's professional associates and his employees have testified that the incidents which are alleged to have occurred are uncharacteristic of Dr. Wang; and (5) the complaining witnesses have been impeached concerning certain aspects of their testimony which makes it unlikely that the incidents occurred.

The Judge first points out that the three allegations of improper conduct occurred within a seven-month period of time. This was right after Dr. Wang had completed a battery of psychological tests because he was curious about what the results might show. The three complaining witnesses were all young women in their early 20s, each completely unaware of what had allegedly happened to the other two. Each of the incidents shows the same kind of conduct by Dr. Wang; inappropriate verbalization in conjunction with touching. These are not "horror" stories involving allegations of intimate sexual activity.

The Judge further points out that each of the three women appeared to be telling the truth in this matter despite the passage of several years since the occurrences and the fact that several statements had been taken from each which were used for impeachment purposes. These witnesses gave statements to the police, testified before the grand jury, gave statements to Respondent's investigator and gave statements to the Board of Dentistry. Ms. Clark's recollection as to the type of handle on the waiting room door and her recollection of wearing a bib was impeached and it was shown that she gave several versions of Dr. Wang's attempts to kiss her. Ms. Jamison gave conflicting testimony concerning the time when she awoke in the operatory and whether or not Dr. Wang was in the room at that time with her. Auxiliaries and Dr. Wang testified that Nancy Gormley's family never actually entered the recovery room; and Ms. Gormley was forced to refer to her previous statements on several occasions to refresh her recollection. However, these three witnesses have no reason to lie about what happened in Dr. Wang's office. Surely, the stress of police interviews, grand jury testimony, statements taken by investigators, and this proceeding provide an adequate reason for each to just forget the whole thing.

The Judge perceived Dr. Wang's testimony as an attempt to "explain" all areas where there were question marks rather than as a candid recollection of what occurred. Vicki Constans testified that she observed Diane Clark from the moment she got up from the chair until the time she started walking down the hallway to exit. However, it is quite apparent from the film offered into evidence by Respondent that there is an area to the right of the patient's chair where an embrace could have occurred which would have been out of Ms. Constans' view. This assumes that she was looking into the room even

though she was busy putting an equipment tray together in the laboratory. Although Dawn Gauer's reception desk chair is located less than five feet from where the "kissing" occurred, it is easily conceivable that she was busy doing something else in a different location of the office for the length of time this incident occurred.

Ms. Constans testified that she was in the operatory with Carmen Jamison and Dr. Wang the entire time. The record shows, however, that on the day this oral surgery was done, Ms. Constans was extremely busy, trying to get the work done so she could leave for a doctor's appointment at 4:15. Another surgery patient was scheduled after Ms. Jamison. At the time this incident occurred, the actual surgical procedure had been completed and Ms. Jamison was awakening from the anesthesia. Ms. Constans probably assumed that she was in the room for the entire time because that is her normal practice. However, on that day, the Judge has found that she left the room to attend to other matters just before Ms. Jamison was moved into the recovery room. Judy Jeffrey testified that she stood in the recovery room with Nancy Gormley for approximately one hour to observe Ms. Gormley's recovery. However, in her testimony before the grand jury, Ms. Jeffrey stated that when Dr. Wang left the operatory, she would "come in from time to time . . ." Obviously, the touching events testified to by Ms. Gormley could easily have occurred while Ms. Jeffrey was only briefly absent from the recovery room.

Every oral surgeon or dentist who testified in this proceeding who knew or had worked with Dr. Wang had the highest respect and regard for him. Each testified that these allegations were out of character for Dr. Wang and that they had never observed any improper conduct on his part. The auxiliaries who work with Dr. Wang also testified that they had never observed anything improper. The Judge has considered this testimony very carefully but cannot conclude that these three incidents could not have happened based on evidence of Dr. Wang's good character. The record shows that Dr. Wang had a long history of practice prior to any allegations of misconduct and has practiced for over two years without complaint after the last incident had occurred.

Respondent tried to show through Dr. Standahl that the results of Dr. Wang's psychological testing show either that his personality is not one that would permit improper sexual contact or at least that it is not likely that these events occurred. However, the Judge has greatly discounted Dr. Standahl's testimony based on the fact that he was a personal friend of Dr. Wang, there was no defined purpose for the testing, and he testified that

he had preconceived notions about Dr. Wang before the tests were administered and results interpreted.

The record contains a great deal of testimony concerning the propensity for persons who are anesthetized or just coming out of anesthesia to dream or hallucinate. Respondent argues that in the Jamison and Gormley situations, these women may truly believe that the touchings and conversation did in fact occur because it "seemed" so real. However, the Judge has found that these events were not dreams but did in fact occur. Although Ms. Jamison was just awaking from the anesthesia, her initial statement as to the time was corroborated by the surgery records showing when the procedure was completed. Ms. Jamison testified that she was dizzy or groggy but that she knew where she was and what was going on around her. The record is clear that Ms. Gormley

took longer than usual to recover from anesthesia. She testified, however, that although her body felt sluggish and heavy, she was aware of where she was and what was happening. Her husband, Mr. Gormley, testified that when he talked to her in the recovery room he felt that she was mentally alert. Additionally, Respondent showed the Judge and others testified that he normally keeps his wallet in his right front pocket. Respondent did not, however, go on to argue that his wallet is what Ms. Gormley felt when he leaned against her left shoulder. Obviously, if Ms. Gormley could feel that something hard was being pressed against her left shoulder in the recovery room, she would also be sensitive to Dr. Wang's hand in contact with her breasts. If Ms. Gormley and Ms. Jamison were dreaming, their dreams are remarkably similar. There was no anesthesia in Ms. Clark's case and her testimony corroborates the testimony of Jamison and Gormley. The Judge rejects Respondent's contention that Ms. Gormley and Ms. Jamison were suffering from "transient hallucinations" and that Ms. Clark was lying,

P.C.E.