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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER LS9605021DEN
ANTHONY J. STRIGENZ, D.D.S., RESPONDENT.	:	

The State of Wisconsin, Dentistry Examining Board,having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5th day of November 1997.

A Member of the Board

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

ANTHONY J. STRIGENZ, D.D.S. LS9605021DEN

Respondent

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53, Stats., are:

Anthony J, Strigenz, D.D.S.
6923 West Center Street
Milwaukee, WI 53210

State of Wisconsin Dentistry Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

State of Wisconsin Dept. of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

This matter was commenced by the filing of a formal Complaint on April 29, 1996. A hearing in the matter was conducted on May 27, 1997, at 1400 East Washington Avenue, Madison, Wisconsin. Appearing for complainant was Attorney James Harris. Dr. Strigenz appeared in person and by Attorney W. Patrick Sullivan. The transcript of the proceedings was received on June 23, 1997.

Based upon the entire record in this case, the ALJ recommends that the Dentistry Examining Board adopt as its final decision in the matter, the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent Anthony J. Strigenz, D.D.S., 6923 West Center Street, Milwaukee, WI 53210, (respondent) was at all times material to the complaint herein licensed as a dentist by license # 1154, granted on September 15, 1955. At the time of the hearing herein, he maintained a sole practice at that address.

2. Respondent first saw Patient P.S. some time prior to 1979, and provided dental care for her until approximately March 16, 1991. Relevant care provided by respondent included placing porcelain crowns on teeth numbers 3, 30 and 31 in July and August, 1978; placing porcelain crowns on teeth 22 through 27 in November, 1978; placing porcelain crowns and a bridge on teeth numbers 7, 6, 5, 4, 10, 11, 12 and 13 in February, 1981; placing porcelain crowns on teeth numbers 28 and 29 in November, 1986; placing a three surface restoration on tooth number 19 in September, 1988; placing porcelain crowns on teeth numbers 2 and 3 on an undetermined date; and providing endodontic treatment of tooth number 2 in January and March, 1991. Respondent's treatment of tooth number 2 was not complete at the time Patient P.S. terminated the professional relationship.

3. "Gross overhang" or "open margin" may be defined as a condition where the base of a crown does not fit intimately with the side of the tooth, creating a space between the crown molding and the body of the tooth. At least as to teeth numbers 2, 3, 11, 12, 13, 19, 30 and 31, Crowns respondent placed in Patient P.S.'s mouth and the three surface restoration placed on tooth number 19 had unacceptably large overhangs and open margins which created the danger of trapping food particles and debris, with resultant inability of Patient P.S. to maintain adequate dental hygiene leading to possible exposure of the dental tissue to bacterial plaque, development of periodontal disease and bone loss, and increase of tooth decay.

4. The dental records prepared by respondent for his dental treatment of Patient P.S. do not include a health history, a dental history, a treatment plan, a periodontal charting form or a prescription record.

5. On August 28, 1991, Patient P.S. first saw David Kriege, D.D.S., as a patient. She appeared at Dr. Kriege's office on a dental emergency basis complaining of gum infections from her dental crowns. A medical and dental history was taken, and a complete oral examination was done. Dr. Kriege's recorded findings included the following:

- Tooth # 1: Missing.
- Tooth #2: Porcelain veneer crown with gross overhang, partial root canal treatment, and a peripical radiolucency.
- Tooth #3: porcelain veneer crown with gross overhang.
- Tooth #4 & 5: Porcelain veneer crowns.
- Tooth #6: Porcelain veneer crown retainer.
- Tooth #7: Missing with a bridge.
- Tooth #10: Missing

- Tooth #11: Porcelain veneer crown retainer.
- Tooth #11: Porcelain veneer crown with gross overhang.
- Tooth #12: Porcelain veneer crown with gross overhang.
- Tooth #13: Porcelain veneer crown with gross overhang; root canal treatment.
- Tooth #14: MODL amalgam with mesial caries.
- Tooth #15: Buccal amalgam with occlusal caries.
- Teeth #16 & 17: Missing.
- Tooth #18: MO amalgam present.
- Tooth #19: MODB amalgam present, with gross overhang.
- Tooth #20: Distal caries without restoration.
- Tooth #22: Missing.
- Teeth #23-26: Porcelain veneer crowns.
- Tooth #27: Missing.
- Tooth #28: Porcelain veneer crown.
- Tooth #29: Porcelain veneer crown and root canal treatment.
- Tooth #30 &31: Porcelain veneer crown with gross overhang.
- Tooth #32: Missing.

