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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
BERNARD DUKE, D.D.S.,	:	AND ORDER
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 Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board. Let a copy of this order be served on the respondent by certified mail.

A party aggrieved by this decision may petition the board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The party to be named as respondent in the petition is Bernard Duke, D.D.S.

A party aggrieved by this decision who is a resident of this state may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the party aggrieved resides within thirty (30) days after service of this decision. A party aggrieved by this decision who is not a resident of this state must file the petition for judicial review in the office of the clerk of circuit court for Dane County. A party aggrieved must also serve the board and other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in the petition is the State of Wisconsin, Accounting Examining Board.

Dated this 3rd day of July, 1985.

Helen Hensler

2. A licensing Complaint was filed against respondent on May 25, 1982, a copy of which is attached hereto.

3. At the time of the filing of the Complaint, complainant had information indicating respondent had placed porcelain crowns in teeth #4, #5, #11, #14, #19, #20, #21, and #29. Complainant also had evidence indicating respondent had billed the Travelers Insurance Company for stainless steel crowns and subsequently received payment.

4. Subsequent to the filing of the complaint, it became apparent that respondent had placed temporary stainless steel crowns prior to the placing of the porcelain crowns. Respondent further alleged that he had contacted the Travelers Insurance Company to inquire as to whether they would pay for the stainless steel crowns since they did not cover porcelain crowns. Respondent's understanding at the time of the filing of the completed services form was that the Travelers Insurance Company policy would cover temporary stainless steel crowns.

5. Following receipt of this information, complainant recontacted Travelers Insurance Company and was informed by James Eligan that the insurance policy in question would cover the placement of temporary stainless steel crowns. He further indicated that a dentist could bill in the same manner for temporary stainless steel crowns as he would have for permanent stainless steel crowns.

6. Subsequent to the conversation with James Eligan, respondent's attorney, Mr. Kevin Lyons, informed complainant that he had discussed this matter with Terry Lee of the Travelers Insurance Company who informed respondent's attorney that the Travelers Chicago Office had reviewed the rationale behind the submission of the claim form and believed there was no problem with payment of the claim.

7. Complainant, in an attempt to verify this information, wrote to Terry Lee at Travelers Insurance Company requesting written verification of the facts related in paragraph 6 above.

8. Complainant subsequently received a signed statement from Peter Smith, Administrator for the Travelers Insurance Company in Hartford, Connecticut, who informed complainant that the insurance policy would not have covered the placement of temporary stainless steel crowns. Mr. Smith further informed complainant that they would not be pursuing the claim due to the age of the incident.

9. In view of the above facts and circumstances, there was a legitimate basis for respondent's belief that temporary stainless steel crowns would be covered by the Travelers Insurance Company policy. The information received by both complainant and respondent as set forth above, indicates some contradictions in the Travelers Insurance Company's position regarding payment of respondent's claim.

CONCLUSIONS OF LAW

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

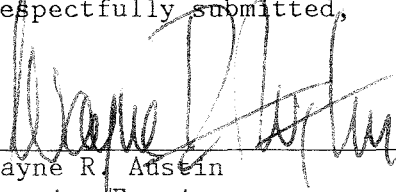
2. Findings of Fact numbered 2 through 9, above, do not support the conclusion that respondent has obtained a fee by fraud or deceit within the meaning of Wis. Stats. sec. 447.07(5), (1977) or that respondent has engaged in unprofessional conduct within the meaning of Wis. Stats. sec. 447.07(5), (1977).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties hereto be, and hereby is, accepted and adopted by the board, and parties' motion to dismiss is granted. Accordingly, the Complaint against Bernard Duke, D.D.S. is hereby dismissed with prejudice.

Dated at Madison, Wisconsin this 1st day of May, 1985.

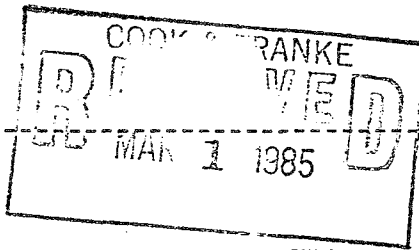
Respectfully submitted,



Wayne R. Austin
Hearing Examiner

WRA:kcb
7642

BEFORE THE STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD



IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

BERNARD DUKE, D.D.S.,
RESPONDENT.

STIPULATION

It is hereby stipulated by and between Bernard Duke, D.D.S., personally and by his attorney, Kevin Lyons, and Pamela M. Stach, attorney for the Department of Regulation & Licensing, Division of Enforcement, as follows:

1. That a complaint was filed against Bernard Duke, D.D.S., Respondent herein, on May 25, 1982, a copy of which is attached hereto.
2. That at the time of the filing of the complaint, Complainant had information indicating Respondent had placed procelain crowns in teeth #4, #5, #11, #14, #19, #20, #21, and #29. Complainant also had evidence indicating Respondent had billed the Travelers Insurance Company for stainless steel crowns and subsequently received payment.
3. That, subsequent to the filing of the complaint, it became apparent that Respondent had placed temporary stainless steel crown prior to the placing of the procelain crowns. Respondent further alleged that he had contacted the Travelers Insurance Company to inquire as to whether they would pay for the stainless steel crown since they did not cover procelain crowns. Respondent's understanding at the time of the filing of the completed services form was that the Travelers Insurance Company policy would cover temporary stainless steel crowns.
4. That following receipt of this information, Complainant recontacted Travelers Insurance Company and was informed by James Eligan that the insurance policy in question would cover the placement of temporary stainless steel crowns. He further indicated that a dentist could bill in the same manner for temporary stainless steel crowns as he would have for permanent stainless steel crowns.
5. That subsequent to the conversation with James Eligan, Respondent's attorney, Mr. Kevin Lyons, informed Complainant that he had discussed this matter with Terry Lee of the Travelers Insurance Company who informed Respondent's attorney that the Travelers Chicago Office had reviewed the rationale behind the submission of the claim form and believed there was no problem with payment of the claim.
6. That, Complainant, in an attempt to verify this information, wrote to Terry Lee at Travelers Insurance Company requesting written verification of the facts related in paragraph 5 above.

7. That Complainant subsequently received a signed statement from Peter Smith, Administrator for the Travelers Insurance Company in Hartford, Connecticut, who informed Complainant that the insurance policy would not have covered the placement of temporary stainless steel crowns. Mr. Smith further informed Complainant that they would not be pursuing the claim due to the age of the incident.

8. That, in view of the above facts and circumstances, Complainant and Respondent believe there was a legitimate basis for Respondent's belief that temporary stainless steel crowns would be covered by the Travelers Insurance Company policy. The information received by both Complainant and Respondent and set forth above, indicates some contradictions in the Travelers Insurance Company's position regarding payment of Respondent's claim.

9. That on the basis of the above facts and circumstances Complainant and Respondent hereby agree to move for dismissal of the Complaint filed in this matter.

Dated: Feb. 28, 1985

Bernard Duke DDS
Bernard Duke, D.D.S.

Dated: March 4, 1985

Kevin J. Lyons
Kevin Lyons
Attorney for Respondent

Dated: March 6, 1985

Pamela M. Stach
Pamela M. Stach, Attorney
Department of Regulation & Licensing
Division of Enforcement