

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF DENTAL EXAMINERS**

IN RE:)
SALLY BISHKO, D.D.S.) Docket No: 2010-215
License No. 016.0000847)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent, Dr. Sally A. Bishko, by and through counsel William A. O'Rourke, who stipulate and agree as follows:

Authority

1. The Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate complaints of unprofessional conduct against dentists pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809; the Administrative Rules of the Board of Dental Examiners; and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Respondent, Sally A. Bishko, is licensed as a dentist in the State of Vermont holding license number 016-0000847. This license was originally issued on or about July 15, 1981 and is currently set to expire on September 30, 2013.
3. At all times relevant, the Respondent was licensed and worked as a dentist from her office located in Montpelier, Vermont.
4. J.E. was a patient of the Respondent. J.E.'s last appointment with the Respondent was on or about March 4, 2009.
5. On or about March 4, 2009, J.E. had a scheduled appointment with the Respondent to have an Overdenture placed on four mandibular implants. The implants had been previously placed by another practitioner.
6. At the March 4, 2009 appointment, the lower implant Overdenture had too much retention according to patient, J.E. Dr. Bishko made adjustments, and then attempted to remove the lower Overdenture manually, but was unable to do so. The Respondent then cut the Overdenture and removed in four sections. This was the first time that the Respondent had ever attempted to place this type of

Overdenture. At this time the Respondent indicated to J.E. that the same mold could be used to make a new Overdenture. The Respondent later found out that using the same mold was not possible.

7. J.E. then called Respondent's offices twice, once in May, 2009 and once in August, 2009 in order to receive the necessary follow-up care, in particular the placement of the Overdenture. J.E. did not hear back from the Respondent until J.E. was ultimately able to connect with the Respondent's Offices in December, 2009. The Respondent took no interim measures to protect J.E.'s oral health after March, 2009. J.E. finally spoke with the Respondent in December, 2009 at which time the Respondent apologized; indicated that it was her first time doing this procedure; stated that she was not going to do this type of procedure again; and offered to reimburse J.E. for the Overdenture.
8. In an interview with Investigator Greg Kelly on January 26, 2011, the Respondent admitted that after March, 2009 she reviewed J.E.'s file several times a month as it was located in a special file containing complicated cases, but the Respondent never made an attempt to follow-up or contact J.E. The Respondent had no answer why she failed to contact and follow-up with J.E. other than to say that she just didn't know what to do.
9. When asked for her training and experience with these types of Overdentures, the Respondent cited the Overdenture company Technical Information Manual; personnel at the Overdenture company and dental laboratory; a seminar by the Overdenture company in Temporization Implants in or about 2006; and Vermont Dental Society seminars on dental implants in or about December, 2005 and February, 2006.
10. Based on the Facts as alleged above the Respondent committed unprofessional conduct because: 1) she did not have the appropriate training, education or experience to place the Overdenture; 2) the Respondent performed unsafe and unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing practice by not following up with J.E. soon after the March 4, 2009 dental appointment; and 3) the Respondent performed unsafe and unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing practice by not referring J.E. to a specialist or another practitioner who had the experience to rectify J.E.'s situation once the Respondent realized it was beyond her capacity to address.

Violations

11. The acts, omissions, and/or circumstances above constitute unprofessional conduct pursuant to:
 - a. 3 V.S.A. § 129a(b)(1) and (2) (failure to practice competently by reason of

any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care and (2) failure to conform to the essential standards of acceptable and prevailing practice);

- b. 3 V.S.A. § 129a(a)(3) (failure to comply with provisions of federal or state statutes or rules governing the practice of the profession); and
- c. 3 V.S.A. § 129a(a)(13) (Performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice).

Understandings

- 12. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.
- 13. Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
- 14. This Stipulation and Consent Order is entered into voluntarily by Respondent after the opportunity to consult with legal counsel. Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
- 15. Respondent is voluntarily waiving the right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
- 16. Respondent agrees that the State has sufficient evidence for the Board to find that Respondent has engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.
- 17. This Stipulation is neither an admission of liability by the Respondent, nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final agreement pursuant to this Stipulation and that the Board may impose the Consent Order set forth below. The Respondent does not admit to any of the alleged facts as outlined above, but does not contest that the State could prove some or all of them by a preponderance of the evidence if this matter went to a merits hearing.

WHEREFORE, the parties agree that the following constitutes a reasonable resolution given the above violations:

CONSENT ORDER

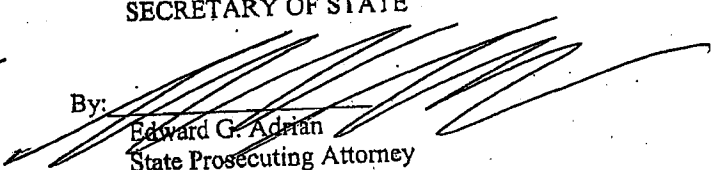
Based upon the above stipulation, it is **ORDERED AND ADJUDGED** as follows:

- A. Respondent's actions described above demonstrate grounds for discipline because the Respondent violated the state statutes outlines in paragraph 11 above.
- B. The Board of Dental Examiners hereby **PERMANENTLY CONDITIONS** Respondent's license as a dentist. The condition will commence with the date of entry of this Stipulation and Consent Order. The condition prohibits Respondent from performing implant supported overlays.
- C. The Board of Dental Examiners hereby **CONDITIONS** Respondent's license as a dentist. The condition will commence with the date of entry of this Stipulation and Consent Order. The condition is as follows:
 - 1. Respondent must complete 8 (eight) hours of continuing education in patient relations, including courses in communications and ethics, within 1 year of the date this CONSENT ORDER is approved by the Board.
- D. Respondent must pay a \$1500 administrative penalty within 1 (one) year of the date this CONSENT ORDER is approved by the Board.
- E. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- F. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 2/7/10

By: 

Edward G. Adrian
State Prosecuting Attorney

RESPONDENT
SALLY A. BISHKO

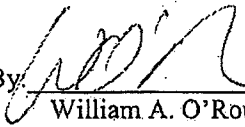
Dated: 16 Feb. 2012

By: Sally A. Bishko

Sally A. Bishko

APPROVED AS TO FORM:

By:


William A. O'Rourke, Esq.
Attorney for Respondent

SO ORDERED: VERMONT BOARD OF DENTAL EXAMINERS

Dated:

2/8/12

By:

 DDS
Chairperson

Date of Entry:

2/8/12

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