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KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
)
JOAN M. HOVERMAN, DDS)
License Number 60251)
_____)

Case No. 06-0742-60251

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Joan M. Hoverman, DDS (the "Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Haynes & Forbes, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Respondent is represented herein by Steve A. Schwarm of Polsinelli, Shalton, Welte, and Suetthaus.

2. The Board is the Kansas agency vested with the authority, pursuant to K.S.A. 74-1404 and K.S.A. 74-1406, to carry out and enforce the provisions of the Kansas Dental Law, K.S.A. 65-1401 *et seq.*

4. The Respondent is presently entitled to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued her Kansas license number 60251. At all times relevant hereto, the Respondent has held a current license to engage in the practice of dentistry in the State of Kansas.

5. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has committed an act or acts in violation of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

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Kansas Dental Board

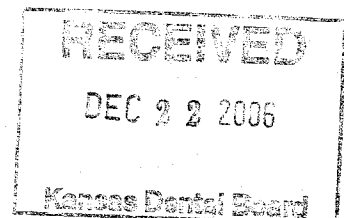
5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that on the 14th day of December, 2005, the Department of Health, Dental Quality Assurance Commission, for the State of Washington issued Findings of Fact, Conclusions of Law and Final Order, which, among other things, indefinitely suspended Respondent's license to practice dentistry in the State of Washington (hereinafter the "Washington Order"). A true and correct copy of the Washington Order is marked Exhibit A, attached hereto and incorporated herein by reference.

6. The Board finds and concludes that Respondent's conduct, as described above, is grounds for disciplinary action pursuant to K.S.A. 65-1436(a)(18).

7. The Board finds and the Respondent agrees that the following disposition is just and appropriate under the circumstances:

A. LICENSE LIMITATION. Respondent hereby agrees and consents to the Board entering an order limiting her license to practice dentistry in the State of Kansas by prohibiting her from performing any endodontic therapy until further order of the Board. If and when Respondent fulfills the requirements contained in Section 3.1 of the Washington Order and obtains an order lifting the suspension of her license to practice dentistry in Washington, she may apply to the Board to lift the limitation on her Kansas license to practice dentistry. Upon application to the Board for a lifting of the license limitation, the Respondent shall have the burden to prove she has fulfilled the requirements contained in Section 3.1 of the Washington Order and obtained an order lifting the suspension of her license to practice dentistry in Washington

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order she must:



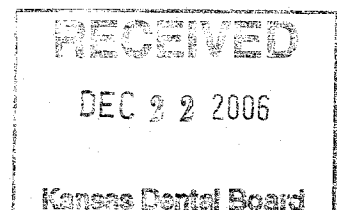
1. Comply fully with this Stipulation and Final Agency Order;
2. Comply fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dental hygienists.

8. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

9. This Stipulation and Final Agency Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

10. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding this matter may be disclosed to and considered by the Board as part of the presentation and consideration of this proposal in the form of this Stipulation and Final Agency Order and the Final Order provided for herein, with or without the presence of the Respondent or her attorney. In the event that this Stipulation and Final Agency Order and the Final Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Final Agency Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

11. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Order is approved by the Board and the Final Agency Order contemplated hereby is entered by the Board. The Respondent acknowledges that the approval of the Board's Investigation Member or attorney shall not constitute the approval of the Board or bind the



Board to approve this Stipulation and Final Agency Action or the Final Order provided for herein.

12. The Respondent agrees that this Stipulation and Final Agency Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. The Respondent further agrees that the Kansas Dental Act, K.S.A. 65-1421 *et seq.* is constitutional on its face and as applied in this case.

13. The Respondent acknowledges that she has the following rights:

A. To have formal notice of charges served upon her;

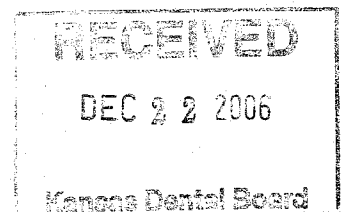
B. To file a response to the charges;

C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing.