Additional findings following a periodontal screening were that Patient P.S.'s gingiva were red with inflamed margins and endemic swelling. Teeth numbers 28, 30 and 31 were recorded as having little to no attached gingiva. There was found to be 2 to 6 mm. pocketing around the lower incisors, with heavy bleeding upon probing. Dr. Kriege diagnosed her periodontal condition as "acute gingivitis with localized areas of periodontitis, exacerbated by ill-fitting crowns." No dentist other than respondent had placed crowns in Patient P.S.'s mouth prior to her initial visit to Dr. Kriege.

6. Dr. Kriege formulated a tentative treatment plan including use of microbial and fluoride mouth washes, meticulous oral hygiene, a thorough prophylaxis and scaling, treatment of the caries, reevaluation of the crowns, and removal of tooth number 2. Dr. Kriege referred Patient P.S. to Robert Scott Johnson, D.D.S., for prosthodontal treatment.

7. Patient P.S. first saw Dr. Johnson for prosthodontal treatment on October 10, 1991. A clinical examination was given and X-rays were taken. Dr. Johnson noted that "there is not a margin on any of the crowns that would be considered good or even minimally acceptable by a general practitioner or a specialist alike." Dr. Johnson's treatment plan was to first relieve the patient of dental pain through treatment of caries and gingival infections, and extraction of tooth #2. The further treatment plan was then stated as consisting of 26 to 28 units of crown and bridge restorations, including removal and replacement of the existing crowns. The treatment was completed pursuant to the plan by May, 1996.

8. Dr. Johnson referred Patient P.S. to Gary Smith, D.D.S., for periodontal treatment. Patient P.S. made only an initial visit to Dr. Smith on May 15, 1992, at which time he performed a clinical examination. The notes of his examination, as transcribed by his assistant, include the following:

Irritated, angry gums primarily due to large crown edges. possible approach to get the bad crowns off. Make good temp and then recheck gum problems after having a chance to settle down.

9. By letter dated May 20, 1992, Dr. Smith filed a report of his findings to Dr. Johnson as follows:

Findings: Acute gingivitis around all of the restored teeth. Gingival tissue is red and angry, especially on the lingual surfaces. Chronic periodontitis with some bone loss around teeth numbers 2, 5, 6, 15, 18 and 31.

The recommended treatment plan included removal of all the present crowns and replacement with "biologically acceptable" temporary crowns, a further periodontal evaluation after six months, and possible pocket elimination therapy around teeth numbers 5 and 6.

10. Following the initial visit by Patient P.S. to Dr. Smith, her periodontal condition was managed by Dr. Johnson.

11. At no time during respondent's treatment of Patient P.S. did respondent indicate to Patient P.S. that the crowns he had placed in her mouth had open margins or overhangs, though respondent professes to having been aware of that condition. At no time did respondent indicate to Patient P.S. that crowns he had placed should be replaced.

12. Respondent undertook a course of retraining in crown and bridge dentistry with Gilbert Brinsden, D.D.S., beginning in 1983 and ending in 1984. There is insufficient evidence to establish that the quality of respondent's practice in placing crowns and bridges subsequent to completing that retraining has been below the level of minimum competency in the practice of dentistry.

13 There is insufficient evidence to establish that respondent failed to provide appropriate endodontic treatment of tooth #2, failed to properly provide proper treatment of Patient P.S.'s periodontal disease, or failed to diagnose and treat caries in teeth numbers 14, 15, 18 and 19, in his treatment of Patient P.S.

14 Respondent was disciplined by the Dentistry Examining Board on December 14, 1978, and again on March 6, 1991. The board's December 14, 1978, Decision and Order found that respondent's dental services to 12 patients between 1959 and 1976, including bridge and crown work, demonstrated gross incompetence and gross negligence, and that he had thus engaged in unprofessional conduct. The board's March 6, 1991, Final Decision and Order concluded that respondent's practice constituted conduct which indicated a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of the dental profession by failure to maintain complete and accurate records and in performing endodontic procedures on a patient's teeth numbers 28 and 29 without using a rubber dam, in violation of sec. 447.07(3)(g), Stats. (1987).

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to sec. 447.07, Stats.

