

**STATE OF FLORIDA
BOARD OF DENTISTRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO: 2013-11395

CHARLOTTE YVONNE GERRY, D.D.S.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Dentistry against Respondent, Charlotte Yvonne Gerry, D.D.S., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of dentistry pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 466, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed dentist within the State of Florida, having been issued license number DN 14223.

3. Respondent's address of record is 8750 Perimeter Park, #101, Jacksonville, Florida 32216.

4. On or about June 14, 2011, Patient T.C. presented to Respondent's practice for an initial examination.

5. For the initial examination, Patient T.C. provided Respondent with a health history in which she indicated that she had experienced a stroke on her left side, neurological problems, and aphasia.

6. The minimum standard of performance in diagnosis and treatment in the practice of dentistry requires a dentist to immediately refer a patient who has experienced a health complication during dental treatment to an appropriate medical professional.

7. On or about September 23, 2011, Patient T.C. presented to Respondent's practice for final impressions for permanent restorations on teeth numbers 20, 21, 28, and 29.

8. In Respondent's clinical note for September 23, 2011, Respondent recorded that Patient T.C. had "seizures on the dental chair-may due to anxiety."

9. In Respondent's clinical note for September 23, 2011, Respondent recorded that the "seizures" Patient T.C. experienced lasted "2-

3 minutes,” and that after approximately 30 minutes, Patient T.C. was “calm” and Respondent was able to proceed with the dental procedure.

10. Following the completion of the procedure, Respondent did not refer Patient T.C. to an appropriate medical professional for management of the health complication, nor did she advise Patient T.C. to seek follow-up care with an appropriate medical professional.

11. Section 466.024(1), Florida Statutes (2012-2013), states in part that a dentist may not delegate irremediable tasks to a dental hygienist or dental assistant, except as provided by law. A dentist may delegate remediable tasks to a dental hygienist or dental assistant when such tasks pose no risk to the patient.

12. Chapter 64B5-16, Florida Administrative Code (2012-2013), sets out the tasks delegable to dental hygienists and dental assistants and the required levels of supervision for those tasks.

13. The adjustment of a partial denture is not a task delegable to a dental hygienist or a dental assistant under Chapter 64B5-16, Florida Administrative Code.

14. The intraoral repair of a partial denture is not a task delegable to a dental hygienist or a dental assistant under Chapter 64B5-16, Florida Administrative Code.

15. On or about July 17, 2012, Patient T.C. presented to Respondent's with a complaint that her lower denture was broken with the "o-ring" on the denture detached.

16. In Respondent's clinical note for July 17, 2012, Respondent recorded that Patient T.C.'s "[l]ower partial repaired by Tia of precision attachments."

17. Respondent, along with an associate, Dr. W.M., are the only licensed dentists known to work at Respondent's practice.

18. The Department has reason to believe that the "Tia" referred to in the clinical note for July 17, 2012, is an employee of Respondent and is not a licensed dentist.

19. On or about July 17, 2012, Respondent delegated a professional responsibility to a person who is not qualified by training, experience, or licensure to perform it.

20. On or about June 11, 2013, Patient T.C. presented to Respondent's practice in part for the repair of "male" housings that connected her partial denture to fixed bridgework.

21. Respondent reported that she instructed a dental assistant to add acrylic material into the slot where the new male housings were to be placed.

22. The dental assistant added an excessive amount of the acrylic material, causing the partial denture to become stuck to Patient T.C.'s teeth and/or other dental work.

23. On or about June 11, 2013, Respondent delegated a professional responsibility to a person who is not qualified by training, experience, or licensure to perform it.

COUNT I

24. Petitioner re-alleges and incorporates paragraphs one (1) through ten (10) as if fully set forth herein.

25. Section 466.028(1)(x), Florida Statutes (2011), states that "[b]eing 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[,]" shall constitute grounds for disciplinary action by the Board of Dentistry.

26. By failing to immediately refer Patient T.C. to an appropriate medical professional or to otherwise advise Patient T.C. to seek follow-up care for the management of what Respondent believed was a series of seizures, Respondent violated Section 466.028(1)(x), Florida Statutes.

COUNT II

27. Petitioner re-alleges and incorporates paragraphs one (1) through three (3), and eleven (11) through twenty-three (23), as if fully set forth herein

28. Section 466.028(1)(z), Florida Statutes (2012-2013), provides discipline for "[d]elegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them."

29. Respondent violated Section 466.028(1)(z), Florida Statutes, in one or more of the following ways:

- A. By delegating the irremediable task of adjusting and/or performing the intraoral repair of Patient T.C.'s partial denture on or about July 17, 2012; and/or

B. By delegating the irremediable task of adjusting and/or performing the intraoral repair of Patient T.C.'s partial denture on or about June 11, 2013.

WHEREFORE, Petitioner respectfully requests that the Board of Dentistry enter an order imposing one or more of the following penalties: suspension, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 25th day of September 2014.

John H. Armstrong, MD, FACS
Surgeon General & Secretary

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DEPARTMENT OF HEALTH
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CLERK ANGEL SANDERS
DATE SEP 26 2014

PCP: September 19, 2014
PCP Members: L.B., T.T., W.R.

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.