D. To take advantage of all applicable provisions of the Kansas Administrative Procedures Act and the Act for Judicial Review and Civil Enforcement of Agency Action.

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against her to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

14. The Respondent acknowledges that she enters into this Stipulation and Final Agency Order freely and voluntarily after the opportunity for consultation with counsel of her choosing. The Respondent further acknowledges that she has read this Stipulation and Final



Agency order in its entirety, that she understands its legal consequences and that she agrees that none of its terms are unconscionable, arbitrary or capricious.

15. This Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

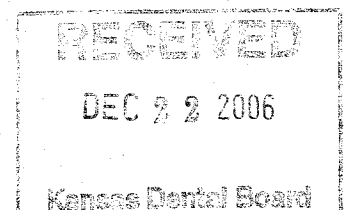
16. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1447 Limitation or Restriction on License."

B. Basis for Action: "99 Other – Not Classified: Disciplinary Action in Another State."

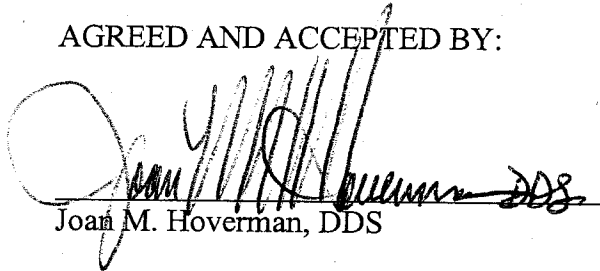
17. The following statement will be made in the Board's newsletter: "Joan M. Hoverman, DDS of Wichita, Kansas was discipline by the Board limiting her license to practice dentistry."

18. The Respondent acknowledges that she has been advised by the Board that she would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Order provided for herein to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial



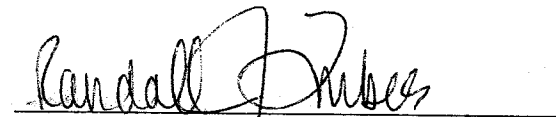
review on the Kansas Dental Board by serving Betty Wright, its Executive Director at 900 SW Jackson, Room 564-S, Topeka, KS 66612. The Respondent hereby waives those rights.

AGREED AND ACCEPTED BY:

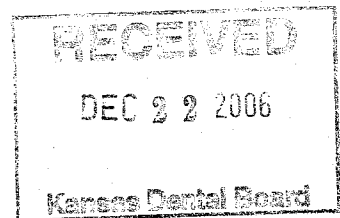

Joan M. Hoverman, DDS

11/30/06
Date

APPROVED BY:


Randall J. Forbes, P.A. #09089
FRIEDEN, HAYNES & FORBES
555 S. Kansas Avenue, Suite 303
Topeka, KS 66603
(785) 232-7266
FAX 232-5841
ATTORNEY FOR THE KANSAS DENTAL BOARD

12.20.06
Date



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KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
)
JOAN M. HOVERMAN, DDS)
License Number 60251)
_____)

Case No. 06-0742-61251

FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Dental Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board. The Respondent is ordered to refrain from performing any endodontic therapy until further order of the Board.

ENTERED AND EFFECTIVE this 9th day of February, 2007.

KANSAS DENTAL BOARD

By: *Sam M Callanan DDS*
President

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Kansas Dental Board

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND FINAL AGENCY ORDER was served by depositing same in the United States mail, postage prepaid, this 14th day of February, 2007, addressed to:

Randall J Forbes, P.A.
FRIEDEN & FORBES
555 S. Kansas Ave, Suite 303
Topeka, KS 66603

Joan Hoverman, DDS
3650 Woodlawn St., #721
Wichita, KS 67220

Steven A. Schwarm, Esq.
Polsinelli Shalton Welte Suelthaus PC
555 Kansas Ave, Suite 301
Topeka, KS 66603



Betty Wright
Executive Director
KANSAS DENTAL BOARD



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Joan Hoverman, DDS
Docket No.: 04-09-A-1071DE
Document: Final Order

Regarding your request for information about the above-named practitioner, certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Deputy Secretary, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

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I Certify that this is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office.

