

BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF IOWA

THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MICHAEL D. WARM, D.D.S., RESPONDENT

STATEMENT OF CHARGES,

SETTLEMENT AGREEMENT and FINAL ORDER
(combined)

COMES NOW the Iowa Board of Dental Examiners (the Board), and Michael D. Warm, III., D.D.S. (Respondent), on June 18th, 2004, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into the following combined Statement of Charges, Settlement Agreement and Final Order.

STATEMENT OF CHARGES

1. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 153 and 272C (2003).
2. On November 13, 1984, Michael D. Warm, D.D.S., the Respondent, was issued license number 7038 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 is current and on active status until June 30, 2004.

COUNT I

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.

COUNT III

The 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 comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services (CDC) in violation of 650 Iowa Administrative Code Section 30.4(35).

COUNT IV

The Respondent is charged under Iowa Code Section 153.34(4) (2003) with willful or repeated violations of the rules of the Board for delegating acts to dental assistants that were beyond their training or education in violation of 650 Iowa Administrative Code Section 30.4(44).

THE CIRCUMSTANCES

4. Respondent was charged by the Board on February 1st, 2002, with failing to maintain a reasonably satisfactory standard of competency in the practice of dentistry. To resolve those pending charges, Respondent entered into a Stipulation and Consent Order with the Board dated April 17th, 2002, placing Respondent's

dental license on probation for a period of five (5) years, subject to numerous terms of probation.

5. The Board, as a follow-up, subpoenaed additional records for ten (10) patients in May 2004, to ensure that Respondent was maintaining a reasonably satisfactory standard of competency in the practice of dentistry.
6. A Board consultant reviewed these patient records and concluded that the standard of care was not met in any of these cases. The violations of the standard of care included the following:
 - a. Respondent repeatedly failed to use a rubber dam during root canal procedures.
 - b. Respondent repeatedly failed to take necessary endodontic x-rays.
 - c. Respondent performed root canals on teeth that were severely deteriorated.
 - d. Respondent repeatedly took bitewing x-rays that were not of diagnostic quality, and should have been retaken.
 - e. In one case, Respondent failed to note periodontal disease in the patient record, when periodontal disease was evident on x-rays.
7. Board rule 650-30.4(35) requires dentists to comply with universal precautions for preventing transmission of infectious diseases as issued by the CDC.
8. Board rule 650-30.4(17) requires dentists to maintain adequate safety and sanitary conditions for a dental office.
9. Board rule 650-30.4(37) requires dentists to comply with infection control standards which are consistent with the standards set forth in 875-Chapters 10 and 26.
10. Board rule 650-20.3(2) requires dentists to delegate only those duties for which a

dental assistant has been trained, based on the best interest of the patient.

11. The Respondent is a sole practitioner and employs two (2) registered dental assistants. Both dental assistants' registrations were issued by grandfathering, and neither assistant has been required to pass the current infection control or jurisprudence examinations.
12. The Respondent delegates infection control responsibilities to dental assistants in his office.
13. Following an office inspection on May 24th, 2004, for infection control practices, it appeared that Respondent's current infection control protocols were insufficient to prevent the transmission of infectious diseases.
14. The following major deficiencies were identified during the office inspection:
 - a. Respondent failed to conduct proper sterilization monitoring to ensure the effectiveness of his sterilization equipment.
 - b. Respondent received notification from his biological monitoring service indicating that his sterilizer had failed testing two times in a row, but Respondent continued to use the sterilizer to process his instruments.
 - c. Respondent fails to comply with current OSHA regulations.
 - d. Respondent has one high-speed hand piece in his practice, and fails to sterilize it between patients.
15. Following this inspection, Respondent voluntarily agreed to close his office until he could bring his office into compliance with current standards.

SETTLEMENT AGREEMENT

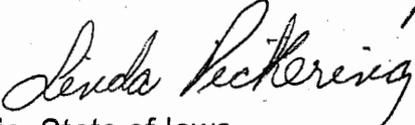
16. The Respondent shall voluntarily surrender his dental license effective forty-five (45) days from the date of this Order.

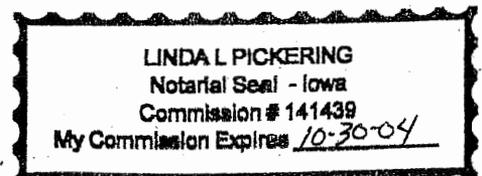
FINAL ORDER

17. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.
18. By entering into this combined Statement of Charges, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.
19. This combined Statement of Charges, Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.
20. This combined Statement of Charges, Settlement Agreement and Final Order, is subject to approval of the Board. If the Board fails to approve this combined Statement of Charges, Settlement Agreement and Final Order, it shall be of no force or effect to either party.
21. The Board's approval of this Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.


Michael D. Warm, D.D.S.
Respondent

Subscribed and sworn to before me on June 18, 2004.


Notary Public, State of Iowa



This combined Statement of Charges, Settlement Agreement and Final Order is approved by the Board on June 18th, 2004.

Deena R. Kuempel, D.D.S.
Deena R. Kuempel, D.D.S., Vice-Chairperson
Iowa Board of Dental Examiners
400 SW 8th Street, Suite D
Des Moines, IA 50309-4687

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