

PUBLIC DOCKET COPY - PATIENT NAMES EXCLUDED

JAN 0 8 1993

BEFORE THE GEORGIA BOARD OF DENTISTRY

DOCKET NUMBER
93-016

IN THE MATTER OF:)	
)	Docket No. <u>93-016</u>
CHARLES E. STAMITOLES, D.D.S.)	
License No. 9979)	AG NO. 64PA-CA-97570-92
)	
Respondent.)	

TO: Charles E. Stamitoles, D.D.S.
1163 Northlake Mall
Atlanta, Georgia 30345

NOTICE OF HEARING

You are hereby notified that the Georgia Board of Dentistry, through its appointed representative, will hold a hearing at the offices of the Board, 166 Pryor Street, S.W., Atlanta, Georgia 30303, at 10:00 o'clock, a.m., on the 9th day of March, 1993, for the purpose of hearing charges that, if proven, may result in the suspension, revocation or other sanction of your license to practice dentistry in the State of Georgia. You are also notified of the following matters:

LEGAL AUTHORITY FOR HEARING

This hearing will be held under the authority and jurisdiction conferred upon the Georgia Board of Dentistry by O.C.G.A. Ch. 11, T. 43, as amended, and in accordance with the Administrative Procedure Act, O.C.G.A. Ch. 13, T. 50, as amended, the Rules and Regulations of the Board and the Rules and Regulations of the Joint Secretary, State Examining Boards.

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HEARING OFFICER

Pursuant to the provisions of O.C.G.A. Ch. 13, T. 50, the Georgia Board of Dentistry hereby appoints the hearing officer designated below as hearing officer for the above-styled matter.

NAME: _____
ADDRESS: _____ Wayne B. Mangum
315 West Ponce de Leon
Suite 445
Decatur, GA 30030
TELEPHONE: (404) 377-5126

The hearing officer shall have the authority to exercise those powers on behalf of the Board enumerated in O.C.G.A.

§ 50-13-13(a)(6) or elsewhere in the Georgia Administrative Procedure Act or the rules of the Joint Secretary, as adopted by the Board, in conducting the hearing.

RIGHTS OF RESPONDENT

You have the following rights in connection with this hearing:

- (1) To respond and to present evidence on any relevant issue;
- (2) to be represented by counsel at your expense;
- (3) to subpoena witnesses and documentary evidence through the Board and the Joint Secretary;
- (4) such other rights as are conferred by the Rules and Regulations of the Board and the Rules and Regulations of the Joint Secretary, State Examining Boards.

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FILING OF ANSWER AND OTHER PLEADINGS

An Answer to this Notice of Hearing must be filed within fourteen (14) days after receipt or service of this Notice. The original and one duplicate of the Answer and any subsequent pleading or response, each designated as "Original" and "Duplicate" by appropriate marking or stamp, should be filed with the Docket Clerk of the Joint Secretary, 166 Pryor Street, S.W., Atlanta, Georgia 30303. An additional copy of the Answer and any subsequent pleading or response should also be sent to or served upon counsel for the Board, whose name and address appear on the last page of this Notice.

STATUTES AND RULES INVOLVED

Sanction of the Respondent's license is sought pursuant to the following provisions of O.C.G.A. § 43-11-47, as amended:

(a) The board shall have authority to refuse to grant a license to an applicant or to revoke the license of a dentist licensed by the Board or to discipline a dentist licensed under this chapter or any antecedent law upon a finding by the majority of the entire board, that the licensee or applicant has:

(2) Knowingly made misleading, deceptive, untrue, or fraudulent misrepresentations in the practice of dentistry or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statements in obtaining a license to practice dentistry; or made a false or deceptive annual registration with the board;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the

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public, which conduct or practice materially affects the fitness of the licensee or applicant to practice dentistry; or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of dentistry but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing dental practice;

(10) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of dentistry, when the licensee or applicant knows or should know that such action is violative of such statute, law or rule; or violated a lawful order of the board, previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement.

Respondent is also alleged to have violated Board Rule 150-8-.02, which reads as follows:

(1) For purposes of Georgia Code S/43-11-47(a)(2) the following shall be deemed to be misleading, deceptive, untrue or fraudulent misrepresentations in the practice of Dentistry or on any document connected therewith:

(a) knowingly submitting any misleading, deceptive, untrue, or fraudulent

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misrepresentation on a claim form, bill or statement to a third party;

(b) knowingly submitting a claim form, bill or statement asserting a fee for any given dental appliance, procedure or service rendered to a patient covered by a dental insurance plan, which fee is greater than the fee the dentist usually accepts as payment in full for any given dental appliance, procedure or service;

(c) abrogating or waiving the copayment provisions of a third party contract by accepting the payment received from a third party as payment in full, unless the abrogation or waiver of such copayment or the intent to abrogate or waive such copayment is fully disclosed, in writing, to the third party at the time the claim is submitted for payment;

(2) For purposes of this rule, a "third party" is any party to a dental prepayment contract that may collect premiums, assume financial risks, pay claims and/or administrative services.