12th day of January, 2006
Asham Kitcher
Signature, Authorized Representative

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
DENTAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice)
as a Dentist of:)

JOAN HOVERMAN, D.D.S.,)
License No. DE00008165,)

Respondent.)

Docket No. 04-09-A-1071DE

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL ORDER

APPEARANCES:

Respondent, Joan Hoverman, D.D.S., by
Etter, McMahon, Lamberton & Clary, P.C., per
Stephen Lamberson, Attorney at Law

Department of Health Dental Program, by
The Office of the Attorney General, per
Cindy Gideon, Assistant Attorney General

COMMISSION PANEL: Russell B. Timms, D.D.S., Panel Chair
Fred Quarnstrom, D.D.S.
Bernard Nelson, Public Member

PRESIDING OFFICER: Lin O'Dell, Health Law Judge

The Dental Quality Assurance Commission (the Commission) convened a hearing on November 4, 2005 in Tumwater, Washington. The Department of Health issued a Statement of Charges alleging the Respondent had violated the Uniform Disciplinary Act. License Suspended.

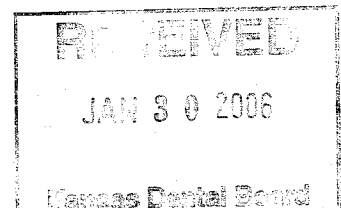
ISSUES

Did the Respondent's dental services fail to meet the accepted standard of endodontic practice of care for the state of Washington while performing open and broach procedures on three (3) patients?

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER

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If the Department proves unprofessional conduct, then what are the appropriate sanctions under RCW 18.130.160?

PROCEDURAL HISTORY

On December 1, 2004, the Department served upon the Respondent a Statement of Charges alleging unprofessional conduct in violation of RCW 18.130.180(4). The Respondent filed a request for a sixty (60) day extension to file her answer and was granted a forty-five (45) day extension. On January 31, 2005 the Respondent filed her answer requesting an opportunity for settlement and/or a hearing. The Respondent denied the allegations set forth in the Statement of Charges.

On January 31, 2005 the Respondent filed a motion to extend the dates to be set forth in the Scheduling Order and a Notice of Substitution of Counsel, naming Stephen Lamberson as counsel of record. The Adjudicative Service Unit issued a Scheduling Order/Notice of Hearing scheduling a prehearing conference for June 7, 2005 and the hearing for July 15-16, 2005.

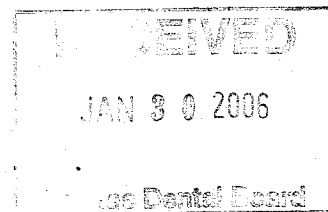
On March 30, 2005 the Department filed an Amended Statement of Charges. On April 18, 2005, the Respondent filed her answer denying the allegations set forth in the Amended Statement of Charges. The Adjudicative Service Unit issued a Scheduling Order/Notice of Hearing scheduling a prehearing conference for August 18, 2005 and the hearing for September 30-31, 2005.

During the prehearing conference, the Presiding Officer issued orders regarding various motions filed by the parties and issued evidentiary orders pertaining to the

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER

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hearing. A final continuance was entered on September 26, 2005 setting the hearing for November 4-5, 2005.

PROTECTIVE ORDERS

The Department moved for a protective order prohibiting release or disclosure of any patient medical information contained in the exhibits, pursuant to chapter 70.02 RCW. The Respondent moved for a protective order from disclosure of a letter, dated September 16, 2005, from J.E. Owens III, M.D. and filed on October 3, 2005. The Presiding Officer issued both protective orders by separate order.

SUMMARY OF EVIDENCE

The Department presented the telephonic testimony of Dr. Valerie Kellbach, D.D.S., Dr. Paul E. Lovdahl, D.D.S., M.S.D. and the Respondent. The Respondent presented the telephonic testimony of Dr. Gregory J. Kilbane, D.D.S. and Dr. Bradley L. DeCounter, D.D.S. The Respondent testified on her own behalf.

