

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

IN RE:)
WILLIAM J. McDONALD, D.M.D.) Docket No.: 2012-252
License No. 016-0000689)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont and the Respondent, William J. McDonald, D.M.D. who hereby agree and stipulate as follows:

Board Authority

1. The Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate complaints of unprofessional conduct against dental assistants 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.

Stipulated Facts

2. The Respondent, William J. McDonald, is licensed as a dentist by the State of Vermont under license number 016-0000689. The Respondent was originally licensed on May 1, 1980 and the Respondent's license is currently set to expire on September 30, 2013. The Respondent's license was disciplined pursuant to a Stipulation and Consent Order entered into on December 12, 2003 in Docket Numbers DE41-0401, DE15-0202, DE16-0202 and DE24-0402. Attachment A1. The Respondent's license was disciplined pursuant to an Order of the Board in Docket Number DE11-1204 entered on July 15, 2005 Attachment B. The Respondent's license was disciplined pursuant to an Order of the Board in Docket Number DE06-0904 entered on June 26, 2006. Attachment C. The Respondent's license was disciplined pursuant to an Order of the Board in Docket Number DE02-0706 entered on September 26, 2007. Attachment D.

3. The Respondent practices as a dentist in Rutland, Vermont.

4. On or about April 6, 2012 the Respondent began a dental cleaning on minor M.J. The mother of M.J. reported that M.J.'s orthodontist recommended that she have a dental cleaning. M.J.'s mother was present in the treatment room during her daughter's dental cleaning. M.J.'s mother described M.J.'s treatment rendered by the Respondent including use of his gloved hand to move a garbage

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
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05620-3402

can out of the way of a cabinet door to retrieve some floss threaders and then proceed back to her daughter's mouth with the same gloves.

In a letter to the State's Investigator, the Respondent admitted moving the garbage can using the back of his wrist of his gloved hand and then stated "I did wash my gloved hands before returning to her daughter's mouth." Later in the same letter the Respondent confirmed this action: "As stated above, the gloved hands were washed following having touched the waste paper container." The washing of gloves, even on the same patient, is not consistent with the essential standards of acceptable and prevailing practice. Failure to conform to these standards constitutes a failure to practice competently.

Violations

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

- i. 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); and
- ii. 3 V.S.A. § 129a(b)(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 failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

1. 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.
2. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
3. 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.
4. 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.
5. Respondent agrees that the Order set forth below may be entered by the Board.

STATE OF VERMONT



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6. The Respondent agrees to pay any and all costs associated with this Stipulation and Consent Order.

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 **WARNS** the Respondent's license and imposes an **ADMINISTRATIVE PENALTY OF FIVE HUNDRED DOLLARS (\$500.00)** against the Respondent. This penalty shall be paid within sixty (60) days of the date of entry of this Order.

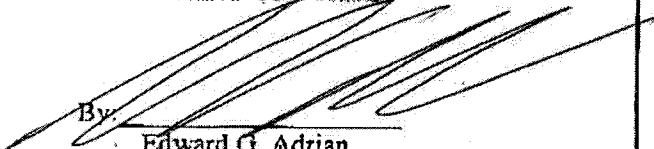
B. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

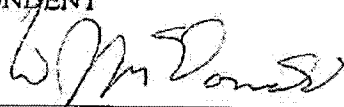
Dated: 9/3/13

By: 

Edward G. Adrian
State Prosecuting Attorney

WILLIAM J. McDONALD
RESPONDENT

Dated: 9-2-2013

By: 

William J. McDonald, D.M.D.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
85620-3402

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL
EXAMINERS

Dated: 9/11/13

By: *Allyn Vanni* EFDA
Chairperson

Date of Entry: 9/11/13

dc, McDonald.soc

STATE OF VERMONT



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VT Secretary of State
Office of Prof. Reg.
89 Main Street, 3rd Fl
Montpelier, VT 05602



State of Vermont
Secretary of State's Office
Office of Professional Regulation
Prosecuting Attorney

FACSIMILE TRANSMITTAL

TO: William McDonald

FROM: Ed Adrian

FAX: (802) 773-2335

PHONE: (802) 828-1217

DATE: 8/30/13

FAX: (802) 828-2389

PAGES: 4 + Cover

EMAIL eadrian@sec.state.vt.us

RE: In re William J. McDonald, Docket No. 2012-252

Dear Dr. McDonald:

Please find transmitted the State's Stipulation with the change that we discussed to the second paragraph under section 4. Please sign the stipulation and fax (or scan and email) it back to me.

Thank you
Ed Adrian

******CONFIDENTIAL******

The pages following this cover sheet may contain information, which is confidential or legally privileged. This information is intended only for the use of the individual or entity named on this cover sheet. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or taking any action in reliance of this facsimile information is strictly prohibited.

STATE OF VERMONT
BOARD OF DENTAL EXAMINERS

IN RE:	)	Docket Nos. DE41-0401
William J. McDonald	)	DE15-0202
License No.: 16-0689	)	DE16-0202
	)	DE24-0402

STIPULATION AND CONSENT ORDER

AUTHORITY OF THE BOARD

- 1) The Vermont Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by dentists and dental surgeons pursuant to 3 V.S.A. §§129, 129a and 814; 26 V.S.A. §§767 and 809; the Board's Administrative Rules and the Office of Professional Regulation's Rules.

STIPULATION AS TO FACTS

- 2) Respondent enters a plea of no contest. In so doing, he agrees that if this case were to proceed to hearing, the Board could find, based on the evidence, the following facts.
- 3) Respondent William J. McDonald, who has offices in Rutland and/or Woodstock, Vermont, is a dentist holding license number 16-0689, issued by the State of Vermont. By way of history, Respondent's license was originally issued on about May 1, 1980;
- 4) On about April 12, 2002, Respondent was treating patient "J.R." when she bit his finger and he reacted. Respondent did not adequately document the incident. J.R. has special needs.
- 5) On about October 17, 2000, Respondent treated patient "J.L.", including inserting upper dentures that J.L. complained did not fit correctly.
- 6) On about October 17, 2000, Respondent did not adequately chart the treatment described in the preceding paragraph.
- 7) At a time, or times, including about November 9, 2000, Respondent was verbally abusive to and/or yelled at patient "J.L."
- 8) On about August 30, 2000, Respondent performed restorative work on tooth #4

STATE OF VERMONT



Prosecuting Attorney
Office of
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Montpelier, VT 05602

Attachment A1

of patient "M.W." Respondent did so without taking, reviewing and/or documenting pre-treatment x-rays.