2. In having placed crowns on Patient P.S.'s teeth numbers 2, 3, 11, 12, 13, 30 and 31, and a three surface restoration placed on tooth number 19, which had unacceptably large overhangs and open margins, thus creating the danger of trapping food particles and debris, with resultant inability of Patient P.S. to maintain adequate dental hygiene leading to possible exposure of the dental tissue to bacterial plaque, development of periodontal disease and bone loss, and increase of tooth decay, respondent has engaged in practice which constitutes a substantial danger to the health, welfare or safety of a patient or the public, in violation of sec. DE 5.02(1), Code; has practiced or attempted to practice when unable to do so with reasonable skill and safety to patients, in violation of sec. DE 5.02(2), Code; has practiced in a manner which substantially departs from the standard of care ordinarily exercised by a dentist or dental hygienist which harmed or could have harmed a patient, in violation of sec. DE 5.02(5), Code; has engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry, in violation of sec. 447.07(3)(h), Stats., and has thereby engaged in unprofessional conduct, in violation of sec. 447.07(3)(a), Stats.

2. There is insufficient evidence to establish that the quality of respondent's practice in placing crowns and bridges subsequent to completing a retraining program in that area in 1984 has been below the level of minimum competency in the practice of dentistry.

3. There is insufficient evidence to establish that respondent failed to provide appropriate endodontic treatment of tooth #2, failed to provide proper treatment of Patient P.S.'s periodontal disease, or failed to diagnose and treat caries in teeth numbers 14, 15, 18 and 19, in his treatment of Patient P.S.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Anthony J. Strigenz, D.D.S., be, and hereby is, suspended for 90 days, commencing 10 days following the date of the Final Decision and Order adopting the terms of this Proposed Decision.

IT IS FURTHER ORDERED that pursuant to sec. 440.22, Stats., the costs of this proceeding are assessed against Dr. Strigenz.

OPINION

In addition to allegations concerning the crowns and fillings placed by respondent, the Complaint in this matter alleged a number of other violations. These included a failure to provide appropriate endodontic treatment of tooth #2, failure to provide proper treatment of Patient P.S.'s

periodontal disease or referral for treatment, and failure to diagnose and treat caries in teeth numbers 14, 15, 18 and 19. The ALJ finds insufficient evidence to support these allegations for the following reasons.

As to failure to provide appropriate endodontic treatment to tooth number 2, respondent's records reflect that he provided such treatment in January and March, 1991, and that his dental services to Patient P.S. terminated on March 16, 1991. Respondent testified that he had not completed his endodontic treatment of tooth number 2 at the time that Patient P.S. terminated the dentist-patient relationship, and there is no direct evidence to the contrary. In fact, the testimony of Robert S. Johnson, who assumed Patient P.S.'s dental care in October, 1991, would tend to support Dr. Strigenz' contention.

> Q. (by Mr. Harris) Calling your attention to the patient record. I believe on November 19, 1991, there is an entry with a -- that refers to tooth number 2?
>
> A. Yes.
>
> Q. And indicates an extraction?
>
> A. Yes.
>
> Q. Why was that extraction necessary?
>
> A. Well, the patient had a stoma. I said there's extraction, occlusal adjustment, right side. Drains from the palatal stoma. The patient was in dire pain . . . .
>
> * * * *
>
> Q. In that same entry below what you read, there's a note incomplete endo procedure done in past. Does that refer to the same tooth?
>
> A. I don't -- I think it does, but again, I'm not sure. You know, was the tooth opened and allowed, you know, medicated and then sometimes the patient may not come back into an office. So, I'm just saying that meaning incomplete, I'm not saying that the root canal was -- that all the steps were incomplete, And that can be for many reasons. That's my only statement there (transcript, pp. 46-47).

In terms of the allegation that respondent failed to diagnose and treat several caries, the Complaint references teeth numbers 14, 15, 18 and 19. There appears to have been no testimony at hearing related to this allegation, though there is a reference in Dr. Johnson's dental file for Patient P.S. (Exhibit 2) to "decay removal and core build-up for crowns on #'s 15, 18 and 19 that is currently appointed for Tuesday, December 3, 1991" (December 2, 1991 letter from Johnson to Krek & Hue, S.C.). The dental record for Patient P.S. would indicate that such work on teeth numbers 14, 18 and 19 was in fact carried out on December 3, 1991. There is, however, insufficient evidence to establish that the condition was sufficiently advanced at the time that respondent was still treating Patient P.S. a year earlier to warrant a conclusion that respondent engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry.