The Department presented four (4) exhibits which had been previously admitted at the prehearing conference. The parties stipulated to the Respondent's use of these same exhibits:

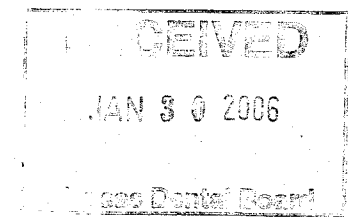
- Exhibit 1 Patient 2 treatment records and originals and copies of x-rays
- Exhibit 2 Patient 3 treatment records and originals and copies of x-rays
- Exhibit 3 Patient 4 treatment records and originals and copies of x-rays
- Exhibit 4 University of Minnesota transcript

Various additional exhibits were used as illustrative evidence throughout the hearing and were presented and admitted at the conclusion of the hearing:

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER

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- Exhibit 6 Six model teeth prepared by the Respondent
Exhibit 7 Five Diagrams of the teeth prepared by the Respondent
Exhibit 8 Photographs of the x-rays contained in Exhibit 1 & Exhibit 2

Exhibit 5 was duplicate Patient treatment and radiograph records and while admitted at the prehearing conference were not used at the hearing.

The original radiograph records of Patient #2, dated July [REDACTED] 2003 and July [REDACTED] 2003; of Patient #3, dated July [REDACTED] 2003 and July [REDACTED] 2003; and of Patient #4, dated July [REDACTED] 2003 and July [REDACTED] 2003 were available to the parties during the entire hearing.

I. FINDINGS OF FACT

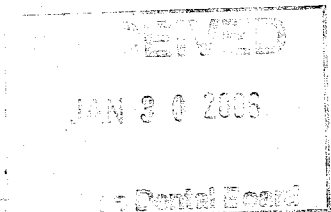
1.1 Joan M. Hoverman, D.D.S., (the Respondent) was issued a license to practice as a dentist by the state of Washington in June 1998.

1.2 The Respondent practiced at LaClinica Community Health Center, Pasco, Washington (LaClinica) in July 2003 while providing dental services to Patient #2, Patient #3 and Patient #4.

1.3 Patient #2. Patient #2 was first seen on June [REDACTED] 2003 for complaints of a broken tooth with no complaints of pain. A broken lingual cusp¹ on Tooth #19 was removed. On July [REDACTED] 2003 Patient #2 returned for complaints of pain in Tooth #19. The Respondent diagnosed fracture to the crestal bone level without perforation, old fractures throughout and decay amounting to irreversible pulpitis². She performed an open and broach procedure on July [REDACTED] 2003.

¹ Lingual cusp – Cone shaped elevation the surface of tooth facing the tongue.

² Pulp-The living tissue of a tooth.
Pulpitis- Inflammation of the pulp.



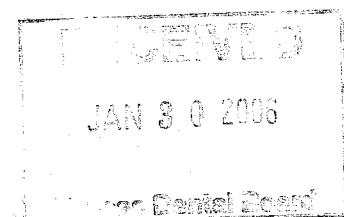
1.4 Dr. Paul E. Lovdahl, D.D.S., M.S.D. stated Patient #2 presented a routine case with a restorable tooth with no discernible fracture on x-rays dated July [REDACTED] 2003. Post-treatment x-rays on July [REDACTED] 2003 showed gross excavation well distal to where decay was seen on the x-ray and probable distal perforation of the tooth. He opined the Respondent performed excessive excavation of the tooth with poor prognoses for restoration. The Commission finds Dr. Lovdahl's testimony to be credible.

1.5 Dr. Bradley L. DeCounter, D.D.S. stated there was severe decay per x-ray. He saw no perforation post-treatment and believed the x-ray showed absence of tooth structure and not perforation. It was Dr. DeCounter's opinion the excavated openings in Patient 2's tooth appeared reasonable. The Commission found Dr. DeCounter identified gross decay on the x-rays when no evidence of such extensive decay was evident.

