

BEFORE THE IOWA DENTAL BOARD OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DENNIS J. SCHULLER, D.D.S, RESPONDENT

FILE NO. 09-151

EMERGENCY ADJUDICATIVE ORDER

COMES NOW the Iowa Dental Board, and finds that on July 14, 2010, it was presented with evidence which establishes that Respondent's continued practice of dentistry constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained in that investigation is as follows:

FINDINGS OF FACT

1. Respondent is a general dentist engaged in the practice of dentistry in Cedar Rapids, Iowa.
2. Dentists licensed in Iowa must maintain the ability to practice dentistry with reasonable skill and safety. Iowa Code 153.34(14).
3. A dentist shall not permit a dental hygienist to practice dentistry. Iowa Code 153.34(16).
4. In August 2009, an investigation was initiated following the receipt of a complaint. During the course of the investigation, both the Respondent and

members of his staff were interviewed. Respondent was also given the opportunity to respond in writing.

5. During the course of the investigation the Board received information from the Respondent that he was using an illegal drug.
6. Respondent on a repeated basis, failed to protect the health and safety of his patients by delegating duties to personnel which legally cannot be delegated. These duties included, but are not limited to:
 - a. Respondent allowed a dental hygienist to perform examinations on pediatric patients.
 - b. Respondent allowed a dental assistant to engage in dental radiography without the proper qualifications.
7. Respondent repeatedly billed Title XIX for an extensive number of services that were unnecessary or inappropriate or not performed.
8. Numerous patient records were subpoenaed from Respondent's office which were reviewed by a Board consultant who concluded that Respondent is not practicing to an acceptable standard of care.
9. Respondent submitted multiple dental license renewal forms to the Board office in which he fraudulently misrepresented his clinical practice of dentistry.
10. Respondent regularly charges patients covered by insurance a higher rate than patients who are not covered by insurance.
11. Respondent's dental records contained little or no evidence supporting a diagnosis for the charges he submits for payment.

12. At the Board's request, Respondent voluntarily submitted to a psychiatric/substance abuse evaluation in May 2010. The results of this evaluation indicated that the Respondent's ability to perform certain dental procedures may be impaired due to substance abuse and mental health conditions. It was recommended by the evaluating facility that the Respondent obtain treatment for his substance abuse and mental health concerns. Further, the evaluating facility recommended Respondent refrain from performing any new procedures that he is not familiar with without further clarification from the Board.
13. Since he completed that evaluation, Respondent has failed to implement the recommendations of the evaluating facility.
14. Respondent in July 2010, at his request voluntarily submitted for a comprehensive health assessment at a Board approved facility. The results of this comprehensive assessment indicated:
 - a. Respondent is not currently able to practice dentistry with reasonable safety and skill because of his mental health disorders.
 - b. Respondent requires treatment from a psychiatrist, a psychotherapist, and a primary care provider.
 - c. Respondent should not return to practice until all treatment providers agree that Respondent is stable; Respondent has maintained a successful period of abstinence from all mood altering chemicals, including alcohol; and Respondent has been compliant for a period of time with all treatment and monitoring.

- d. Upon return to practice, Respondent should have a practice monitor for a minimum of 12 months to review his work, his treatment plans, and his charges.

CONCLUSIONS OF LAW

15. The facts set forth above establish that Respondent's continued practice of dentistry poses an immediate danger to the public health, safety or welfare.
16. The facts set forth above establish that Respondent appears to have repeatedly violated Board statutes and rules by:
 - a. Inability to practice dentistry with reasonable skill and safety by reason of illness, habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials, or as a result of a mental or physical condition, in violation of Iowa Code Section 153.34(14)(2009);
 - b. Engaging in practice harmful or detrimental to the public by allowing a dental hygienist to practice dentistry, in violation of Iowa Code Section 153.34(16)(2009);
 - c. Engaging in practice harmful or detrimental to the public by failing to protect the health of his patients by assigning a dental assistant duties for which she was not qualified, in violation of 650 Iowa Administrative Code 27.5 (2009);
 - d. For failure to maintain a reasonable satisfactory standard of competency in the practice of dentistry, in violation of Iowa Code Section 153.34(8) (2009);

- e. For fraud or deceit in the renewal of a dental license, in violation of Iowa Code Section 153.34 (1)(2009);
 - f. With obtaining a fee by fraud or misrepresentation, in violation of Iowa Code Section 153.34(5)(2009).
 - g. For failing to maintain records in a manner consistent with the protection of the welfare of the patient, in violation of 650 Iowa Administrative Code Section 27.11.
 - h. For increasing fees to patients solely because the patients have insurance, in violation of 650 Iowa Administrative Code Section 27.7(3).
17. The Board concludes on the basis of the facts set forth above that this investigation has been sufficient to ensure that the Board is proceeding on the basis of reliable information. Respondent has been evaluated by two different Board approved programs, and was diagnosed with substance abuse and mental health conditions. A large number of Respondent's patient records have been reviewed by a Board consultant, who identified numerous violations of the standard of care in Respondent's practice. Other aspects of Respondent's dental practice have been fully investigated. Respondent has been allowed the opportunity to respond to the allegations against him.
18. Specific circumstances which pose an immediate danger to the public health, safety, and welfare have been identified and determined to be ongoing. Respondent's assessment in July 2010 indicated that Respondent is not able to practice dentistry with reasonable safety and skill. The Respondent is currently

not practicing dentistry within the standard of care. Finally, Respondent is practicing in blatant disregard of many other laws governing the practice of dentistry in Iowa.

19. Respondent cannot continue to engage in any aspect of dental practice without posing an immediate danger to the public health, safety, and welfare.
20. The Board does not believe the imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare for the reasons identified in paragraph 17, above.
21. The immediate suspension of Respondent's license to practice dentistry in the state of Iowa is necessary to avoid immediate danger to the public health, safety, and welfare, for all the reasons discussed above.

ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A (2009) and 650 IAC 51.30, that the dental license of Respondent, Dennis J. Schuller, D.D.S., shall be immediately suspended. Respondent shall immediately cease and desist from the practice of dentistry. Respondent shall be notified immediately of this Order pursuant to 650 IAC 51.30(3).

A hearing on this Emergency Adjudicative Order and the Statement of Charges, which have been filed concurrently with this Order, shall be held on August 23 and 24, 2010, at 9:30 a.m. The hearing will be held at the Board office, located at 400 S.W. 8th Street, Suite D, Des Moines, Iowa.

Gary D. Roth, D.D.S.

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