

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

IN RE:

DAVID FREDRIC GAGE, D.M.D.

License No. 016-0000500

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Docket No: 2010-303 (DE)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through Prosecuting Attorney, Edward G. Adrian, and Respondent, David Fredric Gage, D.M.D., who stipulate and agree as follows:

Board 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 ("RBDE"); and the Rules of the Office of Professional Regulation.

Facts

2. Respondent, David Fredric Gage, D.M.D., is licensed as a dentist by the State of Vermont under license number 016.0000500. This license was originally issued on or about January 20, 1971 and is currently set to expire September 30, 2011.
3. During all times relevant, the Respondent was practicing as a dentist out of offices in South Burlington, Vermont during the time period as indicated below.
4. Kathy Gage, is registered as a traditional dental assistant by the State of Vermont under registration number 014.0062049. Ms. Gage was registered on January 6, 2010 and the registration is set to expire on or about September 30, 2011.
5. On Ms. Gage's application for registration as a traditional assistant dated November 23, 2009, she indicated that she had been working for the Respondent since January 1, 1972. Ms. Gage completed a three day radiography course at the University of Vermont in June, 1991.
6. Investigator Jamie Palmisano interviewed Ms. Gage and Ms. Gage admitted that during

the course of working for the Respondent she took x-rays and assembled oral care plans. Investigator Palmisano also spoke with Sheri Gliman, an office manager who worked at the practice from February 2005 - November 2007. Ms. Gliman confirmed that Ms. Gage performed radiography services such as panoramic x-rays and other photographs and outlined care/treatment plans and dental charting. Ms. Gilman indicated that Ms. Gage would discuss preliminary treatment/care proposals and estimates, that were then discussed between Dr. Gage and the patient after Dr. Gage conducted a full examination and examined the radiographs. Dr. Gage would then change or adjust the preliminary proposals accordingly.

7. On or about March 30, 2010 the Respondent was interviewed by Investigator Palmisano. The Respondent admitted that Ms. Gage was responsible for new patient consultations; taking panoramic x-rays; and assisting with care/treatment plans.

8. In a letter to the Board dated December 29, 2009, Ms. Gage wrote "I understand a new dental assistant needing to be registered for 6 months before receiving a radiographic endorsement. In my situation, I have had a career in dental assisting and administration in dentistry for 37 years and have been taking x-rays since 1991, how do these rules make sense? I would appreciate the genuine use of common sense. My not being able to take xrays in our practice is a real hardship for us. Therefore, my request is that you waive the 6 month waiting period and allow me to get the radiographic endorsement as soon as possible."

9. From at least Late 2007 - December 2009 Ms. Gage performed professional responsibilities at David F. Gage, D.M.D., Ltd., & Associates as a dental assistant. During that time, Ms. Gage was not registered with the State of Vermont, Board of Dental Examiners as required by RBDE, Rule 3.1. It was the Respondent's responsibility to make sure Ms. Gage was registered at all times she practiced as a dental assistant or performed the duties typically performed by traditional dental assistants.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:

- i. RBDE, Rule 3.1 (A person is not allowed to practice in Vermont as a dentist, dental hygienist or dental assistant unless licensed or registered by the Board);
- ii. 3 V. S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- iii. RBDE, 7.6 (A traditional assistant who is not a graduate of a CODA accredited program may perform all extraoral duties in the dental office or dental clinic which are assigned by the dentist. During intraoral procedures, the traditional dental assistant may assist the dentist or clinical staff as assigned by the dentist. The traditional dental assistant may take radiographs under a special endorsement of the registration); and
- iv. RBDE, 3.3(a) (Each supervising dentist must inform each person hired to work in a dental office of the responsibilities and licensing and registration

requirements imposed by these rules and to ensure that all employees are properly licensed or registered. If there is no designated supervising dentist, every dentist in the practice shares this duty).

Understandings

11. 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.
12. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
13. This Stipulation and Consent Order is entered into voluntarily by the Respondent after the opportunity to consult with legal counsel. The Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
14. The Respondent is voluntarily waiving his right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
15. Respondent agrees that the Order set forth below may be entered by the Board.
16. The Respondent agrees to pay any and all costs associated with this Stipulation and Consent Order.
17. This stipulation includes the entire time period to the date of entry below wherein Kathy Gage was practicing as a dental assistant without being properly registered.

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:

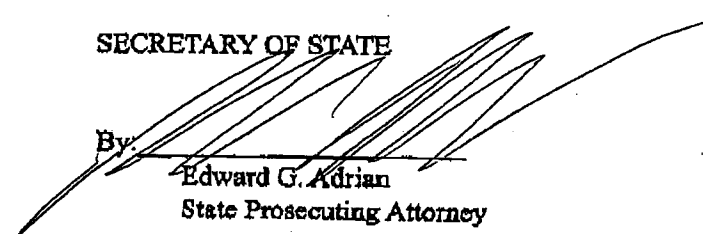
- A. The Board of Dental Examiners hereby imposes a REPRIMAND and an ADMINISTRATIVE PENALTY OF TWO THOUSAND and FIVE HUNDRED DOLLARS (\$2500.00) against the Respondent. This penalty shall be paid within sixty (60) days of the date of entry of this Order.
- B. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a).

C. This Stipulation and Consent Order will remain part of the 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: 3/4/11

By: 

Edward G. Adrian
State Prosecuting Attorney

DAVID FREDRICK GAGE
RESPONDENT

Dated: 3-4-2011

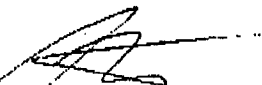
By: 

David Fredrick Gage, D.M.D.

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 3/4/11

By: 

Matthew M. Glitman, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL
EXAMINERS

Dated: 3/9/11

By: 

Chairperson

Date of Entry: 3/9/11