There is, in the opinion of the ALJ, also insufficient evidence to conclude that respondent's treatment of Patient P.S.'s periodontal condition at the time she was his patient constituted practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist. Entries in respondent's dental file for Patient P.S. indicate that there was at least some attempt to address her periodontal status. An entry for May 9, 1979, states, "Peri - all bleeding stopped with Water Pik." Entries for September 17, 1988, December 30, 1988, and April 26, 1989, include the notation "Perio," which respondent testified refers to "generalized periodontal treatment, scaling and curettage" (Transcript, p. 78). By October 10, 1991, when Dr. Johnson did his initial clinical examination of Patient P.S., he noted " gingiva readily bleeds. Bad odor. . . Very sore. Can't chew. . . Extensive bone loss. Periodontal membrane thickening" (Transcript, p. 35). Johnson referred Patient P.S. to Gary M. Smith, D.D.S., a periodontist. Following his clinical examination of Patient P.S.'s periodontal status on May 15, 1992, he stated his findings in a letter to Dr. Johnson, dated May 20, 1992, in part as follows:

> Findings: Acute gingivitis around all of the restored teeth. Gingival tissue is red and angry, especially on the lingual surfaces. Chronic periodontitis with some bone loss around teeth numbers 2, 5, 6, 15, 18 and 31."

In his October 28, 1996, deposition, Dr. Smith testified as follows as to the extent of Patient P.S.'s periodontitis:

> Q. (by Mr. Sullivan) Okay, looking at that report, the May 20, 1992, letter, you make a distinction between acute gingivitis and chronic periodontitis?
>
> A. (by Dr. Smith) Yes.
>
> Q. Can you tell me why the distinction between acute and chronic with respect to those conditions?
>
> A. Acute again is red, puffy, bleeding. It just means that triad of symptoms. Sometimes soreness would be another one. I don't remember her reporting soreness. Bu those, to a periodontist, mean acute. Chronic are things that you can't see or you can't feel, and that would be the bone loss that was starting to go on around those that you could see rediographically, but you could not see clinically.
>
> Q. When you use the terms "acute and "chronic," you're not making the distinction that some medical doctors do, acute meaning recent onset and chronic meaning long-standing?
>
> A. No -- yes and no. This gets to be -- when we use the word acute, it's more like it's not the way the doctor usually sees it. It's those bleeding, puffy, redness, tenderness, the signs of inflammation. When we use the word "chronic," we are in tune with the medical profession. We are using something -- you can't get the bone loss without going on usually for a period of time; although, there are situations where you can, too, and then we would use the term acute periodontitis, which is an unusual term,

but periodontitis 99 out of 100 times is going to have chronic in front of it. It's almost redundant.

Q. **My next question is, how long did she have periodontitis?**

A. **No one can say. How long did she have -- where you could take x-rays and see that little bone loss, it's impossible to say.**

Q. **Likewise, how long did she have acute gingivitis?**

A. **Other than that I was informed that she had those crowns on there for -- since 1978 or something like that, I would assume that she would have -- I'm only assuming -- that those gums were irritated within two or three weeks after they were put in** (emphasis supplied)(Deposition transcript, pp. 23-24).

The evidence would thus indicate that during the period in which respondent was providing dental services to Patient P.S., he was aware of and provided treatment for her gingival or periodontal condition; that she left respondent's care while he was in the process of providing ongoing care, and that the periodontist who examined her periodontal condition 14 months later refused to even speculate as to when the probable onset of periodontitis occurred. On balance, it is not possible to conclude that respondent's response to Patient P.S.'s periodontal condition at the time he was seeing her was conduct indicating a lack of knowledge of, an inability to apply, or the negligent application of, the principles or skills of dentistry.

The same may not be said of the dental services provided by respondent in placing crowns on Patient P.S.'s teeth between 1978 and 1991. After terminating her professional relationship with respondent in March, 1991, Patient P.S. first saw Davis Kriege, D.D.S., in August of that year. Dr. Kriege's recorded findings following his dental examination included the following:

- Tooth #2: Porcelain veneer crown with gross overhang.
- Tooth #3: porcelain veneer crown with gross overhang.
- Tooth #11: Porcelain veneer crown with gross overhang.
- Tooth #12: Porcelain veneer crown with gross overhang.
- Tooth #13: Porcelain veneer crown with gross overhang.
- Tooth #19: MODB amalgam present, with gross overhang.

Dr. Kriege diagnosed Patient P.S.'s periodontal condition as "acute gingivitis with localized areas of periodontitis, exacerbated by ill-fitting crowns."

Patient P.S. was referred to Robert Scott Johnson, D.D.S. for prosthodontal treatment. Following his examination on October 10, 1991, Dr. Johnson recorded that "there is not a margin on any of the crowns that would be considered good or even minimally acceptable by a general practitioner or a specialist alike."

