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IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

PAUL F. COTEY, D.D.S.,

DECISION
AND ORDERRespondent.

The Complaint and First Amended Complaint having been filed in this matter on August 19, 1980, and October 27, 1980, respectively; the Respondent, Paul F. Cotey, D.D.S., (Cotey), by his attorneys, Strauss & Greenberg, having filed an Answer to the First Amended Complaint on November 3, 1980; the Respondent, Cotey, although not admitting the factual allegations in the First Amended Complaint, having agreed not to contest such factual allegations;

This matter having come on for hearing on November 14, 1980, in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin; Cotey having appeared thereat in person and by his attorneys, Strauss & Greenberg, by Attorney Allan R. Strauss; the complainant having appeared by Attorney Michael J. Buchanan; the Hearing Examiner, Attorney Donald R. Rittel, having filed his proposed decision and order in this matter on January 21, 1981; the Respondent, Cotey, by his attorney, Allan R. Strauss, having filed objections to such proposed decision and order on February 18, 1981; the Respondent, Cotey, his attorney, and Attorney Michael

J. Buchanan having made oral argument in this matter before the Dentistry Examining Board on March 4, 1981;

The Dentistry Examining Board, having considered the above entitled matter, having reviewed the record herein and the proposed Decision, Findings of Fact, Conclusions of Law and Proposed Order of Hearing Examiner Donald R. Rittel, dated January 21, 1981, and having considered Respondent's objections to said proposed decision and order, makes the following, constituting its decision in this matter:

FINDINGS OF FACT

1. Paul F. Cotey, D.D.S. (Cotey), of 5900 North Port Washington Road, Milwaukee, Wisconsin 53217, was at all times material hereto licensed under the provisions of ch. 447, Wis. Stats., to practice as a dentist in the State of Wisconsin under license number 1460G, which was granted on June 20, 1975.

2. Joseph Leanna (Leanna) was a dental patient of Cotey and an employee of the Gehl Company of West Bend, Wisconsin. As an employee of the Gehl Company, Leanna was insured under a group dental health insurance plan, Contract Number 00376, provided by Wisconsin Dental Service, Inc., The Delta Dental Plan (WDS), of Stevens Point, Wisconsin.

3. Under the provisions of the dental insurance contract provided by WDS to its insured, Leanna, the maximum

payment for dental services provided per person, per benefit year, was \$300.00.

4. Under the provisions of the dental insurance contract provided by WDS to its insured, Leanna, the "benefit year" begins each July 1st and ends June 30th of the following calendar year.

COUNT I

5. On July 28, 1978 Cotey submitted insurance claim form #133089 to WDS requesting payment for dental services he claimed he performed in July, 1978 for its insured, Leanna.

6. Cotey did not provide any dental services for Leanna after May 1, 1978.

7. The services described in insurance claim form #133089 were actually performed by Cotey for Leanna in January, February and March, 1978.

8. In April, 1978 Cotey received the maximum insurance benefits payable of \$300.00 from WDS for all dental services he provided to Leanna during the benefit year, July 1, 1977 to June 30, 1978.

9. The representations made by Cotey to WDS on insurance claim form #133089, as stated above in paragraph 5, were made by Cotey with full knowledge that the services he described in insurance claim form #133089 had in fact been provided by him in January, February, and March, 1978 for Leanna and with full knowledge that Cotey had already received the maximum insurance benefits payable from WDS for

all services he provided during the benefit year July 1, 1977 to June 30, 1978 for Leanna.

10. When he submitted insurance claim form #133089, Cotey had full knowledge of the terms and conditions of the insurance contract between WDS and Leanna as set forth above in paragraphs 3 and 4.

11. Insurance claim form #133089 as submitted to WDS by Cotey contains the purported signature of "Joseph Leanna" dated July 7, 1978 authorizing payment of the insurance benefits directly to Cotey.

12. The purported signature of "Joseph Leanna" on insurance claim form 133089 is not the signature of Leanna, nor was it authorized by Leanna.

13. When Cotey submitted insurance claim form #133089 to WDS for payment, he knew that the purported signature of "Joseph Leanna" on the insurance claim form authorizing payment of the insurance proceeds to Cotey was, in fact, not the signature of Leanna, nor was it authorized by Leanna.

