

**STATE OF VERMONT
SECRETARY OF STATE
BOARD OF DENTAL EXAMINERS**

IN RE:)
RICHARD C. WOLLENSAK, D.D.S.) Docket No: 2008-255 (DE)
License No. 016-0001065)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through Prosecuting Attorney, Edward G. Adrian, and Respondent, Richard C. Wollensak, D.D.S., who stipulate and agree as follows:

Board Authority

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

Facts

- 2) Respondent, Richard Wollensak, is licensed as a dentist in the State of Vermont holding license number 016-0001065. This license was originally issued on or about April 14, 1988 and is currently set to expire on September 30, 2011.
- 3) At all times relevant, the Respondent was licensed and worked as a dentist from his office located in Barre, Vermont.
- 4) At all relevant times M.M. was a patient of Respondent.
- 5) On or about December 19, 2007 Respondent removed an old post/crown from tooth #8. There was recurrent decay and the post/crown had become loose. The decay was removed and a new longer and larger diameter post was placed. A core build up was then placed. A provisional crown was then placed. A follow up radiograph was taken that showed the overextension of the post out the apex of the tooth. The Respondent noted a poor prognosis for the tooth in the dental records.
- 6) In respect to the post that was placed in M.M.'s mouth on or about December 19, 2007, in an interview with Investigator Greg Kelly that occurred on or about June 11, 2009, the Respondent indicated that he estimated the length of the post from looking an x-ray. The Respondent also indicated that he did not use an apex locator because the tooth had been filled. Consequently, the Respondent admitted that he overestimated the length of the post.

The Respondent also indicated that it was his intent to engage as much of the tooth structure with the post as possible in order to hold the post in the tooth.

7) It is evident from the x-ray taken after the December 19, 2007 procedure that the post placed by the Respondent went through the root of the tooth.

8) Subsequent to the December 19, 2007 procedure, M.M. developed a lump above her lip. The Respondent advised M.M. at this time that in his opinion tooth #8 had a poor prognosis

9) M.M. was subsequently treated by Dr. P.B on or about March 3 - 4, 2008. Dr. P.B. reported to Investigator Kelly that he found that the post that the Respondent had inserted removed most of the root canal material and perforated into the P.D.L. space near the apex of the tooth. Dr. P.B. observed that M.M.'s bone on her cheek side deteriorated as a result and left a "little round window of missing bone." Dr. P.B.'s reading of M.M.'s x-ray revealed the post placed beyond the apex of the tooth.

10) The Respondent's actions failed to conform to the essential standards of acceptable and prevailing practice because overextended the length of the inserted post. This was confirmed by x-ray findings.

Charges

11) The acts, omissions and/or circumstances described above, constitute grounds for discipline. Respondent has committed unprofessional conduct because Respondent violated 3 V.S.A. §129a(b)(1) and (2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

i. 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.

ii. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.

iii. 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.

iv. 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.

v. The Respondent is of sound mind and is not under the influence of drugs or alcohol at the time he signs this stipulation and consent order.

- vi. Respondent agrees that the Order set forth below may be entered by the Board.
- vii. 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 **CONDITIONS** the Respondent's license to practice as a dentist for a minimum period of **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned".

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **one (1) year** of dental practice starting with the date of entry below.

(3) Restoring Endodontically Treated Teeth Course

Within six (6) months of the date of entry below, the Respondent shall complete a course on restoring endodontically treated teeth. This course shall be pre-approved in advance by the Board or its designee. The course shall be a minimum of six (6) continuing education hours.

(4) Recognizing and Treating Dental Emergencies Course

Within six (6) months of the date of entry below, the Respondent shall complete a course on recognizing and treating dental emergencies. This course shall be pre-approved in advance by the Board or its designee. The course shall be a minimum of six (6) continuing education hours.

(5) Quarterly Reports on Dental Practice and Record Keeping.

Within ninety (90) days of the date of entry of this Consent Order and **quarterly** thereafter, Respondent shall cause to be submitted to the Board a report from a dentist auditor. This dentist auditor shall be pre-approved in advance, by the Board or its designee. In the first quarter and each quarter thereafter, the dentist auditor shall select three (3) separate client files at random to review. These files shall be specifically related to endodontic clients. The purpose of the review shall be in order to make sure that the Respondent's recordkeeping and practice meets acceptable and prevailing standards.

If upon review of the Respondent's records, deficiencies are found in respect to practice, recordkeeping or both, and the dentist auditor recommends further supervision in order to protect the health, safety and welfare of the public, the time period of conditions may be extended by the Board beyond the one (1) year indicated above, upon a petition by the State indicating that such conditions are necessary to protect the public's health, safety or welfare.

(6) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice dentistry, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(7) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(8) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(9) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order.

B. Notwithstanding any provision above, the Respondent must continue to meet all Board of Dental Examiner requirements for maintaining a license, license renewal and license reinstatement.

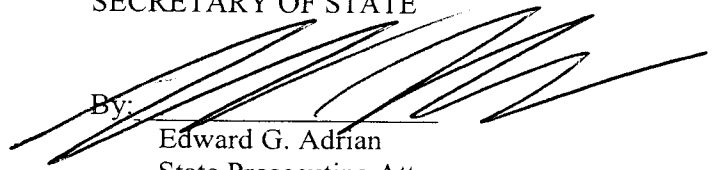
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 11/23/10

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

RICHARD C. WOLLENSAK, D.D.S.
RESPONDENT

Dated: 11/8/10

By: 
Richard C. Wollensak, D.D.S.

APPROVED AS TO FORM:

Dated: 11/10/10

ATTORNEY FOR RESPONDENT

By:  LE
William A. O'Rourke, III, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL
EXAMINERS

Dated: 12/8/10

By: 
Chairperson

Date of Entry: 12/10/10