O.C.G.A. § 43-1-19(a) provides that a state examining board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board.

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(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title.

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the state examining board regulating the business or profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement.

MATTERS ASSERTED

1.

The Respondent is licensed to practice dentistry in the State of Georgia and was so licensed at all times relative to the matters asserted herein.

1.

On or about March 12, 1990, Respondent entered into a Consent Order with the Board in Docket No. 89-337 in resolution of numerous allegations of violations of the minimal standards of acceptable and prevailing dental practice. A copy of the Consent Order is attached to this Notice of Hearing as Attachment "A."

The Consent Order provided, inter alia, that following a thirty (30) day suspension, Respondent's license would be placed on probation for a period of two years. As a condition of probation, Respondent agreed and the Board ordered that he was to comply with "[a]ll state and federal laws relating to the practice of dentistry, [and] the rules and regulations of the Georgia Board of Dentistry."

The probation of Respondent's license remains in effect, since he has not requested termination of the probation in accordance with the terms of the Consent Order. Each of the allegations below of violations of the laws and rules governing the practice of dentistry constitutes a violation of the terms of the Consent Order between Respondent and the Board.

3.

(a) Respondent purportedly performed a pulp cap, crown prep and buildup on tooth # 18 of Patient M.B. on or about

January 30, 1991. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) Respondent failed to document the need for this restorative treatment, since the pre-treatment x-rays reveal only a small MO amalgam in this tooth with only minimal decay;
- (2) Respondent's crown preparation is over-reduced;
- (3) As a result of the unnecessary crown placement, Respondent later had to initiate root canal treatment on this tooth.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) Respondent claimed on or about February 5, 1991 for a porcelain fused to precious metal crown (Code 2750), when in fact the Respondent had ordered and placed a porcelain fused to non-precious metal crown;
- (2) Respondent claimed for a direct pulp cap (Code 3110) and an amalgam core (Code 2882) on or about February 5, 1991, when in fact these procedures were not done.

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4.

(a) Respondent prepared for porcelain fused to precious metal crowns and crown buildups on teeth #s 6-11 of Patient M.M.C. on or about February 11, 1992. The crowns were actually placed some time after March 31, 1992 and prior to May 14, 1992. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) There is no centric occlusion of the anterior teeth. Teeth #s 6 and 11 are open 1.5 mm; teeth #s 7, 8, 9, and 10 are open 1 mm. The only centric contact available is between teeth #s 3 and 4, and 29 and 30. There is no lateral function on the anterior teeth;
- (2) The margins of the crowns on teeth #s 10 and 11 will hang floss;
- (3) Respondent falsified his patient treatment record to reflect that he had performed buildups on teeth #s 6 to 11, when in fact no buildups were done.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) Respondent claimed on claim forms dated February 12, 1992 and April 14, 1992 that he performed the crown preparations and buildups on teeth #s 6 to

11 on February 11, 1992, when in fact

Respondent's own treatment records show that the crown preparations were performed on February 18, 1992;

- (2) On these same claim forms, Respondent claimed for post and core buildups on these teeth, when in fact Respondent had done no buildups of any kind.

5.

(a) Respondent prepared for placement of a porcelain fused to non-precious metal crown on tooth # 14 of Patient J.C. on or about January 23, 1991. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) The crown exhibits an unacceptably short margin on the distal and the porcelain has fractured from the metal coping;
- (2) Respondent refused the patient's request to remake the crown after the porcelain fractured.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) Respondent claimed on or about March 5, 1991 for a porcelain fused to precious metal crown (Code 2750), when in fact the Respondent had ordered

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and placed a porcelain fused to non-precious metal crown;

- (2) Respondent claimed for a direct pulp cap (Code 3110) and an amalgam core (Code 2882) on or about February 5, 1991, when in fact these procedures were not done.

6.

(a) Respondent removed an existing temporary maxillary bridge of Patient D.C. on or about August 27, 1991. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) The patient had expressly told Respondent not to remove the temporary bridge, and Respondent proceeded with removal of the bridge without the patient's consent.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) Respondent claimed on or about September 3, 1991 for post and core buildups (Code 2891) on teeth #s 5, 11, 19 and 30, when in fact the Respondent had not done any buildups on these teeth.

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7.

