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State of Wisconsin
Before the Dentistry Examining Board

In the Matter of the Disciplinary Proceedings Against

VERN W. MANTHEI, D.D.S,
Respondent

FINAL DECISION AND ORDER
LS0109054DEN

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Vern W. Manthei, D.D.S.
711 Clyde Ave.
Wisconsin Rapids, WI 54494

Dentistry Examining Board
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

The parties having agreed to the attached stipulation, the Wisconsin Dentistry Examining Board makes the following:

FINDINGS OF FACTS

1. Vern W. Manthei, D.D.S., 711 Clyde Ave., Wisconsin Rapids, WI 54494, was born on 8/1/1933 and has been licensed as a dentist in the state of Wisconsin since 6/25/1960, license # 4001600.

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2. On 1/12/1998, Respondent saw J.C., a 35-year-old male patient. Respondent took a periapical X-ray, a root canal in tooth # 4 was started, and tooth # 4 was filled with gauze. Patient J.C. was instructed to wait a week before returning to have the tooth filled because the Respondent wanted to make sure that there was not any root left behind.

3. On 1/17/1998, patient J.C. returned to the Respondent. Respondent sealed the root canal on tooth # 4, but did not take post-root canal X-rays to verify that the root canal had been done correctly. Respondent said that patient J.C. refused to allow a post-root canal X-ray to be taken. Patient J.C. said that he was not offered X-rays and if he had been offered X-rays he would have allowed them to be taken. Respondent did not document patient J.C.'s refusal of X-rays on patient J.C.'s dental records.

4. On 1/19/1998, patient J.C. returned to the Respondent because patient J.C. had pain and could not chew on

that side of his mouth. Respondent took out the filling in tooth # 4 and replaced it with medicated packing. Respondent instructed patient J.C. not to chew on that side of his mouth until the medication was done.

5. On 2/20/1998, patient J.C. returned to the Respondent because the medication was done. Respondent drilled out the inside of tooth # 4 in case there was root left behind. Patient J.C. said that he experienced great pain during the procedure even though he was under gas anesthetic and local anesthetic. Respondent told the patient that the repair was fine and he sent patient J.C. home with the tooth stuffed with gauze and instructed him to return in a week for the filling.

6. On 2/23/1998, patient J.C. returned to the Respondent and tooth # 4 was filled.

7. On 2/25/1998, the Respondent reopened the root canal in tooth # 4 because of patient J.C.'s complaints of pain.

8. On 3/2/1998, the Respondent placed paper points in tooth # 4.

9. On 3/10/1998, the Respondent sealed the root canal on tooth # 4.

10. On 3/18/1998, patient J.C. went to see another dentist because the Respondent was on vacation and was unable to see patient J.C. Dr. T. examined patient J.C. and took a periapical X-ray that showed that the root tip of tooth # 4 had been perforated below the height of the bone and that gutta percha points were protruding. Dr. T. advised patient J.C. that to correct the perforated root and maintain tooth # 4 would require sacrificing the healthy bone support for tooth # 3 and would still leave tooth # 4 with a guarded prognosis. Patient J.C. decided that tooth # 4 should be extracted and replaced with a bridge from tooth # 3 to tooth # 5. Dr. T. did not perform any dental treatment because patient J.C. required antibiotic premedication before any dental treatment could be undertaken.

11. On 4/8/1998, patient J.C. returned to Dr. T. for extraction of tooth # 4 and preliminary preparations for a bridge. Tooth # 4 was extracted and gutta percha points that had perforated dental root were removed along with the entire tooth. Dr. T. cleaned out the abscess material on the lateral wall of the socket.

12. On 6/1/1998, patient J.C. returned to Dr. T. for impressions for the bridge.

13. On 7/3/1998, patient J.C. returned to Dr. T. for the fitting and cementing of the bridge for teeth # 3 - # 5. Patient J.C. had developed pulpitis, but it resolved before the bridge was cemented in place on 7/3/1998.

14. Patient J.C. developed pulpitis which did not resolve and required root canal therapy in tooth # 5 which was completed on 8/25/1998 and root canal therapy on tooth # 3 which was completed on 9/1/1998.