14. WDS, in reliance upon the representations made to it by Cotey as set forth above in paragraphs 5 and 11, paid the sum of \$202.40 to Cotey on the account of Leanna.

COUNT II

15. On August 24, 1978 Cotey submitted insurance claim form #157599 to WDS requesting payment for dental services he claimed he performed on August 23, 1978 for

its insured, Leanna.

16. The services described in insurance claim form #157599 were actually performed by Cotey for Leanna in March, 1978.

17. The representations made by Cotey to WDS on insurance claim form #157599, as stated above in paragraph 15, were made by Cotey with full knowledge that the services he described in insurance claim form #157599 had, in fact, been provided by him in March, 1978 for Leanna and with full knowledge that Cotey had already received the maximum insurance benefits payable from WDS for all services he provided during the benefit year July 1, 1977 to June 30, 1978 for Leanna.

18. When he submitted insurance claim form #157599 to WDS, Cotey had full knowledge of the terms and conditions of the insurance contract between WDS and Leanna as set forth above in paragraphs 3 and 4.

19. Insurance claim form #157599 as submitted to WDS by Cotey contained the purported signature of "Joseph Leanna" dated August 10, 1978 authorizing payment of the insurance benefits directly to Cotey.

20. The purported signature of "Joseph Leanna" on insurance claim form #157599 is not the signature of Leanna, nor was it authorized by Leanna.

21. When Cotey submitted insurance claim form #157599

to WDS for payment, he knew that the purported signature of "Joseph Leanna" on the insurance claim form authorizing payment of the insurance proceeds to Cotey was, in fact, not the signature of Leanna, nor was it authorized by Leanna.

22. WDS in reliance upon the representations made to it by Cotey as set forth above in paragraphs 15 and 19, paid the sum of \$97.50 to Cotey on the account of Leanna.

COUNT III

23. Cotey's own patient dental records for Leanna state that the fee he charged Leanna for providing him with porcelain veneer crowns was \$520.00.

24. On February 10, 1978 Cotey, with full knowledge of the facts stated above in paragraph 23, knowingly submitted insurance claim form number 70781 to WDS for payment indicating on the insurance claim form that the fee he charged Leanna for providing the four porcelain veneer crowns mentioned above in paragraph 23 was \$600.00.

25. After the occurrence of the events stated above in paragraphs 23 and 24, Cotey, with full knowledge of the facts stated above in paragraphs 23 and 24, knowingly sent a billing statement to Leanna which stated that the fees due to Cotey for providing him with the four porcelain veneer crowns mentioned above in paragraphs 23 and 24 was \$520.00.

26. Cotey's own patient dental records for Leanna state that the fee he charged Leanna for extracting his teeth #25, #29, and #30 was \$30.00.

27. Cotey sent a billing statement to Leanna which states that the fees due to Cotey for extracting Leanna's teeth #25, #29 and #30 was \$30.00.

28. After the occurrence of the events stated above in paragraphs 26 and 27, Cotey on July 28, 1978 with full knowledge of the facts stated above in paragraphs 26 and 27, knowingly submitted insurance claim form #133089 to WDS for payment indicating on the insurance claim form that the fees charged Leanna for extracting teeth #25, #29 and #30 was \$36.00.

29. Cotey's own patient dental records for Leanna state that the fee he charged Leanna for filling his teeth #18, #21 and #22 was \$30.00.

30. Cotey sent a billing Statement to Leanna which stated that the fee due to Cotey for filling his teeth #18, #21 and #22 was \$30.00.

31. After the occurrence of the events stated above in paragraphs 29 and 30, Cotey on July 28, 1978 with full knowledge of the facts stated above in paragraphs 29 and 30, knowingly submitted insurance claim form number 133089 to WDS for payment indicating on the insurance claim form that the fee he charged Leanna for filling his teeth #18, #21 and #22 was \$36.00.

32. Cotey's own patient dental records for Leanna state that the fee he charged Leanna for a mandibular partial denture was \$225.00.

33. Cotey sent a billing statement to Leanna which stated that the fee due to Cotey for the mandibular partial mentioned above in paragraph 32 was \$225.00.