Patient P.S. was thereafter referred to Gary Smith, D.D.S., for periodontal treatment. Dr. Smith's notes of his examination, performed on May 15, 1992, state in part, "Irritated, angry gums primarily due to large crown edges. Possible approach to get the bad crowns off."

Robert Peterson, D.D.S., testified as an expert on respondent's behalf. Most of his testimony related to his clinical examination of crowns placed by respondent within the last ten years, though he did offer opinions as to the quality of crowns placed in Patient P.S.'s mouth by respondent. While his opinions were in some instances at variance with those of Drs. Kriege, Johnson and Smith, they were based entirely upon his examination of Dr. Kriege's panoral x-ray of Patient P.S.'s mouth rather than upon a contemporaneous examination of Patient P.S.'s mouth. His opinion is, therefore, entitled to little weight in terms of his evaluation of the crown work performed on Patient P.S.[1]

Even respondent admits that the crowns previously placed by him required replacement. (Transcript, pp. 82, 91.) Respondent argues, however, that that there is considerable mitigation here. First, respondent contends that his treatment plan for Patient P.S. was to replace those crowns with unacceptable overhangs.

> Q. (by Mr. Sullivan) And you admit that some of those crowns did have overhangs?
>
> A. (By respondent) Yes.
>
> Q. Okay. What was your treatment plan with respect to [Patient P.S.] relative to those crowns that did have overhangs?
>
> A. To replace those crowns.
>
> Q. Okay. And why is it that that was never accomplished?
>
> A. We could never get [Patient P.S.] to make an appointment for the treatment of those teeth.
>
> Q. Well, in looking through your notes, Doctor, I see several entries for prophies, cleanings, and that sort of thing. Why is it that you didn't do restorative work on those visits.

---

[1] The tentative nature of Dr. Peterson's testimony, as it relates to Patient P.S.'s situation, is typified by the following:

> Q. Okay. Looking at the Panoral, do you agree with Dr. Kriege's analysis?
>
> A. Well, I would say tooth number 2 shows a significant overhang. Tooth number 3, well, the contours of the crown are such that they do meet the contour of the tooth. Now, there are times when it is necessary to create more bulk on a crown, just to close contact with adjacent teeth. So that, of course realizing that an x-ray is two dimensional. And I'm not sure what he means by gross.

A. [Patient P.S.] came from a distance and she did like to have her hygienist administer prophs. And would do that. My schedule wouldn't always permit to do that. And she was a patient that could not sit real long. But she did schedule her prophs and keep those prophs for the most appointments. I did not have an opportunity to do dentistry on my part that I wanted to do. Always would examine her. Attempt to make an appointment. Or tell her to please call us as soon as her schedule permitted. (transcript pp. 91-92).

Respondent's contention that he intended to replace faulty crowns is not supported by Patient P.S.'s treatment plan for the simple reason that there was no written treatment plan. Nor is there any notation or entry in Patient P.S.'s dental record either that respondent was aware of problems with the crowns he had installed, that he notified Patient P.S. of those problems, or that he attempted to make appointments with Patient P.S. for the purpose of replacing those crowns. After completing a course of retraining in crown and bridge dentistry in 1984, respondent continued to provide dental services to Patient P.S. for approximately six more years. During that period, he did considerable restorative work, including placing crowns on teeth numbers 28 and 29 in 1986, placing a three surface restoration on tooth number 19 in 1988, and providing endodontic treatment of tooth number 2 in 1991. Respondent's testimony that he intended to replace crowns previously placed, and that he was unable to do so because he was unable to persuade Patient P.S. to make an appointment for that purpose is simply not credible. Moreover, Patient P.S.'s entirely credible testimony included the following:

Q. (by Mr. Harris) Did Dr. Strigenz ever complain to you about your oral hygiene measures?

A. No.

Q. Did Dr. Strigenz ever suggest any things that you should do to have good oral hygiene?

A. When my gums were bleeding so badly, he suggested I use a Water Pik, which I did.

Q. Were there any other suggestions that Dr. Strigenz made to you?

A. No.

Q. Did Dr. Strigenz ever tell you that the crowns he had placed in your mouth had open margins or overhangs on them?

A. No.

Q. Did Dr. Strigenz ever express to you that there were problems with the -- of any kind, with the crowns that he placed in your mouth?

A. At one time he thought he may have -- that he infected the tooth. He said you might have trouble with that crown. And I did. (transcript, p. 86)

It is concluded that while respondent may well have been aware of the problems with the crowns he had placed in Patient P.S.'s mouth, he did nothing to attempt to remedy the situation, and such failure to act is an aggravating rather than a mitigating factor.