- 9) On about September 6, 2000, Respondent performed restorative work on M.W.'s tooth #5. Respondent did so without taking, reviewing and or documenting pre-treatment x-rays.
- 10) On about July 20, 2001, Respondent performed a reconstruction on tooth #10 of patient "J.W." Respondent did so without taking, reviewing and or documenting pre-treatment x-rays.

UNDERSTANDINGS

- 11) Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion the entire Stipulation and Consent Order shall be void.
- 12) Respondent has reviewed the entire document and agrees that it sets out the entire agreement of the parties, freely and voluntarily entered into.
- 13) Respondent waives any notification period and agrees to have this document reviewed by the Board during its next meeting. Respondent specifically waives any claim that presentation of this stipulation to the Board has prejudiced his right to a fair and impartial hearing should the Board reject this stipulation.
- 14) Respondent voluntarily waives his right to a contested hearing before the Board.
- 15) Respondent voluntarily waives his right to appeal the decision and order of the Board entered under this stipulation.

ORDER

- A) The Board adopts the facts as set out above and based on them it finds that Respondent has committed unprofessional conduct in violation of 26 V.S.A. §809(a)(12) (consistent use of unaccepted procedures which have a consistent detrimental effect upon patients).
- B) The Respondent's license is reprimanded.
- C) The Respondent's license is conditioned until the following conditions have been fulfilled:

STATE OF VERMONT



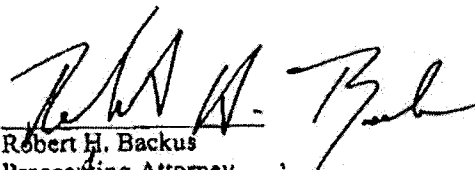
Prosecuting Attorney
Office of
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Montpelier, VT 05602

- a. Respondent has sixty days from the entry of this order to write letters of apology to J.R. and J.L. apologizing for making them feel uncomfortable while in his care.
- b. Respondent has sixty days from the entry of this order to submit to the Board the title of a course of at least three hours which addresses issues around dealing with special needs patients. The Board may approve or disapprove the course. If it disapproves that course it may either specify a course or give Respondent a second sixty days to find a course it approves of. If Respondent is unable to find an appropriate course within the sixty he may submit to the board the name of a course dealing in general with appropriate patient interaction along with details of his efforts to find a course. The Board will respond within sixty days either approving of the course or naming a specific course for Respondent to take.
- c. The course set out in paragraph b. must be completed within one year from the entry of this order.
- d. Respondent must enroll in and successfully complete the "Simulated Patient Treatment Clinical Exercise" as offered by NERB (North East Regional Board) at the next opportunity.
- e. Respondent is to make a treatment plan for all new patients and all existing patients without one. Treatment plans for existing patients shall be completed as needed for those patients and in conformity with the standards of the profession.
- f. All patients eligible for medicaid and medicare will be shown clearly what portion of the treatment plan will be paid by medicare or medicaid and what portion the patient will be liable for.
- g. Respondent shall, within sixty days of the entry of this order, submit to the Board the name of a dentist for the Board's approval. That dentist will review Respondent's records and practice as follows.
- h. Beginning ninety days from the entry of this order, but no less than thirty days after the Board approves a dentist under paragraph g., the Respondent shall supply to the dentist the files of ten new patients. The dentist will review the files to assure that proper treatment plans have been drawn up and patients have properly been informed of what medicare and medicaid will and will not cover in those plans. The dentist will make a report which shall be submitted to Respondent and to the Board. The dentist will include in the report recommendations (as needed) to assure that the treatment plans meet the standards of the profession and Respondent shall implement those recommendations.
- i. These reports shall continue to be made until eight reports have been made. The reports shall be made every quarter. Each report is due to the board no less than eighty days and no more than one hundred days after the previous report.
- j. Following the final report the Board has thirty days to review that report at which time, if all other requirements of this order have been met, the Board shall remove the conditions from the Respondent's license.

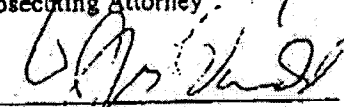
STATE OF VERMONT

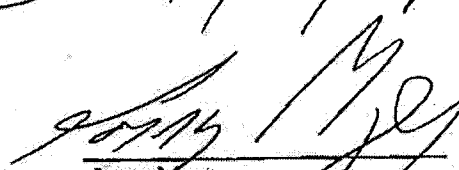


Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602


Robert H. Backus
Prosecuting Attorney

12/10/03


William McDonald
Respondent

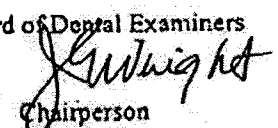

Larry Myer
Attorney for Respondent

APPROVED AND SO ORDERED:

Board of Dental Examiners

Dated: 12-10-03

by:


Chairperson

Date of entry: 12/12/03

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

In re: William J. McDonald, D.M.D.
License No. 016-0000689

}
}
}

Docket No. DE 11-1204

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Board Members Participating:

Thomas Opsahl D.M.D. Vice-Chair
Gertrude M. Hodge
Linda Retchin R.D.H.
Wesley Baker D.M.D.
Richard A. Dickinson D.D.S.
Raymond N. McCandless
Rena Katz Chernick R.D.H.

Appearances:

for Petitioner, State of Vermont: Robert H. Backus, Esq.
for Respondent: Joseph W. Kozlik, Esq.

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Dental Examiners held a hearing in the above matter on July 13, 2005 at 26 Terrace Street in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence. Dr. McDonald did not contest that he had violated the charge against him herein.