(a) Respondent took impressions for placement of porcelain fused to non-precious metal crowns on teeth #s 2 and 3 of Patient C.H. on or about August 16, 1991. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) The crown on tooth # 2 displays poor marginal adaptation;
- (2) Post-treatment x-rays show residual decay in the pulp chamber of tooth # 2;
- (3) Respondent's treatment planning for tooth # 2 was inadequate, since this tooth was a poor candidate for restoration because of gross decay;
- (4) The crown on tooth # 3 displays poor marginal adaptation;
- (5) Post-treatment x-rays show gross decay in the distal aspect of tooth # 3.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) Respondent claimed on or about August 15, 1991 for fees of \$175.00 for the post and core buildups on teeth #s 2 and 3. Respondent's own payment records reflect that the patient was only charged \$150.00 for these services.

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8.

(a) Respondent performed extensive crown and bridge work on teeth #s 2, 3, 6, 11, 12, 13, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 of Patient G.O. between approximately December 1988 and February 1991. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) Respondent failed to take adequate pre-treatment records, including mounted diagnostic casts and diagnostic-quality full mouth radiographs, for a restorative case of this complexity;
- (2) Respondent failed to adequately resolve the patient's severe generalized periodontal disease prior to beginning restoration;
- (3) Respondent failed to keep adequate records of the patient's periodontal status;
- (4) Respondent's treatment resulted in a grossly inadequate occlusion, including anterior open bite, irregular contacts, and hyperocclusion on some restorations;
- (5) The splinted bridge with abutments on teeth #s 2, 3, and 6 exhibits bulky, ragged and irregular margins. Teeth #s 2 and 3 show advanced periodontal disease;
- (6) Teeth #s 11 and 12 display a thickened periodontal membrane due to hyperocclusion;

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- (7) Tooth # 13 exhibits fractured porcelain because of poor occlusion;
- (8) Tooth # 18 shows poor marginal adaptation and bone loss;
- (9) Teeth #s 20 and 21 display ragged margins;
- (10) The splints spanning teeth #s 22 to 26 lack adequate embrasure;
- (11) Teeth #s 27, 28 and 29 exhibit rough crown margins;
- (12) Approximately one year after Respondent's restoration, tooth # 29 exhibits a large periapical radiolucency with a failing endodontic fill;
- (13) The post in tooth # 29 is unacceptably short;
- (14) Tooth # 31 exhibits a bulky and rough mesial crown margin, a vertical bone pocket, and fractured porcelain due to hyperocclusion.

(b) Respondent filed, or caused another person to file on his behalf, a misleading, deceptive, untrue or fraudulent claim with the patient's insurance carrier as follows:

- (1) All laboratory prescriptions show that Respondent ordered porcelain fused to non-precious metal restorations. However, insurance claims for this work dated on or about November 30, 1989 and December 8, 1988, as well as others to be identified later, show that Respondent claimed

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for porcelain fused to gold (Codes 2750, 6240 and 6750) for these restorations.

9.

(a) Respondent began taking impressions for placement of porcelain fused to non-precious metal crowns and bridges, as well as implants on Patient W.S. between approximately July 31, 1991 and April 22, 1992. Respondent's care and treatment of this patient violates the minimal standards of acceptable and prevailing dental practice as follows:

- (1) Respondent failed to provide any permanent restorations to the patient for almost one year after starting treatment;
- (2) Respondent placed poor-fitting temporaries on the teeth to be restored, all displaying poor anatomy and occlusion. As a result of these defects, as well as the length of time the patient was left in temporaries, the tissue on examination in June 1992 was hyperemic, bleeding, with heavy plaque present;
- (3) Each of the preparations for crown and bridge was grossly over-prepared with irregular margins;
- (4) The post and core placed in tooth # 13 was too short;
- (5) The implants in the areas of teeth #s 14 and 30 were poorly placed.

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(b) Respondent billed the patient, and the patient paid for, the following services which Respondent never performed:

- (1) A buildup on tooth # 3;
- (2) Amalgam cores on teeth #s 12 and 13;
- (3) Posts and cores on teeth #s 28 and 29.

The foregoing, if correct, constitutes sufficient grounds for the imposition of sanctions upon the Respondent's license to practice dentistry in the State of Georgia, under O.C.G.A. §§ 43-1-19(d) and 43-11-47(d).

This Notice of Hearing is signed and attested by the Joint Secretary of the State Examining Boards, on behalf of the Georgia Board of Dentistry.

This 8th day of January, 1993.

GEORGIA BOARD OF DENTISTRY

**ISAAC S. HADLEY, D.M.D.
President**

(BOARD SEAL)

William G. Miller, Jr.
**WILLIAM G. MILLER, JR.
Joint Secretary
State Examining Boards**

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