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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
DANIEL A. HUMISTON, DDS :
 : LS06071212DEN
RESPONDENT. :

[Division of Enforcement Case 03 DEN 088]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Daniel A. Humiston, DDS
Taylor Drive Dental Care
1337 North Taylor Street
Sheboygan, WI 53081

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Dentistry Examining Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter, Daniel A. Humiston, DDS, Respondent, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, agree to the terms and conditions of the attached Stipulation as the final decision in this matter, subject to the approval of the Dentistry Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Daniel A. Humiston, D.D.S., Respondent herein, (DOB 9/27/52), is duly licensed to practice dentistry in the State of Wisconsin under license number 3227 which was first granted on September 23, 1983.
2. Respondent's most recent address on file with the Wisconsin Dentistry Examining Board is 1337 N. Taylor Drive, Sheboygan, WI 53081.
3. At all times relevant to this action, Respondent practiced as a dentist at Taylor Drive Dental Care in Sheboygan, WI.
4. On November 7, 2000, an 8 year old female patient was presented at Taylor Drive Dental Care by her parents for dental evaluation.
5. On November 7, 2000, Respondent's records reflect that, as part of the patient's dental treatment, Respondent removed deciduous tooth G.
6. On November 7, 2001, the patient again presented to Respondent for dental evaluation.
7. On November 7, 2001, Respondent's records reflect that he extracted deciduous teeth F and G, which, in his opinion, obstructed the path of permanent tooth #9.
8. Respondent did not obtain consent from either of the patient's parents for removal of the primary teeth and did not take a radiograph of the teeth and gum area to determine presence and location of the permanent teeth prior to removal of the primary teeth.
9. Respondent had previously removed tooth G on November 7, 2000.
10. At a subsequent visit on November 12, 2001, Respondent advised the patient's mother that the permanent teeth # 9 and #10 could take a year or so to erupt and move into their permanent positions.
11. On March 13, 2003, Respondent advised the patient's mother that he had extracted two primary teeth in November 2001 because they were impeding the eruption of the patient's permanent central incisor. He further advised that the patient did not have a permanent tooth (# 10) to succeed one of the primary teeth that were removed in November 2001.
12. Respondent's failure to obtain consent prior to removal of the primary teeth in November 2001, his failure to obtain radiographs of the teeth and gum area prior to removal of the primary teeth and apparent removal of permanent tooth #10 rather than primary tooth G in November 2001 constitutes conduct which indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry.
13. Respondent has cooperated throughout this investigation and voluntarily agrees to this resolution.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter pursuant to §447.07, Wis Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.
2. The conduct described in paragraph # 12 above, constitutes a violation of Wis. Stat. § 447.07 (3) (h).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED that Daniel A. Humiston , D.D.S. is hereby REPRIMANDED.

IT IS FURTHER ORDERED that the license of Daniel A. Humiston, D.D.S. to practice dentistry in the State of Wisconsin is hereby LIMITED on the following terms and conditions:

1. Within nine months of the effective date of this Order, Dr. Humiston shall successfully complete the following continuing education:

- a. 3 credit hours in the identification and differentiation between deciduous and permanent teeth;
- b. 3 credit hours in radiography, with an emphasis on when radiographs are necessary in pediatric practice;
- c. 1 credit hour in informed consent
- d. 1 credit hour in recordkeeping.

Courses conducted via the internet or by other electronic means of communication or courses conducted by correspondence or through a home study program may be considered if, in the opinion of the Board or its delegate, the courses are adequate to meet the ordered reeducation.

2. Dr. Humiston shall be responsible for locating the course/s required under this Order, for providing adequate course descriptions to the Department Monitor and for obtaining pre-approval of the course/s from the Wisconsin Dentistry Examining Board prior to commencement of the programs.

3. Within 30 days after the course/s identified in paragraph one above are concluded, Dr. Humiston shall file with the Wisconsin Dentistry Examining Board certifications from the sponsoring organization of his attendance at the required course/s.

4. All costs of the educational programs shall be the responsibility of the Dr. Humiston.

5. Submission of all required documentation and payment of costs shall be mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

IT IS FURTHER ORDERED that Dr. Humiston shall pay costs in this matter of Eight Hundred Forty Six dollars (\$846.00) and a forfeiture of Five Hundred dollars (\$500.00) within ninety (90) days of the effective date of this Order.

IT IS FURTHER ORDERED, that the pending investigation 03 DEN 088 is hereby closed.

Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education the Respondent's license (#3227) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

This Order is effective on the date of its signing.

WISCONSIN DENTISTRY EXAMINING BOARD

By: Keith D. Clemence
A Member of the Board

July 12, 2006
Date