Background

The State alleged in its Specification of Charges that Dr. McDonald's license is currently under conditions pursuant to a Stipulation and Consent Order to which Dr. McDonald agreed and which was accepted by the Board on December 12, 2003. The order required that Dr. McDonald enroll and successfully complete the "Simulated Patient Treatment Clinical Exercise" as offered by NERB (North East Regional Board) "at the next opportunity."

The State further alleged that in July 2004 Dr. McDonald claimed a hardship and

Attachment B

therefore could not take the course. The Board at its August 11, 2004 meeting advised Dr. McDonald that he must take the examination. As of February, 2005 when the charge herein was filed, Dr. McDonald had yet to take the examination. The State alleged that Dr. McDonald failed to comply with the Board's order by not taking the examination. It requested that his license be disciplined.

Dr. McDonald's Answer admitted that he was subject to the Stipulation and Consent Order but denied that he claimed a hardship and could not take the course. He denied that he told a state investigator that he had missed the cut off date of October 31, 2004 by one week. Dr. McDonald's answer dated March 2, 2005 claimed that he was in complete compliance with the Stipulation.

On June 1, 2005 the State Amended its charges to add an allegation that Dr. McDonald had taken the required examination but received a failing score of 34 out of 100, that a passing score is 75 or better, and that Dr. McDonald, therefore had not "successfully" completed that examination.

On June 8, 2005 the parties submitted a Stipulation and Consent Order in which Dr. McDonald admitted he had failed to comply with an order of the Board. The parties agreed that the sanction for the violation would be a \$1,000.00 civil penalty. The Board rejected the Stipulation and Consent Order. The matter was continued for July 13, 2005 at which time Dr. McDonald was to appear with counsel. He did appear. The Board heard his testimony and received exhibits from him and from the State. The Board takes notice of its public records.

Findings of Fact

Based substantial evidence, the Board finds as follows:

1. This respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. § 809, 3 V.S.A. § 129(a).
2. On December 12, 2003 Dr. McDonald entered into an agreement entitled Stipulation and Consent Order in Docket Nos. DE 41-0401, DE15-0202, DE 16-0202, and DE24-0402 in which he admitted Unprofessional Conduct.
3. Dr. McDonald was represented by counsel at that proceeding.
4. Section (C)(d) of the order required Dr. McDonald to "enroll in and successfully complete the 'Simulated Patient Treatment Clinical Exercise' at the next opportunity."
5. The stipulated condition was felt to be reasonable and necessary given Dr. McDonald's stipulated unprofessional conduct. (inserting dentures that did not fit correctly, did not adequately chart treatment, verbally abusive and/or yelled at a patient, performing restorative work on a tooth without taking, reviewing and/or documenting pre-treatment x-rays, [3counts]).

6. In July 2004, seven months after entering the Stipulation and Consent Order, Dr. McDonald asked the Board to exempt him from the requirement of the examination. He argued that it would force him to close his office, cost him a substantial amount, and that because he did much of the work examined on a daily basis, the examination was not necessary.
7. Dr. McDonald came to Montpelier on August 11, 2004 to appear before the Board and ask that it strike the examination requirement. Among other things, he argued that the examination was not necessary because it tested the things he did almost daily in his practice.
8. At that August 11, 2004 meeting the Board determined that Dr. McDonald had not shown good cause to show that the Board should set aside provisions of the Stipulation. The Board denied Dr. McDonald's request. It issued an order to that effect which was mailed to him and his attorney on August 13, 2004.
9. Dr. McDonald mailed another letter dated October 6, 2004 to the Board (received October 11, 2004) again claiming hardship. "To be completely ingenuous, I am frightened by its cost." He contested the relationship between taking the examination and the unprofessional conduct he admitted to in his Stipulation and Consent Order. In the letter Dr. McDonald suggested that the Board review his treatment of patients.

Dr. McDonald also wrote in his October 6, 2004 letter, "When I received the stipulation I had but a few days to sign it. There was no possibility to learn of the details of the Simulated Clinical Exam from the Northeast Regional Board. *It was months before I received a packet of materials from them.*" (emphasis added).

11. Dr. McDonald missed the deadline to take the examination in October 2004. At the hearing Dr. McDonald blamed the receipt of the Board's October 26, 2004 response to his October 6 letter for missing the sign-up deadline.

Dr. McDonald offered no explanation of why he disregarded the Board's August 11, 2004 order and did not sign up for the Fall examination before the October deadline. His recitation of the chronology leading up to his missing the deadline to take the examination in October 2004 was less than persuasive.

13. Dr. McDonald did not take the examination at the "next opportunity" after the Stipulation and Consent Order was accepted by the Board.
14. Dr. McDonald has spent a significant amount of time and effort since July 2004 trying to convince the Board that he should not have to comply with the Stipulation to which he earlier agreed.

Dr. McDonald finally took the examination in April, 2005.

16. Dr. McDonald received a score of 34 out of 100, substantially below the line of 75 which is the lowest possible passing score on the examination.
17. Dr. McDonald explained to the Board the reasons he failed the exam, including a claim that he tried to obtain, but did not receive the preparation materials before the exam. (See quote from October 6, 2004 letter, above, indicating receipt of the materials from the examination providers.) Again, the Board finds Dr. McDonald's explanation less than persuasive.
18. Dr. McDonald did comply with the other conditions imposed upon him in the Stipulation and Consent Order.
19. Dr. McDonald testified that he has signed up to re-take the test on August 8, 2005.
20. Dr. McDonald admitted that he violated a Board Order by not taking the examination "at the next opportunity" after the December 2003 Stipulation was accepted by the Board.
21. Before December 2003 Dr. McDonald had two other disciplinary proceedings which resulted in findings of unprofessional conduct. One resulted in a suspension, the other a reprimand.

Conclusions of Law

Dr. McDonald violated the Stipulation and Consent Order of this Board. As of the date of this hearing has not "successfully completed the "Simulated Patient Treatment Clinical Exercise," the examination which tests the skills that Dr. McDonald said he used daily.

