

STATE OF FLORIDA
BOARD OF DENTISTRY

Final Order No. DOH-97-0142 Date 8-19-97

FILED

Department of Health
AGENCY CLERK

By: Stephanie J. Dixon
Deputy Agency Clerk

AGENCY FOR HEALTH
CARE ADMINISTRATION,

Petitioner,

vs.

CASE NO.: 95-03422
LICENSE NO.: DN 0004148

DOUGLAS J. PHILLIPS, JR., D.D.S.,

Respondent.

FINAL ORDER

THIS MATTER was heard by the Board of Dentistry pursuant to Section 120.57(3), Florida Statutes, on July 25, 1997, in Naples, Florida. The Board considered the proposed Stipulation entered into by the parties in this cause which is attached to this Final Order. Petitioner was represented by Laura P. Gaffney, Senior Attorney. Respondent appeared before the Board with Grover C. Freeman, Esquire.

The parties had been properly noticed of the hearing. Upon consideration, it is ORDERED AND ADJUDGED:

1. The proposed Stipulation is hereby approved and adopted and incorporated herein by reference.
2. Respondent shall adhere to and abide by all the terms and conditions of the Stipulation.
3. This Final Order shall be placed in and become a permanent part of Respondent's official record with the Board of Dentistry.
4. This Final Order becomes effective upon being filed with the Clerk of the

Department of Health.

DONE AND ORDERED this 13 day of August, 1997.

BOARD OF DENTISTRY


EDWARD R. SCOTT, II, D.M.D.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been forwarded by United States Mail this _____ day of _____, 1997, to Douglas J. Phillips, D.D.S., 4512 Dixie Highway West Palm Beach, Florida 33401, and to Grover C. Freeman, Esquire, 201 East Kennedy Boulevard, #1950, Tampa, Florida 33602, and hand delivered to Laura P. Gaffney, Senior Attorney, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308.

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH CARE
ADMINISTRATION,¹

PETITIONER,

vs.

CASE NUMBER: 95-03422

DOUGLAS J. PHILLIPS, JR., D.D.S.,

RESPONDENT.

STIPULATION

DOUGLAS J. PHILLIPS, JR., D.D.S., hereinafter referred to as Respondent, and the Agency for Health Care Administration, hereinafter referred to as Agency, hereby stipulate and agree to the following joint Stipulation and Final Order of the Board of Dentistry, hereinafter referred to as Board, incorporating this Stipulation and agreement in the above-styled matter.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed dentist in the State of Florida, having been issued license number DN 0004148. Respondent's last known address is Florida Center for TMJ and Head Pain, 4512 North Dixie Highway #301, West Palm Beach, Florida 33401.

2. The Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon Respondent with violations of Chapter 466, Florida Statutes, and Chapter

¹ Effective July 1, 1994, the Board of Dentistry was transferred to the Agency for Health Care Administration pursuant to Section 20.42, Florida Statutes.

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455, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent, in his capacity as a licensed dentist, admits that in such capacity he is subject to the provisions of Chapters 455 and 466, Florida Statutes, and the jurisdiction of the Agency and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, constitute violations of Chapters 455 and 466, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent admits that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION OF LAW

1. Respondent shall, in the future, comply with Chapters 455 and 466, Florida Statutes, and the rules promulgated pursuant thereto.

2. Respondent, to avoid the necessity of further administrative proceedings in this case, stipulates to the following:

(a) The Board shall impose an Administrative Cost of four thousand dollars (\$4,000.00) against the Respondent. Said cost shall be paid by the Respondent to the Executive Director of the Board of Dentistry, 1940 North Monroe Street, Tallahassee, Florida 32399-0750, within thirty (30)

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days of rendition of the Final Order by the Board of Dentistry, which Final Order incorporates this Stipulation.

(b) Respondent's license to practice dentistry shall receive a reprimand in this matter.

(c) Respondent shall complete ten (10) hours of continuing education in record keeping and ten (10) hours of continuing education in risk management within two years of the date the Final Order is filed adopting this Stipulation. These continuing education hours are in addition to those continuing education hours required for license renewal. Moreover, those continuing education hours must be completed through personal attendance seminars and not video and/or correspondence courses. Upon completion of said continuing education hours, the Respondent shall request the provider to submit verification of completeness to the Board of Dentistry.

(d) Respondent shall appear before the Board at which meeting this Stipulation is presented.

3. It is expressly understood that this Stipulation is subject to approval of the Board and Agency and has no force and effect until an Order is based upon it by the Board.

4. This Stipulation is executed by the Respondent for the purpose of avoiding further administrative action by the Board of Dentistry regarding the acts or omissions specifically set forth in the Administrative Complaint, attached as exhibit A. Respondent shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Stipulation.

Furthermore, should this joint Stipulation not be accepted by the Board, it is agreed that presentation to and by the Board shall not unfairly or illegally prejudice the Board or any of its

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members from further participation, consideration or resolution of these proceedings. If the Stipulation is rejected by the Board of Dentistry, the Respondent has not waived his rights to a formal or informal hearing pursuant to Chapter 120, Florida Statutes.


5. The Respondent and the Agency fully understand that this joint settlement stipulation and subsequent Final Order incorporating same will not preclude additional proceedings by the Agency and/or Board against the Respondent for acts or omissions which are not the subject of the Administrative Complaint, attached as exhibit A. This stipulation relates solely to the current disciplinary proceedings arising from the above-mentioned Administrative Complaint and does not preclude further action by other divisions, departments, and/or sections of the Agency, including but not limited to the Agency's Medicaid Program Integrity office.

6. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or otherwise challenge or contest the validity of the joint Stipulation of facts, conclusions of law, and imposition of discipline and the Final Order of the Board incorporating said Stipulation.

7. The Respondent waives the right to seek any attorney's fees or costs from the Agency in connection with this disciplinary proceeding.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

Signed this 25 day of march, 1997.



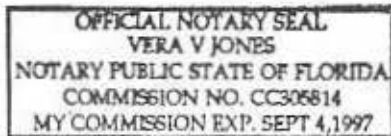
DOUGLAS J. PHILLIPS, JR., D.D.S.
Respondent
Case Number 95-03422
(Signature must be notarized below)

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Settlement Stipulation
Case Number: 95-03422
Douglas J. Phillips, Jr., D.D.S.

Before me, personally appeared Douglas Phillips, whose identity is known to me by _____
FDL (type of identification) and who, under oath, acknowledges that his/her signature appears
above.

Sworn to and subscribed by Respondent before me this 25 day of March, 1997.



Vera V Jones
NOTARY PUBLIC
My Commission expires:

Approved this 17th day of April, 1997.

Douglas M. Cook,
Director

Nancy M. Sniarkowski
BY: Nancy M. Sniarkowski
Chief Attorney
Agency for Health Care
Administration

ND
2/7/97

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH CARE
ADMINISTRATION,

PETITIONER,

vs.

CASE NUMBER: 95-03422

DOUGLAS PHILLIPS, D.D.S.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Agency for Health Care Administration hereinafter referred to as "Petitioner", and files this Administrative Complaint before the Board of Dentistry, against DOUGLAS PHILLIPS, D.D.S., hereinafter referred to as "Respondent", and alleges:

1. Petitioner, Agency for Health Care Administration is the state agency charged with regulating the practice of dentistry pursuant to Section 20.165; Section 20.42, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 466, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed dentist in the State of Florida, having been issued license number DN 0004148. Respondent's last known address is Florida Center for TMJ and Head Pain, 4512 N. Dixie HWY, West Palm Beach, Florida 33401.

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3. On or about March 26, 1993, until on or about October 11, 1993, patient K.P. was in the care of Respondent for temporomandibular joint dysfunction ("TMJ"). Respondent's treatment plan for patient K.P. included, but was not limited to, trigger point therapy including injections.

4. On or about September 15, 1993, patient K.P. presented to Respondent for an treatment of an "emergency."

5. Patient K.P. complained of pain in the base and top of the skull, shoulder and neck on the right side.

6. On or about September 15, 1993, Respondent treated patient K.P. with an injection of 1cc of sarapin and 1/2cc marcaine into the right greater occipital, and an injection of 1cc sarapin and 1/2cc procaine into the right levator scapulae.

7. On or about September 15, 1993, Respondent injected 1% lidocaine and dextrose into the right levator scapulae, however, there is no record as to the amount of the injection and the records do not adequately explain how many agents and how many different injections were used by the Respondent.

8. On or about September 15, 1993, patient K.B. experienced pain, discomfort, and difficulty breathing shortly after receiving the treatment from Respondent. Patient K.P. telephonically communicated with Respondent concerning the said pain and discomfort approximately one-half hour after leaving Respondent's office.

9. On or about September 24, 1993, Respondent noted in his records that patient K.P. suffered from pain, discomfort, and shortness of breath.

10. Respondent failed to meet the minimum standard in the diagnosis and treatment of the patient, due in part, but not limited to the following:

- a) failing to follow guidelines as prescribed by literature recommendations concerning anesthetic agents used for diagnostic purposes and the elimination of immediate pain.
- b) failing to act within the scope of his profession by injecting the aforementioned agents into the muscles including, but not limited to, the right levator scapulae.
- c) failing to adequately recognize and prescribe treatment for patient's post-treatment conditions.
- d) failing to maintain adequate records and explanations of the course of treatment prescribed for the patient.

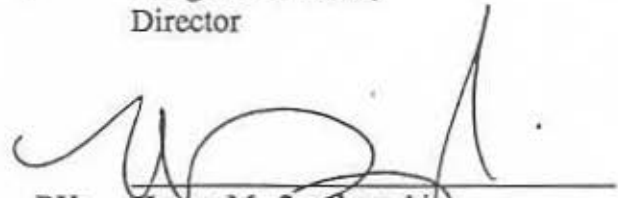
11. Based on the foregoing, Respondent has violated the following statutory provisions:

- a) Section 466.028(1)(x), Florida Statutes, by being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance.
- b) Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X-rays, if taken.

WHEREFORE, Petitioner respectfully requests the Board of Dentistry to enter an order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 11th day of July, 1996.

Douglas M. Cook,
Director



BY: Nancy M. Smurkowski
Chief Attorney on behalf of
Agency for Health Care
Administration

COUNSEL FOR PETITIONER:

Nancy M. Smurkowski
Chief Attorney
Agency for Health Care
Administration
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-0792
(904) 488-0062

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PCP: FG
WR
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DATE: APRIL 18, 1996

FILED

AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK

CLERK *Stephanie J. Davis*

DATE 7-15-96

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