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15. Respondent treated patient, S.S.W., a three-year-old child, from 1/2/1999 to 5/12/1999. During this time Respondent at no time took any X-rays. On 4/9/1999, Respondent admitted patient S.S.W. into a hospital and provided amalgam fillings in teeth # A, B, C, E, F, G, H, I, J, K, L, M, N, R, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was only three years old and was uncooperative in his dental office.

16. On 5/4/1999, Respondent repaired the amalgam filling in tooth # L.

17. On 5/12/1999, Respondent repaired the amalgam filling in tooth # B.

18. On 5/18/1999, Patient S.S.W. went to see Dr. W. complaining of a chipped front tooth and having lost several fillings. Dr. W. examined patient S.S.W. and observed numerous failing amalgam restorations and multiple large cavities in the teeth that the Respondent had restored on 4/9/1999. Dr. W. explained to patient S.S.W.'s mother that several teeth needed crowns. Patient S.S.W. needed restoration of her teeth as soon as possible, but the soonest the patient's mother would make an appointment was 6/21/1999.

19. On 6/21/1999, Dr. W. admitted patient S.S.W. to a hospital for extensive dental restoration under general anesthesia. Dr. W. obtained bitewing X-rays. Dr. W provided pulpotomies and stainless steel crowns in teeth # B, D, F, G, I, L, and S and provided stainless steel crowns in teeth # C, H, J, M, N, R, and Q.

20. Respondent said that he does not routinely perform X-rays on children because they are often hard to obtain, are unnecessary, can be harmful to children, and bitewing X-ray equipment is not available at the hospital where he provides dental treatment. However, because patients were treated at a hospital under general anesthesia, X-rays could have been taken after the patients had been sedated with general anesthesia. Respondent provided extensive dental treatment to the following twelve patients without first obtaining X-rays:

a). Respondent treated patient D.G., a three-year-old child, from 2/9/1996 to 10/28/1999. During this time Respondent at no time took any X-rays. On 6/27/1996, Respondent admitted patient D.G. into a hospital and provided amalgam fillings in teeth # A, B, I, J, K, L, S, and T under general anesthesia. Respondent claimed it was

impossible to obtain X-rays because the patient was only three-years-old and was uncooperative in his dental office.

b). Respondent treated patient J.B., a four-year-old child, from 9/22/1997 to 5/24/1999. During this time Respondent at no time took any X-rays. On 12/18/1997, Respondent admitted patient J.B. into a hospital and provided amalgam fillings in teeth # A, B, I, J, K, L, M, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was only four-years-old and was uncooperative in his dental office.

c). Respondent treated patient M.W., a four-and-a-half-year-old child, from 11/11/1997 to 9/28/1999. During this time Respondent at no time took any X-rays. On 12/18/1997, Respondent admitted patient M.W. into a hospital and provided amalgam fillings in teeth # H, J, K, L, N, O, P, Q, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was uncooperative in his dental office.

d). Respondent treated patient A.W., a four-year-old child, from 6/18/1998 to 10/7/1999. During this time Respondent at no time took any X-rays. On 9/4/1998, Respondent admitted patient A.W. into a hospital and provided amalgam fillings in teeth # A, H, I, J, K, L, M, N, O, P, R, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was only four-years-old and was uncooperative in his dental office.

e). Respondent treated patient W.K., a four-year-old child, from 7/22/1998 to 4/22/1999. During this time Respondent at no time took any X-rays. On 4/22/1999, Respondent admitted patient W.K. into a hospital and provided amalgam fillings in teeth # A, B, I, J, L, and S and extracted teeth # K, and T under general anesthesia.

f). Respondent treated patient Y.K., a five-year-old child, from 9/9/1998 to 1/10/2000. During this time Respondent at no time took any X-rays. On 4/30/1999, Respondent admitted patient Y.K. into a hospital and provided amalgam fillings in teeth # A, C, D, E, F, G, H, I, J, K, L, M, and T and provided stainless steel crown restorations in teeth # B, and S under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the Respondent could not communicate with the patient's mother because she did not speak English and the patient was not cooperative in his dental office.