The order was adopted by the Board over a year and one half ago.

By his delaying tactics and blaming others Dr. McDonald has demonstrated a disregard for the Order to which he agreed to abide. At the hearing on July 13, 2005 Dr. McDonald still conveyed dismissive attitude about the examination requirement, though he said he would most certainly comply with it.

Compliance with Board orders is necessary for the proper function of the regulatory system. The public and licensees expect compliance. To protect the public health, safety and welfare the Board must require compliance with its orders. This goal must sometimes be achieved by use of the sanction of suspension.

For the Board to impose only a civil penalty in this case would diminish the seriousness of Dr. McDonald's conduct over the last 18 months. It would ignore Dr. McDonald's disciplinary history. A civil penalty alone would undermine the legitimacy and integrity of the Board regulatory process. For these reasons, the Board issues the following order:

Order

Dr. McDonald's license is hereby **Suspended** for 44 days. 30 of those days are held in abeyance as set forth below pending successful completion of the August examination.

14 consecutive days of the suspension shall be occur between the date of this order and September 1, 2005. Dr. McDonald shall inform the Board by August 21, 2005 the dates between which his suspension will occur.

Dr. McDonald shall execute a release so that the examination provider can inform the Prosecuting Attorney or the Board the results of his examination score.

The remaining 30 days of the suspension shall be "suspended" so long as Dr. McDonald passes the examination on August 8, 2005.

Examination Failure: If Dr. McDonald fails the August examination, the remaining 30 days of the suspension will go into effect 21 days from the date the scores are received by the prosecution, the Board or Dr. McDonald, which ever comes first. Dr. McDonald must within 48 hours of the beginning of the suspension surrender his license to the Board. If notice of a failing score comes to the prosecution or the Board first, the Board will convey notice of that fact to Doctor McDonald as soon as practicable.

If Dr. McDonald does not pass the August examination, The Board will reconvene this matter to determine what, if any, additional conditions may be necessary to protect the public health, safety, and welfare.

This decision does not preclude further disciplinary action on notice and opportunity to be heard for failure to comply with the Board's order.

Dr. McDonald is further ordered to pay to the State of Vermont a \$1,000.00 civil penalty. Payment shall be made within 90 days of this Order.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Dental Examiners.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in

the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. If a party wishes to request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Dental Examiners

By: Thomas Opsahl
Thomas Opsahl, Acting, Chair

Dated: 7/14/05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 7/15/05

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

IN RE:)
WILLIAM J. MCDONALD, D.M.D.) Docket No: DE11-1204
Registration No.: 016-0000689)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, William J. McDonald, D.M.D.:

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; and the Rules of the Office of Professional Regulation.

Facts

2. The Respondent, William J. McDonald, is licensed in the State of Vermont as a dentist under license number 016-0000689, which is currently set to expire on September 30, 2005.

3. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered by the Board of Dental Examiners on December 12, 2003. The Order requires, among other things, that the Respondent enroll in and successfully complete the "Simulated Patient Treatment Clinical Exercise" as offered by NERB (North East Regional Board) at the next opportunity. (See Attachment A).

4. In July 2004, the Respondent advised the Board that he had a hardship and could not take the course. The Board advised the Respondent on August 11, 2004 that he must take the course at the next session. The Respondent did not take the course.

5. On January 18, 2005, the Respondent advised State Investigator Brenda Tetrault that he applied to take the course and he missed the cut off date of October 31, 2004 by one week.

Charges

6. The above acts, omissions and/or circumstances constitute grounds for discipline because Respondent has committed unprofessional conduct

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

pursuant to:

- (i) 3 V.S.A. §129a(a)(4) (Failing to comply with an order of the board or violating any term or condition of a license restricted by the board).

Relief Requested

WHEREFORE, the Respondent's license should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 3rd day of February 2005

STATE OF VERMONT
SECRETARY OF STATE

By: Robert H. Backus
Robert H. Backus
State Prosecuting Attorney

dc.mcdonald.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

IN RE:	)	Docket Nos. DE41-0401
William J. McDonald	)	DE15-0202
License No.: 16-0689	)	DE16-0202
	)	DE24-0402

STIPULATION AND CONSENT ORDER

AUTHORITY OF THE BOARD

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STIPULATION AS TO FACTS

- 2) Respondent enters a plea of no contest. In so doing, he agrees that if this case were to proceed to hearing, the Board could find, based on the evidence, the following facts.
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- 4) On about April 12, 2002, Respondent was treating patient "J.R." when she bit his finger and he reacted. Respondent did not adequately document the incident. J.R. has special needs.
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- 6) On about October 17, 2000, Respondent did not adequately chart the treatment described in the preceding paragraph.
- 7) At a time, or times, including about November 9, 2000, Respondent was verbally abusive to and/or yelled at patient "J.L."
- 8) On about August 30, 2000, Respondent performed restorative work on tooth #4

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Attachment A

of patient "M.W." Respondent did so without taking, reviewing and/or documenting pre-treatment x-rays.

9) On about September 6, 2000, Respondent performed restorative work on M.W.'s tooth #5. Respondent did so without taking, reviewing and or documenting pre-treatment x-rays.

10) On about July 20, 2001, Respondent performed a reconstruction on tooth #10 of patient "J.W." Respondent did so without taking, reviewing and or documenting pre-treatment x-rays.

UNDERSTANDINGS

11) Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion the entire Stipulation and Consent Order shall be void.

12) Respondent has reviewed the entire document and agrees that it sets out the entire agreement of the parties, freely and voluntarily entered into.

13) Respondent waives any notification period and agrees to have this document reviewed by the Board during its next meeting. Respondent specifically waives any claim that presentation of this stipulation to the Board has prejudiced his right to a fair and impartial hearing should the Board reject this stipulation.

14) Respondent voluntarily waives his right to a contested hearing before the Board.

15) Respondent voluntarily waives his right to appeal the decision and order of the Board entered under this stipulation.

