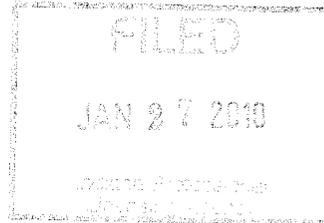


BEFORE THE INDIANA STATE
BOARD OF DENTISTRY
CAUSE NO: 2006 ISDB 0006

IN THE MATTER OF THE INDIANA)
LICENSE OF:)
)
DANIEL J. FINK, DDS)
LICENSE NUMBER: 12007602A,)



COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General, Mark E. Mader, on behalf of the Office of the Attorney General (“Petitioner”), and pursuant to Ind. Code § 25-1-7-7 *et seq.*, Ind. Code § 25-1-5-3, Ind. Code § 25-14-1 *et seq.*, the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 *et seq.* and Ind. Code § 25-1-9 *et seq.* files its Complaint against the dental license of Daniel J. Fink, D.D.S. (“Respondent”), and in support thereof alleges and states:

FACTS

3. Respondent’s address on file with the Indiana Professional Licensing Agency is DentaSafe, 5200 Washington Ave., Ste E, Evansville, Indiana 47715 and he is a licensed dentist in the State of Indiana having been issued license numbers 12007602A, 1200760B, and 1200760C.

2. On December 10, 2007, the Indiana Board of Dentistry sanctioned Respondent’s license as follows:

ORDER

1. *The Board has subject matter jurisdiction.*
2. *The parties and their respective counsel execute this Agreement voluntarily.*
3. *The Petitioner and Respondent voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which, either party may be entitled by law, including judicial review.*
4. *Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondent's license arising out of facts and circumstances surrounding the Complaint filed herein.*
5. *Respondent agrees to an Indefinite Probation of his license for a period of ten (10) years from the date of the Board's final order in this matter. After five (5) years of successful probation, Respondent may petition the Board for his probation to be withdrawn.*
6. *The Respondent will follow all rules and regulations of the dental profession.*
7. *The Respondent will appear before the Board monthly for the six months year of his probation to report on his current status. The Respondent may petition the Board after the first six (6) months of probation to appear on a quarterly basis for the next five (5) years and thereafter semi-annually.*
8. *The Respondent has an affirmative duty to notify the Board monthly of any prescription medications that he is consuming. Any prescription medications will need to be documented by the Respondent's physician and submitted to the Board in writing.*
9. *The Respondent will obtain a supervising on-site monitor to be present during such times as the Respondent is practicing dentistry who will oversee his practice for the first three (3) years of his probation. The on-site supervising dentist will submit monthly reports for the first year of his probation and quarterly reports thereafter. The on-site supervising dentist will conduct a private quarterly review with each staff member for the first year and annually for the remainder of the Respondent's probation. After three (3) years of successful reports, the Respondent may apply for the supervising dentist to report to the Board on a semi-annual basis. The supervising on-site dentist must be approved by the Board or the Board's appointed designee. After three (3) years of successful on-site supervising dentist reports, the Respondent may petition the Board to modify his on-site supervising dentist requirement. The on-site supervising dentist will issue*

reports to the Board which address: (1) the appropriateness of the Respondent's conduct as it relates to sexual boundary issues regarding patients and staff and (2) any such other matters as he or she deems would be important to the Board. It is the Respondent's responsibility to ensure that his supervising on-site dentist turns in reports to the Board on a timely basis.

10. Failure to comply with this Order may result in the State requesting an emergency suspension of Respondent's license, as well, as possible reinstatement of the initial action giving rise to this resolution; an Order to Show Cause as may be issued by the Board; or a new cause of action being filed pursuant to Indiana Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondent's license.

11. The on-site supervising dentist will be guided by Appendix A which is attached to this Order and outlines any additional criteria to be included in his or her report to the Board.

12. The Board has continuing jurisdiction in this matter.

APPENDIX A

1. Evaluate Dr. Fink's general attitude toward staff and patients.
2. Evaluate Dr. Fink's professionalism and ethics.
3. Report whether Dr. Fink has been in a room with a patient without a staff member present. If he has, explain the circumstances.
4. Report whether Dr. Fink has been in the office with staff members or patients when the supervising dentist was not present. If he has, explain the circumstances.
5. Provide any additional information that the Indiana State Board of Dentistry may request through written correspondence with the supervising dentist.