1.6 Chart notes dated July [REDACTED] 2003 indicate Dr. [REDACTED] saw the patient and explained to the patient the tooth had been perforated when the procedure was done on July [REDACTED] 2003 by the Respondent.

1.7 The Commission finds, after independent review of the exhibits, original x-rays and models, there was gross removal of unnecessary tooth structure and perforation of the tooth by the Respondent without radiographic evidence to support such large amount of tooth structure removal to access the pulp chamber.

1.8 Patient #3. Patient #3 came to LaClinica for emergency care of Tooth #19. The Respondent testified she presented with poor oral hygiene with decay



extending into the pulpal floor. The Respondent began preparation for a root canal by open and broach procedure on July [REDACTED] 2003.

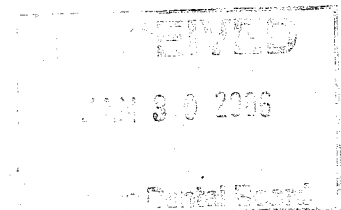
1.9 Dr. Lovdahl stated the initial x-rays of July [REDACTED] 2003 showed loss of a prior crown restoration with significant decay which might be lower than appeared on film. He saw no evidence of decay extending to pulpal chamber floor. The post-op films show the area from the pulp chamber to the furcation³ had been destroyed by over-extension of the access cavity. In Dr. Lovdahl's opinion the tooth had been perforated and must be extracted. The Commission finds Dr. Lovdahl's testimony to be credible.

1.10 Dr. DeCounter diagnosed severe decay from the initial x-ray with pulpal involvement and extending into the furca. He believed the tooth was non-restorable. The Commission found Dr. DeCounter identified gross decay on the x-rays when no evidence of such extensive decay was evident.

1.11 Chart notes on July [REDACTED] 2003 indicated Tooth #19 had been perforated into the furcation and was non-restorable. On July [REDACTED] 2003 the notes indicated the IRM temporary filling material was removed before extraction and examination showed the furcation had been drilled through as shown in the x-rays.

1.12 The Commission finds, after independent review of the exhibits, original x-rays and models, the access area was over-excavated by the Respondent. The furca of the tooth was perforated during this excavation and this perforation was unwarranted, avoidable and below the standard of care. The Respondent's chart notes did not

³ Furcation – Area where tooth splits into two or more separate roots.



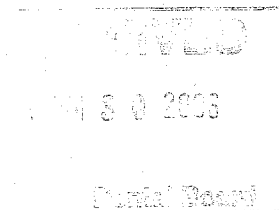
initially mention the perforation indicating the Respondent did not recognize she had perforated the tooth.

1.13 Patient #4. Patient #4 came to LaClinica for emergency care of Tooth #3 on July [REDACTED] 2003. She was thirty-six weeks pregnant. The Respondent diagnosed extensive decay and irreversible pulpitis due to caries. There was no perforation diagnosed. The Respondent prepared the tooth for a root canal by open and broach procedure.

1.14 Dr. Lovdahl examined the x-rays of July [REDACTED] 2003 and diagnosed gross coronal decay but believed the tooth below the crown appeared similar to other nearby teeth. He believed Tooth #3 was a restorable tooth. Dr. Lovdahl reviewed post-op x-rays of July [REDACTED] 2003 stating he saw a great deal of temporary filling extending below the level of crestal bone. In his opinion, the Respondent over-extended the excavation and perforated the furica. He also believed the Respondent's removal of tooth caused a mesial⁴ perforation with protruding filling material. The Commission finds Dr. Lovdahl's testimony to be credible.

1.15. Dr. DeCounter observing the same x-rays, saw very severe occlusive decay with a hollow shell and unsound tooth remaining. In his opinion, the Respondent properly removed necessary decay and did not perforate the tooth. The Commission found Dr. DeCounter identified gross decay on the x-rays when no evidence of such extensive decay was evident.

