

IN THE MATTER OF
ADLY WILSON, D.D.S.
RESPONDENT
License Number 11917

*** BEFORE THE**
*** MARYLAND STATE BOARD OF**
*** DENTAL EXAMINERS**
*** Case Number: 2003-181**

* * * * *

FINDINGS OF FACT, OPINION, CONCLUSIONS OF LAW AND ORDER

Pursuant to the Maryland Dentistry Act (the "Act"), Md. Health Occ. ("H.O.") §4-319(a), and the Maryland Code of Regulations (COMAR) 10.44.07.16 the Maryland State Board of Dental Examiners (the "Board") hereby renders the following final decision and order.

BACKGROUND

The Board, pursuant to its statutory authority, H.O. §4-316(c), investigated a patient complaint lodged against Adly Wilson, D.D.S. (the "Respondent"). Protection of the public health is the primary function of the Board. In furtherance of that objective, the Board may take a range of disciplinary actions--including imposition of a fine, reprimand, suspension or revocation of a license--against a dentist found to have violated the Maryland Dentistry Act (the "Act"), Md. Health Occ. ("H.O.") Code Ann. § 4-315, et seq.

On or about January 3, 2007 the Board charged Dr. Wilson alleging violations of the H.O. § 4-315(a)(6), (16) and (21). The Board also alleged that the Respondent violated the following Code of Ethics provision: American Dental Association Principles of Ethics and Code of Professional; Conduct (1999), § 1.B. ("ADA Code of Professional Conduct")

Pursuant to H.O. § 4-318 and the Maryland Administrative Procedure Act, Md. State Gov't., Code Ann. § 10-226(c)(1)(ii), a hearing on the merits took place on May 16, 2007 before a full quorum of the Board. Robert J. Gilbert, Assistant Attorney General, represented the State, and Gerard J. Emig, Esquire represented Dr. Wilson.

ALLEGATIONS OF FACT

1. The Board initiated an investigation of the Respondent's practice after having learned of a law suit filed by Patient A (the "Patient") alleging negligence.

2. On or about November 29, 1999 the Patient, experiencing pain and swelling in the right rear of his mouth, sought treatment from Dr. Wilson. No contemporaneous records of this visit exist.

3. The Patient returned on January 10, 2000 with severe pain in the same area. The Respondent, taking no radiographs, performed the first stage of root canal therapy on tooth #29 for which he prescribed no antibiotics. Once again he failed to document, among other things, that he performed diagnostic tests, the basis upon which he performed the root canal procedure, and the use and concentration of anesthetics, and the site of administration of anesthetics.

4. Two days later, on January 12, 2000, the Patient returned with severe pain and swelling in the area where the root canal was initiated. The Respondent took no radiographs, but prescribed penicillin. He made no record of the visit nor did he record the basis for the prescription of penicillin.

5. On January 15, 2000, the Patient's physician prescribed clindamycin, an antibiotic, for the infection.

6. On January 16, 2000, the Patient's wife telephoned The Respondent describing continued pain and swelling. The Respondent offered to see the Patient the next day; however the Patient was unable to see the Respondent as he was admitted to Washington Hospital Center where he required an emergency tracheotomy and drainage of the submandibular abscess. The Respondent did not document a record of the telephone call in the patient's treatment record.

EXHIBITS

State's Exhibits 1 through 14 were admitted into evidence. Respondent's Motion to Exclude to State's Exhibit number 12 was denied. (Transcript pg. 6-11).¹

Respondent's Exhibit's A through F and H were admitted into evidence. Exhibits G and I were excluded.

FINDINGS OF FACT

The Board finds the following by a preponderance of the evidence:

1. At all times relevant, Dr. Adly Wilson was licensed to practice dentistry in Maryland;
2. No contemporaneous records, nor radiographs, exist of the Patient's office visits, of November 29, 1999, January 10, 2000 and January 12, 2000 or telephone call of January 16, 2000;

¹ Hereinafter T. pg. ____.

3. The Respondent prepared non-contemporaneous notes of the aforementioned office visits from billing records;

4. The Respondent, on November 29, 1999, without having taken a radiograph to support his conclusion, concluded that the Patient complaining of pain and swelling in the right rear of his mouth, was in need of root canal therapy;

5. On January 10, 2000, the Patient again complained of pain and swelling in the right rear of his mouth. The Respondent removed nerve tissue without first taking a radiograph. He prescribed no antibiotics at that time;

6. On January 12, 2000, the Respondent took no radiographs when the patient once again complained of pain and swelling in the same area. He prescribed medication at that time;

7. On January 15, 2000 the patient's physician prescribed clindamycin for infection;

8. On January 16, 2000 the patient's wife called the Respondent indicating that the Patient was complaining of continued pain and swelling, and infection. the Respondent scheduled an appointment to see the Patient the next day;

9. On January 17, 2000 the patient was taken by ambulance to Washington Hospital Center where he underwent an emergency tracheotomy and incision drainage of an abscess. (States Exhibit 9).