3. On December 28, 2009, Petitioner received a consumer complaint from Andrea Ruehle, an employee of Delta Dental of Michigan. Ms. Ruehle's complaint stated claims totaling One Hundred Ninety Dollars (\$190.00) were submitted to Delta Dental of Michigan for payment during the period of Respondent's suspension, August 10, 2009, to October 9, 2009. Due to contract limitations and patient eligibility, no payments were made. Ms. Ruehle attached a report detailing each occurrence where payment for treatment was made by Respondent. Said report indicates Respondent billed

for services rendered to Wanda Sanders (claim number 09088202854570) on August 17, 2009, for treatments under procedure code D0220 for \$30.00, and D0230 for \$25.00 and for Akyia Terry (claim number 0910092199756) for services rendered by Respondent on October 7, 2009, for treatments under procedure code D1110 for \$75.00 and D0150 for \$60.00.

4. On January 15, 2010, Attorney General Investigator, Scott Sunderman, traveled to Evansville, Indiana and spoke with Ms. Sanders at her home. Ms. Sanders confirmed she did visit the DentaSafe office and was treated solely by Daniel Fink, D.D.S., on August 17, 2009. Investigator Sunderman indicated he talked with Ms. Terry by telephone on the morning of January 20, 2010. Ms Terry confirmed she did visit the DentaSafe office and was treated solely by Daniel Fink, D.D.S., on October 7, 2009.

5. On January 20, 2010, Cindy Vaught, Director of the Dental Board, referred an email from Dr. Steve Hollar, Dental Board member, containing an email from Tracy Rodenberg who reported the following:

- a. She had worked for Respondent since February 17, 2009, and her employment had been terminated by Respondent around January 20, 2010.
- b. Respondent has seen patients several times in the office when Dr. Jimerson was not present, i.e. Jimerson would leave early or go to the bank.
- c. She received a CPR certification card even though she did not take a CPR class. This action was set up by Respondent and Renee Burton, a former employee of Four Rivers.

- d. Theresa Ledbetter, an assistant for Respondent and Dr. Jimerson, has no x-ray certification and Respondent has her take x-rays.
- e. When Respondent was suspended from July to October, he was in the office everyday. At one point he seated a set of dentures for Dr. Jimerson's brother, Roosevelt Mukes, while Teresa Ledbetter assisted. Further, she got phone calls from Respondent requesting she call in pain medications for patients, such as Tiffany Dunmeire and Candy Marsch. Finally, every Tuesday and Friday since Dr. Jimerson started working at Wabash Valley Correctional Facility, she and the other office personnel would be in the office alone with Respondent.
- f. Respondent administered injections of 3% lidocaine into her neck and shoulders to relieve stress headaches. He also injected patients Jacqueline Floyd and Nick Owens as well.
- g. Finally, on several occasions, Respondent would "cuss" us like animals and "freak out" if things were not going his way. Rodenberg reported Respondent throws instruments and mirrors. She reported an incident involving Nikki Hogan, who had become upset over several things. Respondent scheduled a meeting to address Hogan's concerns and then decided not to hold the meeting. Rodenberg told Hogan she could leave but first she wanted to clear it with Respondent. When she approached Respondent, he told her Hogan could not leave, they were going to have a meeting. When Rodenberg said to Hogan: *Well, I guess we are going to have a meeting*, Respondent looked at her and

said: *Don't you start fucking with me. I said excuse me and he said get the fuck out of my office.* Rodenberg reported she then started to cry and Respondent told her *not to start that shit.* So she left.

6. By Order dated December 10, 2007, Respondent was responsible to obtain an on-site dentist *to be present during such times as the Respondent is practicing dentistry who will oversee his practice for the first three (3) years of his probation.* The onsite supervising dentist will issue reports to the Board which address: *(1) the appropriateness of the Respondent's conduct as it relates to sexual boundary issues regarding patients and **staff*** (emphasis added).

