

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:)
)
JOEL A. BLACK, JR., D.D.S) CONSENT ORDER
(License No. 3648))

THIS MATTER came on to be heard and was heard before the North Carolina State Board of Dental Examiners (Board) pursuant to N.C. Gen. Stat. § 90-41(b), for consideration of a Consent Order in lieu of a formal administrative hearing. A settlement conference was held before the full Board on June 6, 2009. Joel A. Black, Jr., D.D.S. (Respondent), was represented by Kenneth Jones. Carolin Bakewell represented the Investigative Panel. Based upon the consent of the parties hereto, the Board enters the following:

FINDINGS OF FACT

1. The North Carolina State Board of Dental Examiners is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 90 of the North Carolina General Statutes (the Dental Practice Act).

2. Respondent was licensed to practice dentistry in North Carolina in 1972 and, at all times relevant hereto, was engaged in the practice of pediatric dentistry in Winston-Salem, North Carolina.

K.C.

3. K.C. was a patient of the Respondent's between August 1985 and March 16, 2006.

4. In 1997, K.C.'s orthodontist notified Respondent that K.C.'s teeth had significant decalcification. The orthodontist requested Respondent to evaluate K.C.'s teeth at her next appointment.

5. Despite the request from K.C.'s orthodontist, Respondent failed to take any radiographs of K.C. until January 2002, when he had a panorex radiograph taken. The panorex radiograph was insufficient to permit Respondent to determine whether K.C. had dental caries.

6. On August 12, 2003, K.C. presented to Respondent's office for a recall visit. Respondent restored teeth numbers 5, 18 and 19, but failed to note the restoration of tooth # 18 in the treatment records.

7. On March 30, 2004, K.C. presented to Respondent's office. Respondent determined that K.C. had an exposure of the pulp of tooth number 13 but failed to diagnose or treat caries in a number of K.C.'s other teeth. Respondent's treatment records failed to reflect that he took bitewing radiographs.

8. On August 11, 2004, K.C. presented to Respondent's office for a recall examination. At this appointment, Respondent diagnosed caries in teeth numbers 2, 4, 13, 14, 15, 18, 19 and 31. Respondent failed to diagnose or treat caries in several other teeth.

9. On October 19, 2004, Respondent restored K.C.'s teeth numbers 13, 14, 15, 18 and 19. Respondent did not restore tooth number 2 at the October 19, 2004 visit, despite the fact that the August 11, 2004 radiographs show the presence of a large carious lesion on that tooth.

10. On December 27, 2004, Respondent performed a pulpectomy on tooth number 2 and restored tooth number 4. Respondent's treatment records failed to reflect the type and amount of anesthetic used. Respondent's treatment records for December 27, 2004 also fail to reflect that he restored tooth number 4 on that date.

11. Respondent extracted K.C.'s tooth number 2 on December 30, 2004 and restored tooth number 31.

12. On March 16, 2006, K.C. presented for an examination. After having bitewing radiographs taken, Respondent noted decay on tooth number 30 and placed a watch on tooth number 31.

13. Respondent failed to detect or treat lesions on a number of K.C.'s other teeth.

14. Although Respondent knew that March 16, 2006 would be K.C.'s last appointment with him, he failed to tell her or her parents about the decay on K.C.'s teeth and failed to urge her to seek care promptly from another dentist.

L.C.

15. L.C., who is K.C.'s sister, was a patient of the Respondent's between September 3, 1986 and November 16, 2006.

16. Respondent failed to take any radiographs of L.C. between November 5, 1991 and January 30, 2006.

17. On January 30, 2006, Respondent had two bitewing radiographs taken of L.C. Neither radiograph was diagnostic.

18. Respondent failed to note decay on a number of L.C.'s teeth.

S.C.

19. S.C. who is the sister of K.C. and L.C., was a patient of the Respondent's from October 7, 1991 until August 23, 2006.

20. Respondent did not take any radiographs of S.C. from October 7, 1991 until July 18, 2000. The only other radiographs, which were taken on January 17, 2006, were not diagnostic.

21. Respondent failed to note and treat decay on a number of S.C.'s teeth.

Based upon the foregoing Findings of Fact and the consent of the parties hereto, the Board enters the following:

CONCLUSIONS OF LAW

1. The Dental Board has jurisdiction over the subject matter of this proceeding and over the person of the Respondent.

2. By failing to advise K.C. or her parents about the decay on K.C.'s teeth numbers 30 and 31 and by failing to urge K.C. to seek care promptly from another dentist, Respondent violated the standard of care and therefore engaged in negligence in the practice of dentistry, in violation of G.S. 90-41(b)(12).