Dr. Strigenz was first disciplined by the Dentistry Examining Board by its Decision and Order dated December 14, 1978. The Order adopted the findings and conclusions of the board's hearing examiner and required Dr. Strigenz to limit his practice of dentistry to areas other than crown and bridge, periodontia and endodontia until he had completed a retraining program in those areas approved by the board. Ultimately, and after appeal of the board's Order, Dr. Strigenz proposed, and by its Order dated September 7, 1983, the board accepted, an alternative to the retraining program previously ordered by the board. This was to be a retraining program in fixed prosthetics proposed and to be administered by Professor Gilbert I. Brinsden, Chairman of the Department of Fixed Prosthetics at Northwestern University Dental School. Dr. Strigenz completed that program to the satisfaction of the board, and the limitations on his license were removed by the board's *Order Removing Limitations on License* dated September 12, 1985.[2]

Respondent's successful completion of the described retraining program is cited by respondent as a mitigating factor in this proceeding based upon the fact that most of the crowns complained of were placed prior to the retraining.[3] Additionally, respondent submitted evidence that his bridge and crown work subsequent to the retraining has demonstrated at least minimum competence.

In March, 1997, at respondent's request, Dr. Peterson did an in-mouth examination of bridge and crown work performed by respondent on five patients. The established criteria were that the patients, who were selected by respondent rather than by Dr. Peterson, were to have had significant dentistry in their mouths within the previous 10 or 12 years, and that the work was to have been provided by respondent. After testifying as to the dentistry which had been performed for each patient, Dr. Peterson was asked whether the dentistry done by Dr. Strigenz in each case met the "standard of care" for crown and bridge work. Dr. Peterson answered in the affirmative in each case (transcript, pp. 110-117). There was no conflicting expert opinion.

It is well established that the purposes of licensee discipline in Wisconsin are to protect the public, to deter other licensees from engaging in similar conduct, and to promote the rehabilitation of the licensee. *State v. Aldrich,* 71 Wis. 2d 206 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*, 41 Wis. 2d 481 (1969). Had

[2] Exhibit 6 contains only the board's December 14, 1978 Decision and Order. The ALJ takes official notice of the additional information set forth in this paragraph, which has been extracted from the official record of the 1978 disciplinary action.

[3] Whether all of the unacceptable crowns were placed prior to respondent's retraining is not resolved by this record. Dr. Kriege's recorded findings note that teeth numbers 2 and 3 had porcelain veneer crowns with gross overhangs. There is a notation in respondent's records for Patient P.S. which could be interpreted as indicating that crowns were placed on those teeth in May, 1990. Respondent questioned at hearing whether that is the correct interpretation, however, because there is no fee associated with that notation. On the other hand, it is clear that respondent placed those crowns, and there is no indication in the record that the crowns were placed on dates other than in May, 1990.

respondent not undertaken remedial training in 1983, and had he not been able to provide uncontraverted evidence that his bridge and crown work since that time demonstrates at least minimum competence, the findings relating to the manner in which he practiced dentistry on Patient P.S. would militate for severe discipline -- perhaps including suspension of the license until acceptable demonstration of his competence to perform all aspects of general dentistry. There is insufficient evidence in this record, however, to justify a disciplinary order requiring remedial education and training or other limitations on respondent's license. But though rehabilitation is not a demonstrable requirement, deterrence certainly is. A 90 day suspension of respondent's license will hopefully provide notice to this and to other licensees that the kind of negligent and incompetent dentistry practiced by respondent in the case of Patient P.S. will not be tolerated.

Dated this 3rd day of October, 1997.

Respectfully submitted,

Wayne R. Austin
Administrative Law Judge

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE DENTISTRY EXAMINING BOARD

In the Matter of Disciplinary Proceedings Against

Anthony J. Strigenz, D.D.S.,

Respondent.

AFFIDAVIT OF MAILING

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On November 12, 1997, I served the Final Decision and Order dated November 5, 1997, LS9605021DEN, upon the Respondent Anthony J. Strigenz's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 630.

W. Patrick Sullivan, Attorney
700 N. Water Street
Milwaukee WI 53202-4278

Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 12th day of November, 1997.

Donald R. Rittel

Notary Public, State of Wisconsin
My commission is permanent.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE DENTISTRY EXAMINING BOARD

In the Matter of Disciplinary Proceedings Against

Anthony J. Strigenz, D.D.S.,

Respondent.

