

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

IN RE: FRED W. SALVATORIELLO, DMD)
License No. 016-0001165)

Docket No. DE24-0406

STIPULATION AND CONSENT ORDER

STIPULATION

1. The Vermont Board of Dental Examiners (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by dentists pursuant to 3 V.S.A. §§ 129, 129a, 26 V.S.A. §§ 767 and 809, and the Administrative rules of the Board and the Vermont Office of Professional Regulation.
2. The Respondent Fred W. Salvatoriello (hereinafter "Respondent") is licensed in the State of Vermont as a Dentist under license number 016-0001165. The Respondent's license was originally issued on or about August 14, 1991 and is currently set to expire on September 30, 2009.
3. The Respondent is currently 62 years of age and as part of this agreement is planning to stop practicing dentistry in the State of Vermont and to voluntarily and permanently surrender his license to practice dentistry in Vermont as a term of this Stipulation.
4. An Amended Specification of Charges in the above referenced docket is filed herewith. See Attachment A. Respondent denies all charges. A previous Specification of Charges was filed against Respondent on June 30, 2008, a portion of which was dismissed pursuant to the attached Amended Specification of Charges. Respondent denies all charges in the June 30, 2008 Specification of Charges as well.

UNDERSTANDING

5. The Respondent and the State agree that this Stipulation is final and binding.
6. 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.
7. However, to avoid delay, uncertainty, inconvenience, and the expense of protracted litigation of the charges, the Parties have agreed not to litigate the validity of the State's charges, and the Parties have reached a full and final Stipulation pursuant to these Understandings and the Order below.

STATE OF VERMONT



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

8. Respondent understands that the Board must review and accept the terms of this Stipulation and Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
9. Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced his right to a fair and impartial hearing in any future hearing if this agreement is not accepted by the Board.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the Parties.
11. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation. The Respondent's mental capacity is not diminished in any way at the time he signs this Stipulation.
12. Respondent voluntarily enters into this Stipulation after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation.
13. The Parties agree that, notwithstanding any statutory provision to the contrary, this Stipulation and Consent Order, along with the Amended Specification of Charges attached hereto, are matters of public record and may be disclosed pursuant to the procedures outlined under 1 V.S.A. §§ 316 and 317.
14. Moreover, the Parties specifically agree that this Stipulation and Consent Order, with attached Specification of Charges, will be posted on the Vermont Office of Professional Regulation's (hereinafter "OPR") website as well as reported to the national Healthcare Integrity and Protection Data Bank (hereinafter "HIPDB").
15. Since Respondent is agreeing to stop practicing dentistry in Vermont and to voluntarily and permanently surrender his license to do so, and due to the age of the charges involved and in the interests of justice, the Parties agree that the Board may enter the following Order:

ORDER

16. Effective December 31, 2008, Respondent agrees to **voluntarily surrender** his license to practice dentistry in the State of Vermont, said license number being 016-0001165. Respondent further agrees that OPR shall indicate on its list of licensed dentists that Respondent's license was **voluntarily surrendered** as of December 31, 2008.
17. Respondent agrees never to seek reactivation, reinstatement or renewal of his license to practice dentistry in the State of Vermont and agrees never to apply in the future for any dental or related professional license in the State of Vermont.

STATE OF VERMONT



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

18. Respondent agrees that if he attempts to seek reactivation, reinstatement or renewal of his dental license in the State of Vermont or attempts to apply for any other dental related professional license that said application will be automatically denied pursuant to this Stipulation and Consent Order.
19. Respondent agrees to waive all rights of appeal of this Stipulation and Consent Order.
20. In consideration for the entering into this Stipulation and the Understanding outlined above, the State agrees to **dismiss with prejudice** the Amended Specification of Charges attached hereto. Said dismissal shall be executed only after the Board has agreed to and signed this Stipulation and Consent Order.
21. Notwithstanding any statutory provision to the contrary, this Stipulation and Consent Order is a matter of public record and may be disclosed pursuant to the procedures outlined under 1 V.S.A. §§ 316 and 317.
22. This Stipulation and Consent Order will remain part of Respondent's licensing file in the State of Vermont and may be used for the purposes outlined above and for any other purpose allowed by law.
23. It is the intent of the Parties that this Stipulation and Consent Order, if accepted by the Board, should be construed as a contractual resolution of all disputed matters.

