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State of Wisconsin
Before the Dentistry Examining Board

In the Matter of Disciplinary Proceedings Against

Alan Spaeth, DDS
Respondent
LS0310221DEN

Final Decision and Order

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

Alan Spaeth, DDS
W6168 Oak Lane
Tomahawk WI 54487

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. Alan Spaeth, DDS, ("Respondent") was born on December 4, 1949, and is licensed to practice dentistry in the state of Wisconsin pursuant to license number 1935, first granted on August 24, 1977.

2. On July 22, 1997, Respondent did an intra-oral examination for patient Jerome F., a male born March 29, 1956.

3. On July 28, 1997, Respondent removed amalgam restorations from ten of Jerome F.'s teeth, (teeth 2, 3, 4, 5, 12, 14, 15, 17, 19, and 32) and replaced the restorations with composite restorations.

4. Respondent placed Dycal in the cavity in each tooth before placing the composite restorations on July 28, 1997.

5. Dycal inhibits bonding of composite restoration material to tooth structure.

6. Respondent failed to completely remove the existing restoration materials from the cavity preparations of Jerome F.'s teeth numbers 14,15, 17, and 19 before placing the replacement composite restorations.

7. Failure to completely remove old restoration materials before placing a new composite restoration weakens the new restoration and increases the likelihood of future dental problems in the restored tooth.

8. On December 17, 1996, Patient Diane F., a woman born June 18, 1958, presented to Respondent for an

examination and consultation on her dental condition.

9. Among other conditions, Respondent diagnosed that "all fillings are grossly over filled and all require replacement (more than 10 years old) Broken."

10. On February 26, 1997, Respondent removed the existing amalgam restorations from Diane F.'s teeth numbers 3, 13, 14, 15, 5, 18, 19, 29, 30, and 31, and replaced them all with composite restorations.

11. In each cavity preparation on Diane F.'s teeth, Respondent placed Dycal before placing the composite restoration.

12. Respondent did not document a complete periodontal examination of patient Diane F. during the period he was treating her.

13. Respondent failed to completely remove existing restoration materials and decay from Patient Diane F.'s teeth before placing composite restorations.

14. Respondent failed to properly place and shape the composite restorations he placed in Patient Diane F.'s teeth.

15. On December 11, 1996, Patient Barb B., a woman born June 15, 1954, presented to Respondent for an examination and consultation.

16. Over three appointments February 20, 1997, February 26, 1997, and April 8, 1997, Respondent removed the existing amalgam restorations from Barb. B., teeth numbers 2, 3, 5, 28, 29, 30, 31, 13., 14, 15, 19, and 20, and replaced them with composite restorations.

17. In each cavity preparation on Barb B.'s teeth, Respondent placed Dycal before placing the composite restorations.

18. Respondent purposefully adjusted Barb B.'s right side occlusion on April 8, 1997, before doing restorative work on the left side on that date.

19. Adjusting the occlusion of only one side of the mouth creates malocclusion and increases the risk of developing or exacerbating temporomandibular joint disfunction and pain

20. Barb B. was Respondent's patient through December 1997.

21. Respondent did not do a periodontal examination of Barb B. at any time during the period she was his patient.

22. Respondent failed to completely remove existing restoration materials and decay from Barb B.'s teeth before placing the composite restorations.

23. Respondent failed to properly place and shape the composite restorations he placed in Barb B.'s teeth.

24. On February 12, 1997, Patient Michael B., a male born on March 11, 1987, presented to Respondent for an examination and consultation.

25. Over four appointments February 12, 1997, February 20, 1997, February 26, 1997, and April 8, 1997, Respondent removed what he charted as "decay/old broken fillings" from Michael B.'s teeth numbers R, S, T, J, I, 14, 19, K, L, M, A, B, 30, 3, and 9, and placed composite restorations in those teeth.

26. Respondent placed Dycal in every cavity preparation except for tooth 9.

27. Respondent failed to completely remove existing restoration materials and decay from Michael B.'s teeth before placing the composite restorations.

28. Respondent failed to properly place and shape the composite restorations he placed in Michael B.'s teeth.

29. On February 21, 1997, Patient Ronald B., a male born January 5, 1963, presented to Respondent for an examination and consultation.

30. Over two sessions on June 13 and June 30, 1997, Respondent removed what he called "decay and broken fillings (over 10 years old) from Patient Ronald B.'s teeth numbers 18, 19, 20, 13, 14, and 15, and placed composite restorations in those teeth.

31. Respondent placed Dycal in the cavity preparations in each tooth before he placed the composite restoration material.

32. Respondent failed to remove all of the existing restoration materials and decay from Patient Ronald B.'s teeth before placing the new composite restoration material.

33. Respondent failed to properly place and shape the composite restorations he placed in Patient Ronald B.'s mouth on June 13 and June 30, 1997.

34. On July 9, 1997, Patient Jennifer B., a female born September 22, 1982, presented to Respondent for an examination and consultation.

35. Over two appointments July 9 and July 22, 1997, Respondent removed existing restorations from Patient Jennifer B.'s teeth numbers 31, 30, 18, and 19, and replaced them with composite restoration materials, to address what he said was decay.

36. Respondent placed Dycal into the cavity preparations on all four teeth before he placed the composite restorations.

37. Respondent has agreed to surrender his license to practice dentistry in the state of Wisconsin in consideration of the expenses and uncertainty of litigation, and his intent to retire from the practice of dentistry.

Conclusions of Law

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

2. Respondent's conduct in the treatment of Jerome F., Diane F., Barb B., Michael B., Ronald B., and Jennifer B. constitutes unprofessional conduct within the meaning of s. 447.07(3)(a), Stats., and s. DE 5.02(5), Wis. Admin. Code.

Order

Now, therefore the Dentistry Examining Board accepts the immediate surrender of the license previously granted to Alan Spaeth, DDS.

Dr. Spaeth shall return all indicia of licensure to practice dentistry in the state of Wisconsin to the Department of Regulation and Licensing forthwith.

It is further ordered that Dr. Spaeth shall pay the costs of this proceeding in the amount of $6045.46 to the Department of Regulation and Licensing within 60 days of the date of this Order.

Dated January 7, 2004

Wisconsin Dentistry Examining Board

Bruce Barrette
By a Member of the Board