AFFIDAVIT OF MAILING

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On November 7, 1997, I served the Final Decision and Order dated November 5, 1997, LS9605021DEN, upon the Respondent Anthony J. Strigenz, D.D.S. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 619.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Anthony J. Strigenz, D.D.S.
6923 W. Center Street
Milwaukee WI 53210

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 7th day of Nov, 1997.

Robert T. Gaul
Notary Public, State of Wisconsin
My commission is permanent.

FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	Case # LS9605021DEN
ANTHONY J. STRIGENZ, D.D.S., RESPONDENT.	:	

On November 5, 1997, the Dentistry Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on November 12, 1997, the Dentistry Examining Board received the *Affidavit of Costs* in the amount of $4,041.63, filed by Attorney James W. Harris. On November 10, 1997, the Dentistry Examining Board received the *Affidavit of Costs of the Office of Legal Services* in the amount of $2,348.44, filed by Administrative Law Judge Wayne R. Austin. The Dentistry Examining Board considered the affidavits on January 7, 1998, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of $6, 390.07, which is 100% of the costs set forth in the affidavits of costs of Attorney James W. Harris and Administrative Law Judge Wayne R. Austin, which are attached hereto and made a part hereof, are hereby assessed against respondent, and shall be payable by him to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before March 7, 1998, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the Dentistry Examining Board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached *"Guidelines for Payment of Costs and/or Forfeitures"* should be enclosed with the payment.

Dated this 5th day of February, 1998.

DENTISTRY EXAMINING BOARD

By: James Sieveich, DDS
A Member of the Board

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LS9605021DEN

ANTHONY J. STRIGENZ, D.D.S.

Respondent

AFFIDAVIT OF COSTS
OFFICE OF BOARD LEGAL SERVICES
(SEC. 440.22, STATS.)

STATE OF WISCONSIN)
)ss.
COUNTY OF DANE)

Wayne R. Austin, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation & Licensing, Office of Board Legal Services.

2. In the course of his employment, your affiant was assigned as administrative law judge in the above-captioned matter.

3. Set out below are the actual costs of the proceeding for the Office of Board Legal Services in this matter. Unless otherwise noted, all times for the preparation of documents reflect the actual document preparation and editing time as reflected in the statistical summary program included with Microsoft Word for Windows version 6.0.

ADMINISTRATIVE LAW JUDGE EXPENSE -- WAYNE R. AUSTIN

DATE & TIME SPENT	ACTIVITY
6/24/96; 7/10/96; 1/15/97; 9/23/96; 7/10/96 40 minutes	Draft Scheduling Notices
3/25/97 to 3/28/97 5 hours, 16 minutes	Draft Motion Decision

5/27/97 5 hours, 3 minutes	Conduct Hearing
9/4/97 to 10/3/97 24 hours, 53 minutes	Prepare Proposed Decision

Total Time Spent.....35 hours, 52 minutes

Total administrative law judge expense for Wayne R. Austin:
35 hours, 52 minutes @ $48.72 salary and benefits:.....$1748.24

REPORTER EXPENSE -- MAGNE-SCRIPT

DATE & TIME SPENT	ACTIVITY
5/27/97 9:30 a.m. to 3:33 p.m.	Attend Hearing Transcribe 144 pages

Total billing from Magne-Script reporting
service (Invoice #10709 dated 6/23/97):.....$600.20

TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES: $2348.44

Wayne R. Austin
Administrative Law Judge

Sworn to and subscribed before me this 10th day of November, 1997.

Notary Public, State of Wisconsin
My commission is permanent

WRA:9711106.doc

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	AFFIDAVIT OF COSTS
ANTHONY J. STRIGENZ, D.D.S., RESPONDENT.	:	LS9605021DEN

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

James W. Harris, being duly sworn, deposes and states as follows:

1. I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. In the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. Set forth below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

Date	Activity	Time Spent
02/24/95	letter Dr. Dahl	0.3
03/30/95	letter Dr. Gill	0.3
08/17/95	TC Dr. Ziebert	0.3
09/18/95	prepare materials for consult	4.0
09/26/95	TC Dr. Ziebert	0.5
09/27/95	letter dr. Ziebert	0.3
10/05/95	letter Dr. Ziebert	0.3
12/18/95	TC Dr. Ziebert	0.5
03/12/96	TC Dr. Ziebert	0.3
03/13/96	letter dr. Ziebert	0.3
04/21/96	file review & prep	4.0
04/22/96	prepare complaint	2.0
04/29/96	file complaint & notice	0.3
05/02/96	letter dr. Ziebert	0.3
05/08/96	scheduling letters	0.3
05/16/97	TC Attorney Strigenz	0.3
05/20/96	letter from Attorney Strigenz	0.3