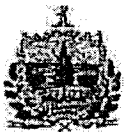
ORDER

A) The Board adopts the facts as set out above and based on them it finds that Respondent has committed unprofessional conduct in violation of 26 V.S.A. §809(a)(12) (consistent use of unaccepted procedures which have a consistent detrimental effect upon patients).

B) The Respondent's license is reprimanded.

C) The Respondent's license is conditioned until the following conditions have been fulfilled:

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

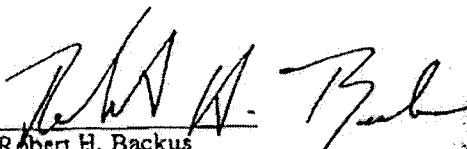
McDonald

- a. Respondent has sixty days from the entry of this order to write letters of apology to J.R. and J.L. apologizing for making them feel uncomfortable while in his care.
- b. Respondent has sixty days from the entry of this order to submit to the Board the title of a course of at least three hours which addresses issues around dealing with special needs patients. The Board may approve or disapprove the course. If it disapproves that course it may either specify a course or give Respondent a second sixty days to find a course it approves of. If Respondent is unable to find an appropriate course within the sixty he may submit to the board the name of a course dealing in general with appropriate patient interaction along with details of his efforts to find a course. The Board will respond within sixty days either approving of the course or naming a specific course for Respondent to take.
- c. The course set out in paragraph b. must be completed within one year from the entry of this order.
- d. Respondent must enroll in and successfully complete the "Simulated Patient Treatment Clinical Exercise" as offered by NERB (North East Regional Board) at the next opportunity.
- e. Respondent is to make a treatment plan for all new patients and all existing patients without one. Treatment plans for existing patients shall be completed as needed for those patients and in conformity with the standards of the profession.
- f. All patients eligible for medicaid and medicare will be shown clearly what portion of the treatment plan will be paid by medicare or medicaid and what portion the patient will be liable for.
- g. Respondent shall, within sixty days of the entry of this order, submit to the Board the name of a dentist for the Board's approval. That dentist will review Respondent's records and practice as follows.
- h. Beginning ninety days from the entry of this order, but no less than thirty days after the Board approves a dentist under paragraph g., the Respondent shall supply to the dentist the files of ten new patients. The dentist will review the files to assure that proper treatment plans have been drawn up and patients have properly been informed of what medicare and medicaid will and will not cover in those plans. The dentist will make a report which shall be submitted to Respondent and to the Board. The dentist will include in the report recommendations (as needed) to assure that the treatment plans meet the standards of the profession and Respondent shall implement those recommendations.
- i. These reports shall continue to be made until eight reports have been made. The reports shall be made every quarter. Each report is due to the board no less than eighty days and no more than one hundred days after the previous report.
- j. Following the final report the Board has thirty days to review that report at which time, if all other requirements of this order have been met, the Board shall remove the conditions from the Respondent's license.

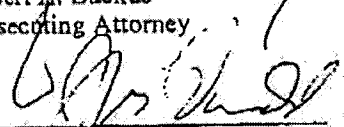
STATE OF VERMONT

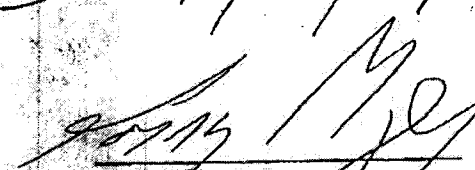


Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602


Robert H. Backus
Prosecuting Attorney

12/10/03

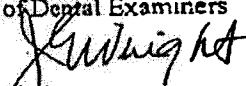

William McDonald
Respondent


Larry Myer
Attorney for Respondent

APPROVED AND SO ORDERED:

Board of Dental Examiners

Dated: 12-10-03

by: 
Chairperson

Date of entry: 12/12/03

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

In re: William J. McDonald
License No. 016-0000689

}
}

Docket No. DE06-0904

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Board Members Participating:

Thomas Opsahl D.M.D., Chair
Gertrude M. Hodge
Linda Retchin, R.D.H.
Raymond N. McCandless
Wesley Baker, D.M.D.
Rena Katz Chernick, R.D.H.
John Lavoie, D.D.S.

Appearances:

for Petitioner, State of Vermont: Robert H. Backus,
for Respondent: Pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Dental Examiners held a hearing in the above matter on June 14, 2006 at 26 Terrace Street in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The State alleges in its Specification of Charges that Dr. McDonald destroyed dental impressions when he should have retained them for seven years as it says he was required to by 3 V.S.A. § 129a(a)(9). The State alleges that failing to retain the impressions also violates 3 V.S.A. § 129a(a)(3)(violating state rules governing the practice), and 3 V.S.A. § 129a(b)(2)(failing to practice competently on a single occasion [by failing] to conform to the essential practice of the profession).

Findings of Fact

Attachment C

- Based upon the evidence presented, the Board finds as follows:
1. Dr. McDonald is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. §§ 767 and 809, 3 V.S.A. §§ 129 and 129(a).
 2. In August 2004 Dr. McDonald treated a patient, A.L. by taking dental impressions. From the impressions he created study models.
 3. The purpose of the study models was to determine if A.L.'s dental malocclusion problem was severe enough to qualify her for Vermont State insurance benefits for possible orthodontia.
 4. Dr. McDonald determined that A.L.'s problem would not qualify her for Vermont insurance benefits.
 5. Based on his testimony, it does appear that his evaluation of A.L.'s status was reasonable.
 6. Dr. McDonald did not send the model in for a Medicaid eligibility determination. He did not tell A.L.'s family that he had not submitted the study models for eligibility evaluation.
 7. A.L.'s father called Dr. McDonald's office about the eligibility claim. He spoke to a staff member. His tone was hostile and verbally aggressive. The father's manner and attitude on the phone upset Dr. McDonald's staff. Dr. McDonald assured his staff that the family would not be returning to his office.
 8. Dr. McDonald then told his staff to discard A.L.'s study models. He testified that he made that decision in anger, admitting that it was not the best way to handle the situation. His decision to discard the models was to ensure that the family would not return to his practice. It was an intentional act.
 9. Dr. McDonald could have told the family to pursue the Medicaid eligibility claim without his assistance if they did not agree with his personal evaluation. Dr. McDonald did not offer A.L.'s parents the option of preserving the study models in case they wanted them for a Medicaid submission for eligibility.
 10. A.L.'s parents later asked Dr. McDonald for the study models. His office informed the family that the study models had been discarded.
 11. The study models in this case were taken for the purpose of diagnoses and communication with the patient and possibly for sending to Medicaid for eligibility evaluation. It was part of the treatment planning process. The models may not have been necessary to determine what treatment A.L. would receive. Dr. McDonald testified that after a couple of weeks or a month the models would not have been usable for treatment because A.L.'s mouth could change in that short a period of time.
 12. Were another dentist were to treat A.L., even after only a couple of weeks, the study models in this case might not have been usable.
 13. When A.L.'s parents asked for the study models, Dr. McDonald, through a staff person offered that he would make another model, and send it to the State. He also proposed that if the State did not extend dental benefits to A.L., he (McDonald) would expect the parents to pay for this second set of models.
 14. Dr. McDonald does not keep all the study models created in his office. Ones which are used for specific treatment purposes are retained.
 15. Dr. McDonald questions whether these study models, made for a limited purpose, can even be considered "records."