AGREED TO:

Dated: 10/28/08

FRED W. SALVATORIELLO, DMD
RESPONDENT

By: [Signature]
Fred W. Salvatoriello, DMD

Dated: 10/30/08

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Gregg Meyer
State Prosecuting Attorney

Approved as to form:

By: [Signature]
Sean M. Gorman, Esq.
Sheehan, Phinney, Bass + Green PA
Attorneys for Respondent

10/28/08

APPROVED AND SO ORDERED:

Dated: 11/12/04

Date of Entry: 11/13/04

BOARD OF DENTAL EXAMINERS

By: [Signature], D.D.S.

STATE OF VERMONT



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

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

IN RE:

FRED W. SALVATORIELLO, D.M.D.)

License No.: 016-0001165)

Docket No.: DE24-0406

AMENDED SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following charges against Respondent, Fred. W. Salvatoriello, 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.

General Facts

2. The Respondent, Fred W. Salvatoriello, is licensed as a dentist by the State of Vermont under license number 016-0001165. The Respondent was originally licensed on August 14, 1991 and the Respondent's license is currently set to expire on September 30, 2009.
3. The Respondent maintains orthodontic dental practices in Vermont in the towns of Woodstock and Springfield.
4. This is an Amended Specification of Charges. By virtue of this document, the original Specification of Charges in this docket and dockets DE08-1206 and DE10-0107 dated June 30, 2008 is hereby dismissed by the State and replaced by the charges referenced below. (Docket No. DE12-1203 was previously dismissed by the State.)

CHARGES

Patient N.C.

5. On or about April 29, 2003 Respondent saw patient N.C., (D.O.B. November 12, 1994).
6. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs and a model.

STATE OF VERMONT



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

7. As part of his treatment of N.C. Respondent submitted a "Comprehensive Orthodontic Authorization Request" to the Medicaid Division of the Department of Social Welfare. This Request was submitted on or about April 29, 2003.

8. On the Request Respondent reported an overjet of 7+ mm. An examination of the model shows that the overjet was only 3.5 mm.

9. Also on the Request Respondent reported an Angle Class II¹ malocclusion. Examination of the model shows clearly that the patient had an Angle Class I malocclusion.

10. Respondent prescribed a space maintainer for N.C. for both the mandibular and maxillary arches. The maintainer for the maxillary arch was not needed.

11. By reporting to Medicaid an overjet of 7+ mm when the actual overjet was 3.5 mm and reporting a diagnosis of an Angle Class II malocclusion when the actual malocclusion was Angle Class I, Respondent engaged in unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records); and 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

12. By prescribing an unneeded space maintainer for the maxillary arch Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient J.P.

13. J.P. was Respondent's patient from approximately May 28, 2002 through June 10, 2005.

14. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of five Polaroid photographs and a model.

15. Respondent diagnosed J.P. as having an Angle Class II malocclusion. J.P. actually had an Angle Class I malocclusion.

¹ Named after Edward Hartley Angle, one of the founders of modern Orthodontics, who defined the classes of malocclusions in 1902.

STATE OF VERMONT



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

16. Respondent prescribed what he denoted as a "functional space maintainer" for each arch. This term is not a recognized term of art within the practice of orthodontics.
17. The "functional space maintainer" could not treat J.P.'s problems, as space maintenance was not an issue since there were no space deficiencies in either arch.
18. The only treatment for J.P.'s malocclusion would have involved fixed braces and not the treatment plan pursued by Respondent.
19. For each of diagnosing an Angle Class II malocclusion when the proper diagnosis was an Angle Class II malocclusion, for prescribing the "functional space maintainer" when it could not meet J.P.'s needs, and for not prescribing or diagnosing the need for fixed braces for J.P. Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient B.L.

20. B.L. was Respondent's patient from approximately October 29, 2002 to November 7, 2003.
21. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs and a model.
22. Respondent ordered what he described as a "maxillary bilateral space maintainer." This appliance was not needed and performed no useful function for B.L..
23. Proper care would have involved waiting until B.L.'s adult canines were in before deciding on a treatment plan.
24. By prescribing an appliance for B.L. that was not appropriate and for designing a treatment plan prematurely for B.L., Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient E.L.

