

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

IN THE MATTER OF:)	
TERRY R. SHIVELY, D.D.S.)	
1206 2 nd Avenue E.)	
Spencer, IA 51301)	NOTICE OF HEARING
License #5797)	
Respondent)	

You are hereby notified that on August 22, 2003, the Board found probable cause to file a Statement of Charges against you. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 153, and 272C (2003), and 650 Iowa Administrative Code Chapter 51. A copy of the Statement of Charges is attached, and sets forth the particular statutes and rules which you are alleged to have violated, and further provides a short and plain statement of the matters asserted.

IT IS HEREBY ORDERED that a disciplinary contested case hearing be held upon the Statement of Charges on Thursday, December 4, 2003, before the full Board or a panel of the Board. The hearing shall begin at 3:00 p.m. and shall be located in the 1st Floor Conference Room, Iowa Board of Dental Examiners at 400 SW 8th Street, Ste D, Des Moines, Iowa. The Board shall serve as presiding officer, but the Board may request an

Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

Within twenty (20) days of the date you are served with the Statement of Charges and Notice of Hearing, you are required by 650 Iowa Administrative Code 51.12(2) to file an Answer to the Charges. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing.

At hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the Charges against you. The procedural rules governing the conduct of the hearing are found at 650 Iowa Administrative Code Chapter 51.

The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Theresa O'Connell Weeg
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, IA 50319
Phone (515) 281-6858

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 Iowa Administrative Code 51.22.

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 650 Iowa Administrative Code

51.19. If you are interested in pursuing settlement of this matter, please contact Constance L. Price, Executive Director, at 515-281-5157.

Dated this 22nd day of August, 2003.



DEENA R. KUEMPEL, D.D.S.

Vice Chairperson

Iowa Board of Dental Examiners

400 SW 8th Street, Ste. D

Des Moines, IA 50309

cc: Theresa O'Connell Weeg
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, IA 50319

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IN THE MATTER OF:)	
TERRY R. SHIVELY, D.D.S.)	
1206 2 nd Avenue E.)	
Spencer, IA 51301)	STATEMENT OF CHARGES
Iowa Dental License #5797)	
Respondent)	

- 1) The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 153 and 272C (2003).
- 2) On July 1, 1971, the Respondent, was issued license number 5797 by the Board to engage in the practice of dentistry, subject to the laws of the State of Iowa and the rules of the Board.
- 3) License number 5797 is current and on active status until June 30, 2004.

COUNT I

The Respondent is charged with failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, in violation of Iowa Code Section 153.34 (9) (2003) and 650 Iowa Administrative Code Section 30.4(16).

COUNT II

Respondent is charged under Iowa Code Section 153.34(4) (2003) with willful or repeated violations of the rules of the Board by 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.

THE CIRCUMSTANCES

1. A Board consultant reviewed eleven (11) patient records subpoenaed from Respondent's dental office and concluded that Respondent is not practicing to the standard of care due to the following:
 - a) On patient M.T., Respondent failed to diagnose numerous areas of recurrent caries and failed to treat multiple abscessed teeth.
 - b) On patients' M.G., C.B, and C.C., bitewing x-rays were overlapped and could not be used to diagnose any dental pathology.
 - c) On patient J.M., Respondent failed to recognize and treat evidence of caries on multiple teeth.
 - d) On patient E.P., Respondent failed to recognize and treat evidence of untreated caries under a filling.
2. Board rule 650-27.11 states that dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient.
3. Respondent's dental record keeping practices do not meet the standard of care as follows:
 - a) Procedures are completed with inadequate information regarding the materials used to restore teeth.
 - b) Records fail to state the amounts of anesthetic used.
 - c) Crown and bridge treatment records contain insufficient information regarding materials used.

- d) When root canal therapy is done, the record fails to include specific information, including but not limited to, the size to which the canals are enlarged and the fill materials used.
- e) The records fail to include a diagnosis regarding chief complaint.
- f) Records of treatment planning are inadequate.

On this 22nd day of August, 2003, the Iowa Board of Dental Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


DEENA R. KUEMPEL, D.D.S.
Vice Chairperson
Iowa Board of Dental Examiners
400 SW 8th Street, Ste. D
Des Moines, IA 50309

cc: Theresa O'Connell Weeg
Assistant Attorney General
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