Conclusions of Law

In this case we are reviewing a situation where information which may have been of value to a patient was intentionally discarded. In some circumstances study models may become, depending on the circumstances a client record which must be retained. In others, they might not.

What is troubling in this case is Dr. McDonald's ordering that the study models be discarded because of his reaction to the telephone call from AL's father. Had he simply retained the study models for some "cooling off time," he could have given it to AL's family for whatever purposes they might wish to put it. Those purposes may have included their own attempt at a Medicaid evaluation.

Dr. McDonald effectively terminated his professional relationship with A.L.'s family by his decision to discard the study models. He acted in anger and discarded the recently created study models, which he knew the patient's parents may have wanted for seeking further treatment or to follow up or to submit their own Medicaid eligibility claim. Instead of keeping the study models until cooler minds prevailed, Dr. McDonald prevented A.L.'s family from obtaining the study models they believed they were entitled to. Dr. McDonald's actions in this case do not meet the essential standards of acceptable and prevailing practice.

We conclude that the State has proved by a preponderance of the evidence that Dr. McDonald violated Count III. We conclude that such action constitutes a failure to conform to the essential standards of acceptable and prevailing practice." 3 V.S.A. § 129a(b)(2).

Order

In Court I the State charged that Dr. McDonald failed to retain client records by destroying the study models. Because we conclude that Dr. McDonald's precipitous discarding of the study models violated the essential standards of acceptable and prevailing practice, we decline to determine whether and under what circumstances a study model might be considered a "client record" which must be retained for purposes of 3 V.S.A. § 129a(a)(9). Count I is dismissed.

The State's charge in Count II that Dr. McDonald violated 3 V.S.A. § 129a(a)(3) by violating the record retention statute 3 V.S.A. § 129a(a)(9) is redundant. It does not set forth an independent violation. Count II is dismissed.

We see Count IV, failing to give A.L.'s parents the option of taking possession of the study models before they were discarded, as a minor variation included implicitly within Count III. Thus, we decline to make a separate finding of unprofessional conduct. Count IV is dismissed.

We conclude that Dr. McDonald did violate Count III, as set forth above, 3 V.S.A. § 129a(b)(2). For this violation the Board issues a **warning**. This disciplinary action is to be included in Dr. McDonald's license record.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Dental Examiners.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Dental Examiners

By: Thomas Opsahl DMD
Thomas Opsahl, D.M.D., Chair

Dated: 6/21/06

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/26/06

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

IN RE:)
WILLIAM J. McDONALD, D.M.D.) Docket No.: DE06-0904
License No. 016-0000689)

AMENDED SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, William J. McDonald, D.M.D.:

Board Authority

1. The Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate complaints of unprofessional conduct against dental assistants 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. The Respondent, William J. McDonald, is licensed as a dentist by the State of Vermont under license number 016-0000689. The Respondent was originally licensed on May 1, 1980 and the Respondent's license is currently set to expire on September 30, 2007.

3. The Respondent practices as a dentist in Rutland, Vermont.

4. Sometime in August, 2004, Respondent took impressions of patient A.L.'s teeth to ascertain whether her dental problem was severe enough to make her eligible for insurance benefits from the State of Vermont.

5. After deciding that A.L.'s dental problem was not severe enough to qualify for State insurance benefits, Respondent had the impressions of her teeth destroyed.

6. Respondent did not present A.L.'s parents with the option of covering the expenses of the dental care themselves before destroying the impressions. Respondent advised them that he would make a second cast of A.L.'s teeth and send it to the State for a determination, but if the State refused to extend the benefits, they would be expected to pay for the second cast in addition to the first which had been destroyed.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Charges

COUNT I

Respondent has committed unprofessional conduct by destroying the impressions without retaining them for seven years as required by 3 V.S.A. § 129a(a)(9) (Failing to retain client records for a period of seven years, unless laws of the profession allow for a shorter retention period).

COUNT II

By violating 3 V.S.A. §129a(a)(9) Respondent has failed "to comply with state ... rules governing the practice of the profession thus committing unprofessional conduct in violation of 3 V.S.A. §129a(a)(3).

COUNT III

By destroying the impressions without retaining them for seven years as required by 3 V.S.A. § 129a(a)(9) Respondent has failed "to practice competently on a single occasion ... (by failing) ... to conform to the essential practice of the profession", thus committing unprofessional conduct in violation of 3 V.S.A. §129a(b)(2), since an essential practice of the profession is to conform to the rules and statutes of the profession.