34. After the occurrence of the events stated above in paragraphs 32 and 33, Cotey on August 24, 1978 with full knowledge of the facts stated above in paragraphs 32 and 33, knowingly submitted insurance form claim number 157599 to WDS for payment indicating on the insurance claim form that the fee he charged Leanna for the mandibular partial denture mentioned above in paragraphs 32 and 33 was \$235.00.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this proceeding pursuant to sec. 447.07(3), Stats.

2. Cotey engaged in unprofessional conduct within the meaning of sec. 447.07(3)(a), Stats., by obtaining a fee by fraud or deceit, as those terms are used in sec. 447.07(5), Stats., in the following respects:

- (a) By claiming that the services described in insurance claim form #133089 were performed by him on Leanna in July, 1978 when he knew at the time he submitted the insurance claim form to WDS that he had actually performed the services in January, February and March, 1978 in order to induce WDS to pay him \$202.40 on the account

of Leanna, which WDS did not owe under the terms of its insurance contract.

- (b) By submitting insurance claim form #133089 to WDS with the purported signature of "Joseph Leanna" when he knew that said signature was not the signature of Leanna, nor was it authorized by Leanna, in order to induce WDS to make payment of the insurance proceeds of \$202.40 to Cotey on the account of Leanna.
- (c) By claiming that the services described in insurance claim form #157599 were performed by him on August 24, 1978 on Leanna, when he knew at the time he submitted the insurance claim form to WDS that he had actually performed the services in March, 1978, in order to induce WDS to pay him \$97.60 on the account of Leanna, which WDS did not owe under the terms of its insurance contract.
- (d) By submitting insurance claim form #157599 to WDS with the purported signature of "Joseph Leanna" when he knew that said signature was not the signature of Leanna, nor was it authorized by Leanna, in order to induce WDS to make payment of the insurance proceeds of \$97.60 to Cotey on the account of Leanna.

3. Coty engaged in unprofessional conduct within the

meaning of sec. 447.07(3)(a), Stats., by virtue of conduct unbecoming a professional person, as those terms are used in sec. 447.07(5), Stats., in seeking payment from WDS for services he performed for its insured, Leanna, by knowingly billing WDS a greater amount than the amount he actually charged Leanna for the dental services.

O R D E R

NOW, THEREFORE, IT IS ORDERED that the respondent, Paul F. Cotey, D.D.S., be and hereby is reprimanded for such conduct, and it is further ORDERED that the dentistry license of Paul F. Cotey, D.D.S., be and hereby is limited in the manner that Paul F. Cotey, D.D.S. shall perform, gratis, one hundred twenty (120) hours of dentistry service for dental patients at Guadelupe Children's Medical and Dental Clinic, Inc., 1112 South Third, Milwaukee, South Side Community Health Clinic, 1231 South Seventh, Milwaukee, or other charitable institution approved by the Dentistry Examining Board; provided, however, that such total hours of charitable dentistry services shall be completed within one year of the date of this order.

Let a copy of this decision and order be served upon Paul F. Cotey, D.D.S., and his counsel, by certified mail.

Dated this 13 day of May, 1981.

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

BY: Calvin Gander D.D.S.
CALVIN GANDER, D.D.S.

MEMO:

The discipline ordered by the Dentistry Examining Board varies from that recommended by the hearing examiner. The Board concurs with the examiner that the primary purposes of imposing discipline in such proceedings are:

- (1) to assure the public of the trustworthiness of dentists;
- (2) to protect the public from future unprofessional acts;
- (3) to deter other licensees from similar unprofessional conduct; and
- (4) to effectively express the Board's disapproval of such conduct.

The Board believes that these objectives can be met by issuance of a reprimand and practice limitation requiring gratis dentistry at charitable institutions.

The suggested suspension, although necessary in appropriate cases, would not be helpful in this matter in that Cotey's regular patients would be disadvantaged by his absence as well as his loss of skills occasioned by a license suspension. The objectives noted above can be similarly gained by the limitation of gratis dentistry and the charitable result gained is an added benefit.

The use of a reprimand and license limitation is appropriate in this particular fact situation because: this is the first disciplinary action against Cotey; the billing irregularities involved one patient; and this matter involves considerable work actually done by Cotey, payment for which has never been fully made by the patient.