BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

KEVIN W. BURTON, D.D.S.  
(License No. 7257)  
CONSENT ORDER

THIS MATTER is before the North Carolina State Board of Dental Examiners (Board) as authorized by G.S. § 90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. Kevin W. Burton, D.D.S. (Respondent), was represented by Drew Vanore. Carolin Bakewell represented the Investigative Panel. The parties hereby consent to the Findings of Fact and Conclusions of Law set out herein and to the entry of the Order of Discipline.

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) and the Rules and Regulations of the North Carolina State Board of Dental Examiners (Dental Board).

2. Respondent was licensed to practice dentistry in North Carolina on June 15, 2001 and is subject to the Dental Practice Act and the rules promulgated thereunder.

3. At all times relevant hereto, Respondent was engaged in the practice of general dentistry in Greenville, North Carolina.
4. On a number of occasions, the Respondent’s staff billed DMA for restoring teeth when in fact not all restorations billed for had been completed.

5. On a number of occasions, the Respondent’s staff billed DMA for surgical extractions when in fact only simple extractions had been performed.

6. Respondent negligently failed to ensure that all bills sent to Medicaid accurately reflected the actual treatment provided.

7. Respondent routinely billed DMA for performing pulpotomies and placing stainless steel crowns that were not medically necessary.

8. Respondent subjectively believed that the pulpotomies and stainless steel crowns were medically necessary.

9. On a number of occasions the Respondent’s staff billed DMA for extracting primary teeth that were about to exfoliate.

10. Respondent negligently failed to determine that DMA policy forbade reimbursement for extractions of primary teeth about to exfoliate.

11. Respondent negligently failed to conduct a comprehensive evaluation and failed to develop a treatment plan before delivering stainless steel crowns and performing pulpotomies for patient Csauntee M.

12. In the case of patient Jah’mire E, Imelda G, and Ehnay M., the Respondent negligently delivered stainless steel crowns that were poorly contoured, were composed of substandard material and had open margins. In the case of these patients, the Respondent also failed to properly complete pulpotomies.
13. The Respondent's staff took seven non-diagnostic radiographs of Imelda G's lower right quadrant at a single appointment, thereby exposing her to unnecessary radiation. The Respondent negligently failed to ensure that his staff were properly trained to take radiographs and to avoid exposing patients to unnecessary radiation.

CONCLUSIONS OF LAW

1. The N.C. State Board of Dental Examiners has jurisdiction over the subject matter of this action and over the person of the Respondent.

2. By failing to ensure that bills sent to Medicaid accurately reflected the treatment performed, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

3. By performing pulpotomies and delivering stainless steel crowns that were not medically necessary, and by billing DMA for unnecessary procedures, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

4. By failing to familiarize himself with Medicaid reimbursement policy before billing for extracting primary teeth about to exfoliate, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

5. By failing to conduct a comprehensive evaluation and failing to develop a treatment plan before delivering stainless steel crowns and performing pulpotomies for patient Csauntee M, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).
6. By delivering stainless steel crowns that were poorly contoured, were composed of substandard material and had open margins, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

7. By failing to properly complete pulpotomies, the Respondent engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

8. By permitting his staff to take seven radiographs of a patient's lower right quadrant at a single appointment, and by failing to ensure that his staff were properly trained to take diagnostic radiographs, engaged in negligence in the practice of dentistry in violation of G.S. §§ 90-41(a)(6) and (12).

WHEREFORE, pursuant to the authority set forth in G.S. §90-41(a), and with the consent of all parties it is ORDERED as follows:

ORDER OF DISCIPLINE

1. License Number 7257 issued to Respondent for the practice of dentistry in North Carolina is hereby suspended for a period of ninety (90) days.

2. Respondent shall, within five (5) years from the date of this Order, submit payment to the North Carolina Division of Medical Assistance in the amount of $50,000.00 in reimbursement of sums improperly paid to him. The Respondent shall provide written proof to the Dental Board that he has made full reimbursement within one (1) week after reimbursement is made.

3. Respondent shall, within one (1) year from the date of this Order, reimburse the Board for the costs associated with this investigation in the amount of $6,000.00.
4. Following the ninety (90) day active suspension of his license, Respondent agrees to not reapply for a license in North Carolina.

This the ___ day of January, 2016

BY: [Signature]
   Terry W. Friddle
   Deputy Operations Officer
STATEMENT OF CONSENT

I, Kevin W. Burton, D.D.S. do hereby certify that I have read the foregoing Consent Order in its entirety and that I do freely and voluntarily consent to the entry of the Findings of Fact, Conclusions of Law, Order of Discipline and the terms and conditions set forth herein. By signing this Statement of Consent I hereby express my understanding that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order shall become a part of the permanent public record of the Board.

This the 31 day of December, 2015.

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Kevin W. Burton, D.D.S.