COUNT IV

By destroying the impressions without first offering A.L.'s parents the chance to obtain them Respondent has failed "to practice competently on a single occasion ... (by failing) ... to conform to the essential practice of the profession", thus committing unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Relief Requested

WHEREFORE, the Respondent's license should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this Friday, May 05, 2006

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

STATE OF VERMONT
SECRETARY OF STATE

By:

Robert H. Backus
Robert H. Backus
State Prosecuting Attorney

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

In re: William D. McDonald, D.M.D.
License No. 016-0000689

}
}
}

Docket No. DE 02-0706

**Decision on
UNPROFESSIONAL CONDUCT CHARGES**

Board Members Participating:

John Lavoie, D.D.S.
Gertrude M. Hodge
Linda Retchin, R.D.H.
Raymond N. McCandless
Wesley Baker, D.M.D.
Rena Katz Chernick, R.D.H.
Edward Pantzar, D.D.S.

Appearances:

for Petitioner, State of Vermont: Robert H. Backus,
for Respondent: pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Dental Examiners held a hearing in the above matter on September 12, 2007 at the Office of Professional Regulation hearing room at the National Life Building in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

Two separate complaints brought against Dr. McDonald were heard on September 12, 2007. Each is addressed in its own separate decision. In this case the prosecution alleges that Dr. McDonald, in the course of treating patient M.F. performed a restoration when a root canal was the appropriate treatment, billed incorrectly, failed to inform the patient about the fate of a tooth, failed to perform a distal restoration when it was needed, failed to tell the patient that a

Attachment D

distal restoration was needed, had the patient sign a promissory note prior to extracting a tooth, and performed a restoration after a pulpotomy without taking an x-ray.

Findings of Fact

Based upon the evidence presented, the Board finds as follows:

1. Dr. McDonald is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. §§ 767 and 809, 3 V.S.A. §§ 129 and 129(a), the rules of the Board of Dental Examiners and the Rules of the Office of Professional Regulation.
2. In September 2005 Dr. McDonald treated patient, M.F. She was a Medicaid patient. What treatment would be covered and how often she could receive treatment was limited by the program.
3. The patient was also seen by Dr. Steven Brenner.
4. On September 1, 2005 Dr. McDonald saw M.F. He took two films, and a conducted a limited exam. Dr. McDonald's treatment notes for that day indicate caries in teeth # 2, 18 and 19.
5. At that visit Dr. McDonald restored tooth #2 as M.F. requested.
6. On September 13, 2005 Dr. McDonald saw M.F. twice. On the first visit she reported pain and requested that her tooth #18 be extracted.
7. Dr. McDonald diagnosed that tooth #18 had pulpitis. He told M.F. that it might be saved with restorations.
8. Dr. McDonald recognized and warned M.F. that there was a risk that the restoration of tooth #18 would still fail. She decided to try to save the tooth if possible.
9. Dr. McDonald performed restorations on tooth #18 (MO) and also on tooth #19 (MOB).
10. The assertion that "An x-ray taken September 1, 2005 shows that tooth #18 could not have been saved without a root canal" is a clinical judgment, and not one we can find as a fact.
11. Unfortunately, Dr. McDonald's records are not explicit about what he told M.F.
12. While working on tooth #18 Dr. McDonald nicked the pulp. This is indicated in his notes. His notes do not specifically indicate that he informed M.F. that she would suffer pain from this nick. Immediately after the record entry about the nick and its treatment, Dr. McDonald wrote, "Discuss questions of pulpitis." This is one instance of specific documentation of what Dr. McDonald told his patient. This notation would commonly include mention of the implications of pulpitis, including possible pain. We find that Dr. McDonald did discuss that the tooth could be a problem for M.F., complete with pain.
13. Nothing in Dr. McDonald's records indicates he informed M.F. that she also needed a restoration on tooth #19 on the distal surface. Dr. McDonald testified he told her she needed further treatment. We cannot find that he did.
14. Dr. McDonald testified that whatever he writes in his notes is told to the patient so there is no need to write that "the patient was told...." Dr. McDonald's records do not thoroughly and specifically document what he told M.F.

15. Later that same day, September 13, 2005, M.F. returned and complained that the pain in that tooth #18 was "killing" her. Dr. McDonald told her she would have to have a root canal. Dr. McDonald refused to treat M.F. until she signed an agreement to pay Dr. McDonald. With no alternative to continuing in great pain, M.F. agreed to pay. The note in her chart says, "I promise to pay \$245 plus \$75 for treatment to tooth #18." Only then did Dr. McDonald extract the tooth. Dr. McDonald required M.F. to pay for both the restoration and for the extraction.
16. There was not enough time on September 13 for Dr. McDonald to perform a distal restoration on tooth #19. There is no evidence in M.F.'s notes that Dr. McDonald told her of the need for prompt follow up care.
17. Several months later, on February 22, 2006, M.F. returned to Dr. McDonald with an emergency complaint. He took an x-ray of tooth #19 and performed a restoration.
18. On March 23, 2006 Dr. McDonald performed a large restoration on tooth #14 without first taking a film.
19. We cannot specifically find that Dr. McDonald's conduct worsened M.F.'s dental condition.

Discussion

We note that our deliberations in this case were complicated by the errors in the factual allegations in the Specification of Charges and confusing charges. As in the other case decided this date, Dr. McDonald's record keeping is an important issue. Once again, Dr. McDonald's testimony revealed a picture different from the one painted by the Specification of Charges. As we said in the B.B. case,

"Dr. McDonald does not fully understand the *purposes* patient records serve. Some of the disputes in this case could have been avoided had Dr. McDonald's records been more thorough. They should stand by themselves as unambiguous documentation of what a patient is told. Patient records are indeed a reference for the dentist. They protect the dentist who documents clearly what patients are told. Succeeding medical providers use the records of a dentist who is no longer able to treat a patient. Records are required by licensing statutes to be retained for seven years so that they are available for review in cases like this."

In a case such as this one, where there is almost a total absence of entries in patient records about advice given to a patient, we find it difficult to find that advice was given.

Conclusions of Law

The prosecution alleges that Dr. McDonald's conduct violated two statutes, 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) and 3 V.S.A. § 129a(b)(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 failure to conform to the essential standards of acceptable and prevailing practice). No rule violations are alleged in the Specification of

Charges.

Each of the eight counts in the Specification of Charges is addressed below in correspondingly numbered paragraphs.