3. By failing to diagnose and treat decay on various areas of K.C., LC and SC's teeth, Respondent violated the standard of care and therefore engaged in negligence in the practice of dentistry, in violation of G.S. 90-41(b)(12).

4. By failing to promptly restore the lesion on K.C.'s tooth number 2, Respondent violated the standard of care and therefore engaged in negligence in the practice of dentistry, in violation of G.S. 90-41(b)(12).

5. By failing to recognize the need to take radiographs more frequently, and by failing to ensure that all radiographs were diagnostic, Respondent violated the standard of care and therefore engaged in negligence in the practice of dentistry in violation of G.S. 90-41(b)(12).

6. By failing to note in his treatment records the type, amount and strength of anesthetic used, radiographs taken, descriptions of all restorative work performed and communication with patients and/or parents of minor patients, Respondent violated 21 NCAC 16T .0101(a), G.S. 90-41(b)(6) and G.S. 90-41(a)(12).

Based upon the foregoing Findings of Fact and Conclusions of Law, and upon the consent of the parties, the Board enters the following:

ORDER OF DISCIPLINE

1. License Number 3648 issued to the Respondent for the practice of dentistry is hereby suspended for a period of thirty (30) days. Respondent shall surrender his license and current renewal certificate to the Board at its offices on or before August 3, 2009.

2. With Respondent's consent, his license to practice dentistry shall be immediately restored, with no period of active suspension, provided that for the five (5) years immediately following the effective date of this Order, he adheres to the following probationary terms and conditions:

- (a) Respondent shall violate no provision of the Dental Practice Act or the Board's rules and regulations.
- (b) Respondent shall neither direct nor permit any employee to violate any provision of the Dental Practice Act or the Board's rules and regulations.
- (c) Respondent shall allow the Board or its authorized agents to inspect and observe his office, conduct random patient chart reviews and interview his employees and co-workers at any time during regular office hours.
- (d) Respondent shall, within one (1) year from the date of this Order, complete a continuing education courses especially designed for him by the University of North Carolina School of Dentistry in conjunction with, and approved by, the North Carolina State Board of Dental Examiners. This will be comprehensive, remedial courses in (1) recordkeeping, (2) radiograph interpretation; and (3) caries diagnosis, radiographically and visually. This requirement shall be in addition to the continuing education required by the Board for the renewal of Respondent's dental license. Respondent shall submit to the Board's Deputy Operations Officer written proof of satisfactory completion of this course before it will be accepted in satisfaction of this requirement. It is the Respondent's responsibility to make all arrangements for and bear the cost of this course within the specified time
- (e) Respondent shall submit to the Board's Deputy Operations Officer all records for the first ten (10) restorative cases treated in his practice following the completion of the continuing education course as specified in

paragraph (d) above. The records submitted must include a copy of the patient chart, as well as pre-operative and post-operative radiographs. The records shall be submitted to the Board's offices on a monthly basis, and MUST be postmarked by the U.S. Postal Service on or before the tenth (10th) day of each month. These records will be forwarded to the Board for review. If the Board determines that the cases presented either individually or collectively demonstrate incompetence or negligence, Respondent shall, upon written demand, cease and desist from performing further dentistry until he has demonstrated his competence to the satisfaction of the Board.

- (f) Within thirty (30) days of the date of this Order, Respondent shall reimburse the Board for the costs associated with its investigation of this matter in the amount of \$539.00.

3. If Respondent fails to comply with any provision of this Order or breaches any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing to permit Respondent to show cause why his dental license should not be suspended. If, as a result of the Show Cause hearing, the Board is satisfied that Respondent failed to comply with or breached any term or condition of this Order, Respondent's license shall be rescinded and, upon written demand, Respondent shall immediately surrender his license and current renewal certificate to the Board for a period of five months. This sanction shall be in addition to and not in lieu of any sanction the Board may impose as a result of future violations of the Dental Practice Act or the Board's Rules.

This the 13 day of August, 2009.


THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By: Terry W. Friddle
Terry W. Friddle
Deputy Operations Officer

STATEMENT OF CONSENT

I, JOEL A. BLACK, JR., DDS, do hereby certify that I have read the foregoing Consent order in its entirety. I assent to its terms and conditions set out herein. I freely and voluntarily admit, exclusively for the purposes of this disciplinary proceeding and any other disciplinary or licensure proceedings before the Dental Board, that there is a factual basis for the findings of fact herein, that the findings of fact support the conclusions of law and that I will not contest the findings of fact, the conclusions of law, or the order of discipline on appeal or if further disciplinary action is warranted in this matter. I understand that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order will become part of the Board's permanent public record.

This the 4th day of August, 2009.


JOEL A. BLACK, JR. D.D.S.