25. E.L. was Respondent's patient from approximately November 9, 2001 to August 24, 2004.

STATE OF VERMONT



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

26. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs and a model.

27. Respondent submitted a request to Medicaid for approval to provide E.L. with interceptive treatment. Interceptive treatment requires the presence of two minor or one major "Diagnostic Treatment Criteria" as defined by Medicaid. Approval was given. E.L. met none of the criteria.

28. By submitting a request for Medicaid indicating appropriate diagnostic criteria were met, Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records).

29. In the alternative, by misdiagnosing E.L., Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient L.S.

30. L.S. was Respondent's patient from approximately December 6, 2002 to January 16, 2004.

31. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs and a model.

32. On July 8, 2003, Respondent filed an "Interceptive Orthodontic Authorization Request" form with the Medicaid Division of the Department of Social Welfare. Under the section "Diagnostic Treatment Criteria" and "Minor Criteria," Respondent checked "2 Blocked bicuspid per arch (deficient by at least 1/3 of needed space)." In fact, these criteria were not met.

33. By submitting a request for Medicaid payment indicating appropriate diagnostic criteria were met, Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records).

34. In the alternative, by misdiagnosing his patient Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance

STATE OF VERMONT



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

of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice)

Patient J.W.

35. J.W. was Respondent's patient from approximately April 2003 to August 2006.
36. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs and models.
37. As part of J.W.'s treatment, Respondent prescribed what he described as a "bilateral removable space maintainer." This device gave little or no benefit to J.W.
38. For prescribing an appliance for J.W. that was not appropriate, Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient M.M.

39. M.M. was Respondent's patient from approximately February 6, 2002 to February 27, 2003.
40. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of three Polaroid photographs and a model.
41. In connection with his treatment of M.M., Respondent filed a "Comprehensive Orthodontic Authorization Request" with the Medicaid Division of the Department of Social Services, on or about July 30, 2002. In that request, Respondent stated that M.M. had a 10⁺ mm overjet and a "(t)raumatic deep bite impinging on palate." Examination of Respondent's model reveals that the overbite was only 9mm and that there was no "traumatic deep bite."
42. According to Respondent, "a maxillary bilateral space maintainer" was constructed for M.M. At the time M.M. initially presented for treatment, time was of the essence to resolve her malocclusion and the so called "bilateral space maintainer" was utterly insufficient to address the complexity of M.M.'s dental and skeletal malocclusion. Respondent's approach created a grave risk of exacerbating M.M.'s problems.
43. By submitting a request for Medicaid payment indicating appropriate diagnostic criteria were met when they were not Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records).

STATE OF VERMONT



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

44. In the alternative, by misdiagnosing his patient Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

45. For prescribing an appliance for M.M. that was utterly insufficient to meet her needs when time was of the essence, Respondent committed unprofessional conduct in violation of 26 V.S.A. §809(14) (in the course of practice, gross failure to use and exercise on a particular occasion ... that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent dentist or dental hygienist engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred and whether or not committed within or without the state) and 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient S.K.

46. S.K. was Respondent's patient from approximately September 3, 2002 to November 16, 2004.

47. Respondent's file included an x-ray of the head, a panoramic x-ray, and two sets of Polaroid photographs, one of four and the other of three, and models.

48. S.K.'s date of birth is May 1, 1992. In connection with S.K. Respondent submitted an "Interceptive Orthodontic Authorization Request" dated October 7, 2002. Later, Respondent submitted an undated "Limited Orthodontic Treatment Prior Authorization Request Form" and an undated "Comprehensive Orthodontic Treatment Prior Authorization Request Form." All three forms were submitted to the Medicaid Division of the Department of Social Welfare. In the two later forms, S.K. is listed as 12 years old. In each form Respondent stated that S.K. had 10⁺mm of crowding plus blocked bicuspid. Review of Respondent's models and x-rays shows these conditions did not exist. However, these diagnoses were criteria for Medicaid funding of Respondent's work on S.K.

49. In the form dated October 7, 2002 as well as on one of the undated forms submitted to Medicaid, Respondent listed the proposed treatment as constructing a functional appliance for the upper and lower arches. However, the appliance actually delivered to S.K. was not a functional appliance.