⁴ Mesial-Surface of tooth that faces towards median sagittal plane.



1.16 Chart notes dated July [REDACTED] 2003 indicate a complete post-op examination was done with mesial perforation noted through crown at bone level and questionable restorability at this time.

1.17 Initial x-rays show a large area of decay with a badly broken down but savable tooth. The Commission finds, after independent review of the exhibits, original x-rays and models, the Respondent over-excavated and perforated the tooth to the extent she removed all valuable tooth structure above bone level and left a severely compromised tooth.

II. CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over the Respondent's license and over the subject matter of this proceeding. RCW 18.25; RCW 18.130.

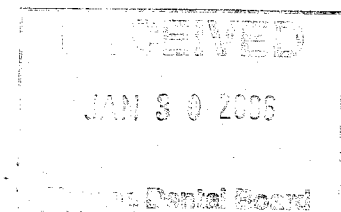
2.2 The Commission used its experience, technical competency and specialized knowledge to evaluate the evidence presented in this case. RCW 34.05.461.

2.3 The Washington Supreme Court held that the standard of proof in disciplinary proceedings against physicians before the Washington State Medical Quality Assurance Commission is proof by clear and convincing evidence. *Nguyen v. Department of Health*, 144 Wn.2d 516, 534, cert. denied, 535 U.S. 904 (2002). Division One of the Court of Appeals holds that the standard of proof determination requires a case-by-case due process analysis. See *Ongom v. Dept. of Health*, 124 Wn. App. 935 (Division One, 2005) cert. granted LEXIS 237 (September 7, 2005) (Registered Nursing Assistants); and *Eidson v. Department of Licensing*, 108 Wn. App. 712

FINDINGS OF FACT,
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(Division One, 2001) (Real Estate Appraisers). Division Two of the Court of Appeals holds that *Nguyen* applied to all professional disciplinary proceedings. See *Nims v. Washington Board of Registration*, 113 Wn. App. 499 (Division Two, 2002) (Registered Professional Engineers).

2.4 Despite the legal uncertainty regarding the standard of proof in disciplinary proceedings regarding professions other than [physicians and registered nursing assistants], the standard of proof in this proceeding remains preponderance of the evidence. WAC 246-11-520. However, recognizing that the standard of proof applicable to this proceeding may subsequently be determined to be clear and convincing evidence, the Commission shall evaluate the evidence in this matter under both the clear and convincing evidence standard, as well as the preponderance of the evidence standard.

2.5 The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed.

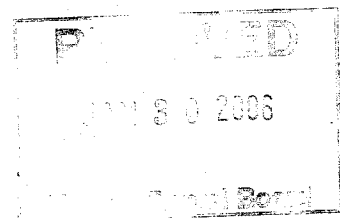
RCW 18.130.180(4).

2.6 Based upon Findings of Fact 1.3 through 1.17 above, the Commission concludes that the Department proved both by the preponderance of the evidence and by clear and convincing evidence that the Respondent violated RCW 18.130.180(4). This violation constitutes unprofessional conduct and is grounds for disciplinary action.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER

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Docket No. 04-09-A-1071DE



III. ORDER

Based on the foregoing, the Commission hereby issues in this case the following ORDERS:

3.1 The Respondent's License to practice as a dentist in the state of Washington shall be IMMEDIATELY SUSPENDED INDEFINITELY until the following conditions are complied with:

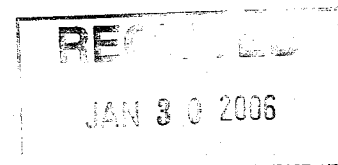
3.1.1 The Respondent shall undergo a skills assessment by an approved Dental Commission licensed practitioner 1) to evaluate the Respondent's skills; 2) make written recommendations regarding any necessary improvement to these skills; 3) recommend a remedial training plan with minimal sixty (60) hours training; and 4) assess subsequent quality of the Respondent's performance. The approved dental practitioner shall submit a written report to the commission regarding these issues and a complete final report regarding subsequent quality of the Respondent's performance.