g). Respondent treated patient C.R., a six-year-old child, from 10/13/1998 to 12/4/1998. During this time Respondent at no time took any X-rays. On 12/4/1998, Respondent admitted patient C.R. into a hospital and provided amalgam fillings in teeth # A, B, I, J, S, and T and provided stainless steel crowns in teeth # K and L under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was not cooperative in his dental office.

h). Respondent treated patient C.S., a ten-year-old child, from 11/17/1998 to 2/12/1999. During this time Respondent at no time took any X-rays. On 2/12/1999, Respondent admitted patient C.S. into a hospital and provided amalgam fillings in teeth # A, H, I, K, S, T, 3, 14, 19, and 30 and extracted tooth # J under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient had Attention Deficit Hyperactivity Disorder (ADHD) and was uncooperative.

i). Respondent treated patient T.M., a four-year-old child, from 12/7/1998 to 1/28/2000. During this time Respondent at no time took any X-rays. On 2/5/1999, Respondent admitted patient T.M. into a hospital and provided amalgam fillings in teeth # A, C, E, F, J, K, L, M, R, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient was not cooperative in his dental office.

j). Respondent treated patient S.S., a five-year-old child, from 12/28/1998 to 9/30/1999. During this time Respondent at no time took any X-rays. On 2/25/1999, Respondent admitted patient S.S. into a hospital and provided amalgam fillings in teeth # A, B, D, E, F, G, I, J, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because of the patient's age.

k). Respondent treated patient R.H., a five-year-old child, from 1/20/1999 to 4/22/1999. During this time Respondent at no time took any X-rays. On 4/22/1999, Respondent admitted patient R.H. into a hospital and provided amalgam fillings in teeth # A, B, J, K, L, S, and T under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient has Attention Deficit Hyperactivity Disorder (ADHD) and was uncooperative.

l). Respondent treated patient M.H., a eight-year-old child, from 1/20/1999 to 4/22/1999. During this time Respondent at no time took any X-rays. On 4/22/1999, Respondent admitted patient M.H. into a hospital and provided amalgam fillings in teeth # 3, 14, 19, and 30 under general anesthesia. Respondent claimed it was impossible to obtain X-rays because the patient had cerebral palsy, and was uncooperative in his dental office.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction in this proceeding pursuant to sec. 447.07, Wis.

Stats.

2. The Wisconsin Dentistry Examining Board has the authority to resolve this disciplinary proceeding by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Wis. Stats.

3. Dr. Manthei's conduct as described in the Findings of Fact was conduct in violation of sec. 447.07(3)(a), Wis. Stats. and Wis. Admin. Code sec. DE 5.02(1) and (5). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED, that the license previously issued to Vern Manthei, D.D.S., is limited by the condition that henceforth he may not treat any patient who is less than fourteen years of age, effective immediately.

IT IS FURTHER ORDERED, that Vern Manthei shall immediately return his credentials to the Department of Regulation and Licensing, and that those credentials shall be replaced by the Department with credentials bearing the legend "Limited."

IT IS FURTHER ORDERED, that the SURRENDER of the license and registration to practice dentistry of Vern W. Manthei, is ACCEPTED, effective May 1, 2002. Respondent shall surrender all of his credentials issued by the Board to the Department or any agent of the Department by May 1, 2002.

IT IS FURTHER ORDERED, that Respondent shall will not renew or attempt to renew his license to practice dentistry at any time after April 30, 2002.

IT IS FURTHER ORDERED, that Respondent shall not practice as a dentist, or attempt to practice as a dentist, in Wisconsin, without being licensed and registered.

IT IS FURTHER ORDERED that any failure of respondent to comply with the terms of this Final Decision and Order may result in further legal action pursuant to §447.09, or §447.10, Wis. Stats. or in other legal proceedings to enforce remedies available to the Dentistry Examining Board.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Dentistry Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 15th day of September, 2001.

WISCONSIN DENTISTRY EXAMINING BOARD

Bruce Barrette

Member, Wisconsin Dentistry Examining Board