50. S.K. had an impacted canine. This was neither diagnosed nor treated by Respondent.

STATE OF VERMONT



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

51. The appliance Respondent prescribed for S.K. had no beneficial effect.

52. For each request submitted to Medicaid that S.K. had 10⁺mm of crowding blocked bicuspid when he did not Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records).

53. In the alternative, by misdiagnosing his patient Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

54. By prescribing an appliance for S.K. that had no beneficial effect Respondent committed unprofessional conduct in violation of V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

55. By failing to diagnose and/or treat the impacted canine Respondent committed unprofessional conduct in violation of V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient C.S.

56. C.S. was Respondent's patient from approximately January 20, 2004 to October 19, 2004.

57. Respondent's file included an x-ray of the head, a panoramic x-ray, and a set of four Polaroid photographs, and a model.

58. In connection with his treatment of C.S. Respondent submitted a diagnostic form to the Medicaid Division of the Department of Social Welfare. On that form Respondent diagnosed C.S. as meeting four minor criteria (two criteria are required for approval). Respondent stated that C.S. had an overbite of 8⁺mm when the overbite was only 2mm. Respondent also stated that C.S. had three congenitally missing teeth per arch when she did not.

STATE OF VERMONT



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

59. Respondent prescribed a space maintainer for C.S.. Instead, she needed fixed appliances. The space maintainer was not useful to her.

60. By submitting a request for Medicaid payment stating C.S. had an overbite of 8⁺mm when the overbite was only 2mm that C.S. had three congenitally missing teeth per arch when she did not, Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records).

61. In the alternative, by misdiagnosing his patient Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

62. By prescribing a space maintainer for C.S. when she needed fixed appliances Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient L.N.

63. L.N. was Respondent's patient from approximately January 28, 2003 to September 3, 2003.

64. Respondent's file included an x-ray of the head, a panoramic x-ray, a set of four Polaroid photographs, and a model.

65. Sometime prior to September 8, 2003 Respondent submitted a "Comprehensive Orthodontic Authorization Request" to the Medicaid Division of the Department of Social Welfare. Under "Diagnostic Treatment Criteria", "Minor Criteria" Respondent checked that L.N. met four of the criteria for funding (2 minor criteria are required); 2 blocked bicuspid per arch; crowding per arch 10⁺mm; traumatic deep bite impinging on palate; and, overjet of 8⁺mm. In fact L.N. presented with none of these criteria.

66. Respondent prescribed space maintainer for L.N.. L.N. needed comprehensive orthodontic treatment to create space for a blocked canine. The space maintainer was incapable of meeting that need.

67. By prescribing a space maintainer for C.S. when she needed comprehensive orthodontic treatment Respondent has committed unprofessional conduct in violation of 3

STATE OF VERMONT



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

V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

68. By submitting a request for Medicaid payment indicating that appropriate diagnostic criteria were met when they were not Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records), or, in the alternative, by misdiagnosing his patient Respondent violated 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Patient K.D.

69. K.D. was Respondent's patient from approximately September 17, 2007 to July 29, 2003.

70. Respondent prescribed a mandibular space maintainer for K.D.. K.D. had no need for this device.

71. By prescribing a space maintainer for K.D. when K.D. did not need it Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

General Charge

72. The facts above, whether established *in toto* or only partially as to two or more patients, demonstrate that Respondent has committed unprofessional conduct in violation of 26 V.S.A. §809(14) (in the course of practice ... the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent dentist or dental hygienist engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred and whether or not committed within or without the state).

STATE OF VERMONT



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

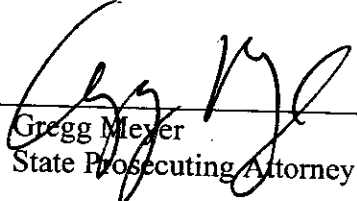
Relief Requested

WHEREFORE, the license of Fred W. Salvatoriello should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

^{12th}
~~27~~ ^{November} DATED at Montpelier, Vermont this day of October, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: _____


Gregg Meyer
State Prosecuting Attorney

salvatoriello revised soc - final.doc

STATE OF VERMONT



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