1) The State alleged in Count I, "By performing a restoration on tooth #18 when the tooth could only be saved by a root canal, Respondent has committed unprofessional conduct." Since we were unable to find as fact that only a root canal could save the tooth, we do not find unprofessional conduct.

2) Our findings about the decision to try to save tooth #18 show that Dr. McDonald's recommended course of treatment was reasonable. Billing for the course of treatment on September 13, 2005 is not unprofessional conduct.

3) Dr. McDonald did discuss the nick with M.F. and that it could cause her pain. We find no unprofessional conduct.

4) On September 13, 2005 M.F. appeared twice for an emergency appointment. The State does not specify at which appointment Dr. McDonald should have performed a distal restoration on Tooth #19. Neither appointment provided sufficient time for that procedure. The procedure did not need to be performed that day. There is no unprofessional conduct.

5) Dr. McDonald should have informed M.F. that tooth number #19 needed a restoration as soon as possible. There is no evidence in M.F.'s notes that Dr. McDonald told her of the need for prompt follow up care. This is unprofessional conduct.

6) The essential standards of the profession do not permit a dentist to require a patient in "killing" pain to sign a note promising payment as a condition to extracting a tooth. This is a matter of professional ethics. This is unprofessional conduct.

7) This count is a duplicate of Count 6.

8) Given the testimony, Count 8 is incomprehensible. We decline to find unprofessional conduct.

We conclude that the unprofessional conduct found in Counts 5 and 6 Dr. McDonald has violated 3 V.S.A. § 129a (b)(2).

Discussion

Dr. McDonald's history of unprofessional conduct leads us to consider to what extent he pays attention to the requirements of the dental profession. In the past he has been ordered to take continuing education (30 hours in 1997). He was issued a warning in 2006. He was ordered to

enroll in and successfully complete the "Simulated Patient Treatment Clinical Exercise," then later was suspended for 14 days in 2005 for failure to comply with that Order in a timely manner.

We note that Dr. McDonald ably represented his position in this case. The materials he submitted to the Office of Professional Regulation were well organized. He appears quite capable of meeting requirements - when he must. Dr. McDonald presented the Board with an impressive listing of continuing education courses. He expressed an interest in becoming a fellow in the American Academy of General Dentistry. Despite his educational efforts, the unprofessional conduct in this case reflects a misunderstanding of the importance of patient records. It is ironic that the unprofessional conduct found in Count 6 was perfectly recorded in M.F.'s chart. Dr. McDonald's history and the facts found in this case suggest that he can sometimes be impetuous. His attitude may generate more trouble for him than anything else.

In arriving at an appropriate sanction in this case, we consider the gravity of the unprofessional conduct, Dr. McDonald's history, and what it will take to promote compliance with professional standards. All of that is balanced by our duty to protect the public health, safety and welfare.

Order

- 1) For violation of Count 5, Dr. McDonald shall pay a civil penalty of \$1,000.00 by March 1, 2008.
- 2) For violation of Count 6, Dr. McDonald shall pay a civil penalty of \$1,000.00 by March 1, 2008.
- 3) Dr. McDonald shall successfully complete a course, pre-approved by the Board on record keeping no later than June 1, 2008.
- 4) Dr. McDonald shall successfully complete a course, pre-approved by the Board on ethics no later than June 1, 2008.
- 5) Dr. McDonald shall successfully complete a course, pre-approved by the Board, covering appropriate use of x-rays.
- 6) A 90 day suspension of Dr. McDonald's license will be "suspended" so long as he complies with this Order. The Board may, after notice and hearing, take further action should other violations of the statutes and rules occur.

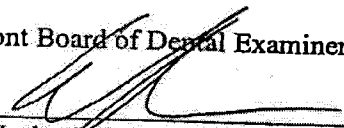
APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Dental Examiners.

A party aggrieved by a final decision of the Board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Bldg., North, FL2, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the Board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a. To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Dental Examiners

By: 
Wesley Baker, D.M.D., Acting Chair

Dated: September 24, 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/26/07

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

In re: William D. McDonald, D.M.D.
License No. 016-0000689

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}
}

Docket No. DE 02-0706

Amended Order

By motion dated September 26, 2007 the State requested that the Board set a deadline of six months for compliance with the requirement that Dr. McDonald successfully complete an x-ray course.

The State's request that we set a deadline is reasonable. Paragraph 5 of the Order is amended to read as follows:

5) Dr. McDonald shall successfully complete a course, pre-approved by the Board, covering appropriate use of x-rays. The course is to be completed no later than April 1, 2008.

Vermont Board of Dental Examiners

By: _____

Wesley Baker, D.M.D.

Dated: October 15, 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/15/07



State of Vermont
Office of the Secretary of State

[phone] 802-828-1505
[fax] 802-828-2465
www.sec.state.vt.us

James C. Condos, Secretary of State
Brian H. Leven, Deputy Secretary

Office of Professional Regulation
National Life Bldg., North FL2
Montpelier, VT 05620-3402

Christopher D. Winters, Director

Vermont Board of Dental Examiners

In re: William J. McDonald

License Number: 016.0000689

Docket Number: M2011-89 (2006-53)

Order to Remove Conditions

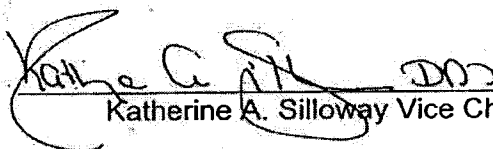
On March 14, 2012, the Vermont Board of Dental Examiners considered William J. McDonald's request for Reinstatement of his license. The Investigative Team recommended reinstatement. The State did not object to the reinstatement.

The Board found that William J. McDonald has taken the necessary steps to allow him to safely return to practice.

The Board voted to reinstate William J. McDonald's license to practice as a Dentist fully and without conditions.

So Ordered.

Vermont Board of Dental Examiners


Katherine A. Silloway Vice Chair

Date: March 14, 2012

Date of Entry:

3, 15, 12

 VERMONT