

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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State of Wisconsin  
Before the Dentistry Examining Board

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In the Matter of Disciplinary Proceedings Against

Gary Burkholder, DDS  
Respondent

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Final Decision and Order  
LS0311051DEN

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

Gary Burkholder, DDS  
109 W. Prospect Street  
Thorp WI 54771

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 Dentistry Examining Board makes the following

Findings of Fact

1. Gary Burkholder, DDS, was born on January 12, 1948, and is licensed to practice dentistry in the state of Wisconsin pursuant to license number 5001166, first granted on May 24, 1973. Dr. Burkholder practices general dentistry.

2. Between June 1995 and March 2000, Dr. Burkholder provided orthodontic treatment to patient K.P., a female born October 16, 1985. Patient K.P. was in full banded appliances from July 1995 to March 2000.

3. Patient K.P.'s parents sought a second opinion because of the length of time that K.P. had been in full banded appliances without completion of the treatment, and because of K.P.'s complaints of pain.

4. An examination by the second dentist revealed loose bands, absence of bands on second molars, bands in contact with and abrading gingival tissues, several large caries under bands, improper occlusion, no treatment being provided to rotate one upper canine from its 90° twist, and no treatment of the other, unerupted, upper canine.

5. Patient K.P.'s parents took Patient K.P. out of Dr. Burkholder's practice, and contracted for treatment by an orthodontist. The orthodontist implemented a treatment plan which anticipated three additional years of full banded appliances, followed by the use of retainers.

6. Dr. Burkholder asserts that the lack of progress in his orthodontic treatment of patient K.P. was due to the patient's bone structure and growth pattern, and not to any flaw in his treatment planning or implementation.

7. Dr. Burkholder's treatment planning and implementation in his treatment of patient K.P. was less than minimally competent practice of orthodontics.

#### Conclusions of Law

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to s. 447.07(3), Stats.
2. Dr. Burkholder's orthodontic treatment of patient K.P. was unprofessional conduct in violation of s. 447.07(3)(h), Stats.

#### Order

Now, therefore, it is ordered that the license previously granted to Gary Burkholder, DDS, is LIMITED by the condition that he may not perform any orthodontic treatment on any patient for any reason after December 31, 2003.

It is further ordered that Dr. Burkholder shall transfer each patient who is receiving orthodontic treatment from him to an orthodontist, or to a general dentist whose practice includes orthodontics, no later than December 31, 2003.

Notwithstanding this limitation, Dr. Burkholder shall either obtain confirmation from a subsequent treating dentist that each patient currently receiving orthodontic treatment from Dr. Burkholder has come under orthodontic treatment by a subsequent treating orthodontist or general dentist, or Dr. Burkholder shall, no later than January 15, 2004, see the patient and take all necessary steps to remove all appliances from the patient, at Dr. Burkholder's expense.

From each patient who does not transfer to an orthodontist or general dentist for continuing orthodontic treatment, Dr. Burkholder shall obtain a written statement of informed consent for the cessation of orthodontic treatment and removal of all appliances. The written statement of informed consent shall include a general description of the consequences of ending treatment in the patient's situation, and Dr. Burkholder shall provide the patient with a copy of the informed consent.

It is further ordered that Dr. Burkholder shall pay the costs of this proceeding in the amount of \$1250.00 to the Department of Regulation and Licensing within ninety days of the date of this order.

Dated November 5, 2003.

Wisconsin Dentistry Examining Board

Bruce Barrette

By a Member of the Board