3.1.2 Completion of eighty (80) hours remedial training supervised by Board certified endodontist emphasizing diagnosis, assessment of endodontic access and patient delivery of treatment and following the remedial training plan outlined above.

3.1.3 The supervising dentist must provide the Commission a written evaluation of the Respondent's skills and confirmation of successful completion of the course to:

Dental Quality Assurance Commission
Attention: Compliance Officer
P.O. Box 47867
Olympia, WA 98504-7867

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER



3.2 Upon receipt of the reports and evaluations contained in Section 3.1, the Commission shall review the materials and if Respondent meets a clinically acceptable level the suspension shall be lifted, however, the Respondent's license shall then be placed on PROBATION for a period of five (5) years. The period of probation shall begin with the Respondent's written request for the probationary period to begin.

3.3 During the first twenty-four months of probation or beginning when the Respondent begins practicing in the state of Washington, the Respondent shall permit the Department of Health to audit on an unannounced basis at least ten (10) patient records bi-annually.

3.4 If the Respondent leaves the state of Washington during the probationary period, the probationary period shall be tolled until the Respondent returns to the state of Washington.

3.5 The Respondent shall ensure that the Dental Commission has his current practice and residence addresses and telephone numbers. The Respondent shall notify the Dental Commission in writing of any address change within twenty (20) days after the change.

3.6 The Respondent shall be responsible and shall pay for any and all costs involved in his compliance with any and all conditions and terms in this Order.

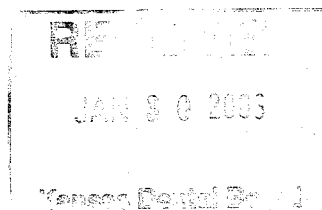
IV. FAILURE TO COMPLY

Protection of the public requires practice under the terms and conditions imposed in this order. Failure to comply with the terms and conditions of this order may result in suspension of the credential after a show cause hearing. If the Respondent fails to

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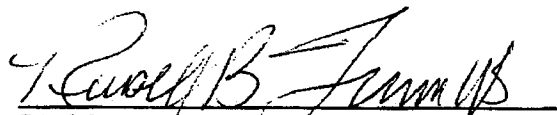
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comply with the terms and conditions of this order, the Commission may hold a hearing to require the Respondent to show cause why the credential should not be suspended. Alternatively, the Commission may bring additional charges of unprofessional conduct under RCW 18.130.180(9). In either case, the Respondent will be afforded notice and an opportunity for a hearing on the issue of non-compliance.

Dated this 14th Day of December, 2005.


RUSSELL B. TIMMS, D.D.S.
Panel Chair

CLERK'S SUMMARY

Charge	Action
RCW 18.130.180(4)	Violated

VI. NOTICE TO PARTIES

This Order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

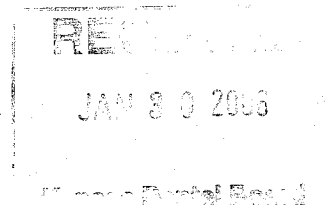
Either party may file a petition for reconsideration. RCW 34.05.461(3); 34.05.470. The petition must be filed within 10 days of service of this Order with:

Adjudicative Service Unit
P.O. Box 47879
Olympia, WA 98504-7879

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And a copy must be sent to:

Dental Quality Assurance Commission
P.O. Box 47867
Olympia, WA 98504-7867

The petition shall state the specific grounds upon which relief is requested. The petition for reconsideration shall not stay the effectiveness of this Final Order. The petition is deemed to have been denied within 20 days of the date of its filing, the Adjudicative Clerk Office has not disposed of acted on the petition or served written notice of the date by which action will be taken on the petition.

A petition for judicial review must be filed within 30 days after you have been served with this Final Order. RCW 34.05.542. The procedures are identified in Chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon resolution of that petition. RCW 34.05.470(3).

The order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Clerk Office. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States Mail. RCW 34.05.010(19).

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