7. The on-site supervising dentist will be guided by Appendix A which outlined any additional criteria to be included in the on-site dentist's regular reports to the Board.

8. Appendix A(3) requires the on-site dentist to report whether Respondent has been in a room with a patient without a staff member present and to explain the circumstances if the response is positive.

9. Appendix A(4) requires the on-site dentist to report whether Respondent has been in the office with **staff members or patients** (emphasis added) when the supervising dentist was not present.

10. On August 10, 2009, the Board found that Respondent practiced dentistry without his onsite supervising dentist being present and Respondent knew that by the terms of his Board ordered probation he was not permitted to be in the office with staff members or patients when the supervising dentist was not present.

11. The Board suspended Respondent's license indefinitely without the right to request reinstatement for sixty (60) days. Upon Respondent's reinstatement, his probation was continued under the same terms and conditions as contained in the Order dated December 10, 2007.

12. Respondent's license was reinstated by Board Order dated October 8, 2009, with an effective date of October 9, 2009. Respondent's supervising dentist was to submit monthly reports for the first year after reinstatement after which said reports will be due quarterly.

COUNT I

12. Allegations 1 through 11 are repeated and incorporated herein by reference.

13. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(10) in that he has failed to comply with an order imposing a sanction under section 9 of this chapter, to wit: Respondent practiced dentistry without an on-site supervising monitor being present.

14. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1.

COUNT II

15. Allegations 1 through 11 are repeated and incorporated herein by reference.

16. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(5) in that he has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public, to wit: His treatment and language used in the presence of Tracy Rodenberg and Nikki Hogan concerning a meeting to address Hogan's concerns.

17. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1.

COUNT III

18. Allegations 1 through 11 are repeated and incorporated herein by reference.

19. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(3) in that he has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: In having Teresa Ledbetter take x-rays of patients although she has no x-ray certification, Respondent violated 828 IAC 1-1-15(9), which states: Permitting or delegating the performance of a procedure to one not qualified by education, training, or licensure to undertake such procedure.

20. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a

letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1.

COUNT IV

21. Allegations 1 through 11 are repeated and incorporated herein by reference.

22. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(10) in that he has failed to comply with an order imposing a sanction under section 9 of this chapter, to wit: Treating patients on August 17, 2009, and October 7, 2009, during the course of his suspension.

23. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1.

COUNT V

24. Allegations 1 through 11 are repeated and incorporated herein by reference.

25. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(10) in that he has failed to comply with an order imposing a sanction under section 9 of this chapter, to wit: Treating patient Roosevelt Mukes, by seating his dentures during the course of his suspension.

26. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1

COUNT VI

27. Allegations 1 through 11 are repeated and incorporated herein by reference.

28. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(10) in that he has failed to comply with an order imposing a sanction under section 9 of this chapter, to wit: Being present in the office with staff without his on-site supervising monitor being present.

29. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1

COUNT VII

30. Allegations 1 through 11 are repeated and incorporated herein by reference.

31. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(3) in that he has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: Respondent violated 828 IAC 1-1-15(8),

practicing or offering to practice beyond the scope permitted by law, when he administered injections of 3% lidocaine into Rodenberg's neck and shoulders to relieve stress headaches. Also, when he injected patients Jacqueline Floyd and Nick Owens for similar conditions as well.

32. Respondent's violation of the above referenced statute is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1,000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-14-1.

WHEREFORE, Petitioner demands an order against the Respondent, that

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the cost incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
INDIANA ATTORNEY GENERAL

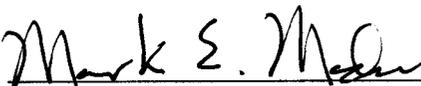
By: Mark E. Mader
Mark E. Mader
Deputy Attorney General
Attorney Number: 8972-98

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Complaint was served upon
and Respondent and Respondent's Attorney of Record at the addresses listed below, by
First Class U.S. Mail, postage prepaid, on this 27th day of January, 2010.

Terry A. White, Esq.
123 Locust Street
Evansville, IN 47708

Daniel Fink, DDS
5200 Washington Ave., Ste E
Evansville, Indiana 47715


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