OPINION

The Board carefully considered and reviewed the entire record which supports the charges that the Respondent's treatment of the Patient was incompetent. He could produce no contemporaneous records of the Patient's treatment for November 29, 1999, January 10, 2000, and January 12, 2000 or telephone call of January 16, 2000. What he did produce were non-contemporaneous notes created from patient billing records. (T. pg. 80, 86).²

Dr. Frederick Magaziner, the State's expert, concluded that the Respondent's treatment of Patient A for the period November 29, 1999 through January 17, 2000 was incompetent and unprofessional. (T. pg. 40 lines 1-8, 42 - 47, and 48 lines 1-15). The Board agrees with Dr. Magaziner's conclusion.

At the time of the November 29, 1999 office visit, the Respondent provided no radiograph in support of the need for root canal therapy on tooth #29. (T. pg. 35, 36). On January 10, 2000, the Respondent removed nerve tissue without first having taken a radiograph and he failed to prescribe antibiotics. (T. pg. 36, 37). He took no radiographs when the Patient presented with pain and swelling on January 12, 2000. In the course of the January 16, 2000 telephone call the Patient's wife reported that the Patient complained of continued pain, swelling and infection. The Respondent, unable to see the patient that day, ought to have advised that he go to an emergency room. (T. pg. 47 lines 15-25, 48 lines 1-5).

² There is some question whether notes were written and misplaced or simply not written at all. (T. pg. 99-101).

The Board gives little weight to the testimony of Dr, Richard Heald, the Respondent's expert. Dr. Heald, acknowledging that Dr. Wilson's notes were inadequate, took no issue with his treatment of the Patient. (T. pg. 150, 151). Regarding the office visit of November 29, 1999, Dr. Heald testified that he could only assume the Respondent's treatment plan met the standard of care. He would not, however, offer an expert opinion to that effect. (T. 132, 133). Supporting the Respondent's treatment of the patient on January 10, 2000, Dr. Heald acknowledged that he incorrectly assumed facts not in evidence. (T. pg.141 lines 5-25 and 142 lines1-13).

CONCLUSIONS OF LAW

Based upon the foregoing, the Board finds as a matter of law that the Respondent violated H.O. §§ 4-315(a)(6), and (16) of the Act, and § 1.B. of the ADA Code of Professional Conduct.

ORDER

Based on the foregoing, it is this 21st day of November 2007, by a majority of the full authorized membership of the Board:

ORDERED that the Respondent's license to practice dentistry in the state of Maryland is hereby **REPRIMANDED**; and it is further

ORDERED that the Respondent be placed on **PROBATION** for a period of **two (2)** years which shall commence from the date this Order is executed by the Board, subject to the following terms and conditions:

ORDERED that the Respondent shall retain, at his expense, a Board approved mentor/practice reviewer in endodontics and general dentistry who will

conduct random chart reviews and to whom the Respondent shall provide a copy of this Final Order. The mentor/practice reviewer shall meet with the Respondent **four (4)** times over the first year of Probation to review patient charts, and to discuss cases and treatment. The Respondent shall be responsible for ensuring that the mentor/practice reviewer submits written reports to the Board on her or his observations, findings and recommendations. The mentor/practice reviewer may consult with the Board and its agents regarding her or his findings. The Respondent shall abide by all written recommendations of the mentor/practice reviewer; and it is further

ORDERED that the Respondent may not petition the Board for termination of probation prior to **one (1)** year from the effective date of this Order; and it is further

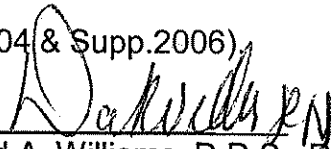
ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of dentistry in Maryland; and be it further

ORDERED that Respondent's failure to fully comply with the terms and conditions of this Consent Order shall be deemed a violation of Probation and of this Consent Order and Respondent may be subject to additional charges by the Board; and it is further

ORDERED that the charge alleging violation of H.O. § 4-315(a)(21) be and is hereby dismissed; and it is further

ORDERED that this document is a public record, pursuant to Md. Code Ann., State Gov't Article, § 10-611 *et seq.* (2004 & Supp.2006),

11/21/07
Date



David A. Williams, D.D.S., President

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Code Ann., Health Occ. Article, § 4-319, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't Article, §§ 10-201 *et seq.*, and Title 7 Chapter 200 of the Maryland Rules.