06/18/96	letter & response	0.5
07/10/96	prehearing conference	0.3
08/02/96	letter from Atty. Strigenz	0.3
08/08/96	prep prelim witness list	0.5
08/21/96	letter Atty. Strigenz/TC	0.5
09/20/96	prehearing conference	0.3
10/02/96	conf: Dr. Slavins/ Dr. Kriege	2.0
10/07/96	conf: Dr. Smith	1.0
10/16/96	conf: dr. Johnson	1.0
10/16/96	prep. notice of depositions	0.5
10/17/96	letter Gramann Reporters	0.3
10/17/96	letter Verbatim Reporters	0.3
10/23/96	prehearing conference	0.3
10/23/96	letter Atty. Sullivan	0.3
10/28/96	deposition Dr. Smith	3.0
10/29/96	TC Atty Sullivan	0.3
10/30/96	depositions Drs Kriege, Slavins & Johnson	6.0
10/31/96	letter from Atty. Sullivan	0.3
11/11/96	scheduling letters	0.3
11/15/96	letter Atty. Sullivan	0.3
11/19/96	letter & response Atty. Sullivan	0.5
11/20/96	review transcripts	0.5
11/20/96	letter Atty. Sullivan	0.3
12/03/96	prep witness list	0.3
12/03/96	memo atty. supervisor	0.5
12/05/96	letter from Atty. Sullivan	0.3
12/19/96	memo re: expert witness	0.3
01/03/97	letter from Atty. Sullivan	0.3
01/08/96	letter from Atty. Sullivan	0.3
01/15/97	prehearing conference	0.3
01/15/97	scheduling letters	0.3
02/12/97	TC: Atty. Sullivan	0.3
02/13/97	letter from Atty. Sullivan	0.3
02/24/97	review brief & motion to dismiss	1.0
02/27/97	prep. brief in opposition to motion to dismiss& affidavits	4.0
02/28/97	prep. notice of deposition	0.3
02/28/97	letter Gramann Reporters	0.3
03/11/97	review reply brief	0.5
03/17/97	prep witness list	0.5
03/21/97	depositions: Drs. Peterson & Strigenz & prep.	6.0
03/26/97	letter from Atty. Sullivan	0.3

03/28/97	review motion decision	1.0
04/02/97	review transcripts	1.0
04/28/97	prep subpoeas/witness lertter	1.3
05/05/97	TC Atty Sullivan/letter	0.3
05/05/97	letter Dr. Smith	0.3
05/13/97	memo re: dr. Smith	0.3
05/21/97	witness interview	1.0
05/27/97	hearing & prep	6.0
05/28/97	letter to witnesses	0.3
10/06/97	review proposed decision/confer with attorney supervisor	1.0

TOTAL HOURS 62.8

Total attorney expense for62.8 hours at
$41.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals: $ 2574.80

INVESTIGATOR EXPENSE

Date	Activity	Time Spent
10/19/92	file review/TC Seljan/memo/letters	1.3
10/20/92	TC Atty. Hue/memo/letters	1.5
10/22/92	TC; Dr. Johnson/memo	0.3
10/27/92	review Slavins records	0.3
10/28/92	review Kriege records	1.0
10/28/92	prep & file releases	0.3
11/03/92	review Moulten records	0.3
11/03/92	review Johnson records	0.5
11/05/92	TC Dr. Strigenz/memo	0.3
12/01/92	review Strigenz response	0.5
12/14/92	prep depo summaries	4.5
12/15/92	TC Dr. Strigenz/memo	0.3

TOTAL HOURS 11.1

Total investigator expense for 11.1 hours at
$18.00 per hour (based upon average salary and benefits
for Division of Enforcement investigators) equals: $ 199.80

COST OF DEPOSITIONS

1. Depositions taken by complainant (original and one copy)

Deposition of :	Dr. Smith	$ 155.98
	Drs. Strigenz & Peterson	393.65
	Drs. Krige,Slavins & Johnson	417.40

EXPERT WITNESS FEES

Dr. Ziebert	$ 300.00

TOTAL ASSESSABLE COSTS	$ 4041.63

James W. Harris, Attorney
Division of Enforcement
(608) 266 9840

Subscribed and sworn to before me this
12th day of November, 1997.

Notary Public

My Commission is Permanent

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

November 7, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)