

**STATE OF FLORIDA
BOARD OF DENTISTRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO: 2015-10268

CHARLOTTE YVONNE GERRY, D.M.D.,

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.M.D., 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 Blvd., Jacksonville, Florida 32216.

4. On or about May 14 or 15, 2014, Patient G.H presented to Respondent's practice for a new patient examination. Patient G.H. reported to Respondent that she had been experiencing some discomfort in the upper left quadrant of her mouth.

5. According to clinical notes created on or about that date, Respondent performed an examination and diagnosed the need for restorations on several teeth. Respondent identified tooth number 13 as being the most significant issue for Patient G.H. and noted that the tooth had deep decay to the nerve. Respondent treatment planned to provide root canal treatment and a crown restoration on tooth number 13.

6. Respondent's clinical records for Patient G.H. contain an entry created on or about July 24, 2015, with "additional notes" for the appointment which occurred on or about May 14 or 15, 2014.

7. These "additional notes" include a record of endodontic testing performed on tooth number 13.

8. Respondent performed root canal treatment on Patient G.H.'s tooth number 13 on or about May 14 or 15, 2014.

9. On or about May 19, 2014, Respondent performed restorations and placed sealants on several teeth, and prepared several for porcelain inlays and crowns, including the preparation of tooth number 13 to receive a post and core for a crown.

10. Respondent's clinical records for Patient G.H. contain a second entry created on or about July 24, 2015, for an appointment which the record stated occurred on or about July 7, 2014.

11. According to the July 24, 2015 record for the July 7, 2014, appointment, Respondent noted that she seated crowns for teeth numbers 8, 9, and 13, and placed inlays on teeth numbers 12 and 14.

12. According to the clinical record, on or about July 9, 2014, Patient G.H. came by Respondent's practice on that date to pick up a bleaching tray for tooth whitening. According to the record, Respondent took an impression for the tray and performed "a little [adjustment] on the upper left side."

13. According to the clinical record on or about July 29, 2014, Patient G.H. returned to the practice complaining of a "funny taste" in her mouth when she flossed around tooth number 13.

14. Respondent performed a limited examination and recorded that she flossed in the area around tooth number 13 and did not detect an odor

on the floss. Respondent noted that Patient G.H. still felt that an odor was present. Respondent noted that she recommended a prescription rinse to treat the area, but Patient G.H. refused and left the appointment.

15. According to the clinical record for that date, Respondent took a periapical radiograph of tooth number 13.

16. The radiograph taken on or about July 29, 2014, revealed a radiolucency at the distal margin of the crown on tooth 13 consistent with an open margin or decay.

17. The minimum standard of performance in diagnosis and treatment in the practice of dentistry requires a dentist to adequately diagnose any deficiencies or fit issues in restorations such as crowns and provide appropriate corrective treatment.

18. Poor margins in restorations such as crowns may lead to problems such as decay, compromised gum health, and tooth failure.

19. Despite taking a periapical radiograph that revealed an issue(s) with the crown on tooth number 13, Respondent failed to assess and correct the defective crown she placed on Patient G.H.

20. On or about March 10, 2015, Patient G.H. presented to subsequent treating dentist Dr. P. with a complaint about odor and bleeding gums in the area of the crown on tooth number 13.

21. Dr. P. diagnosed an open distal margin on tooth number 13 with overhang and noted gingival inflammation with bleeding upon probing with the tip of the dental explorer going into the marginal gap of the tooth. Dr. P.'s colleague confirmed the lack of biologic width on the tooth and Dr. P. recommended crown lengthening and a new crown.

22. An additional subsequent treating dentist also diagnosed the open margin, lack of biological width, and overhang on the tooth number 13.

23. Section 466.028(1)(x), Florida Statutes (2013-2014), 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.

24. Respondent violated Section 466.028(1)(x), Florida Statutes, by failing to adequately diagnose the issue(s) with the crown on tooth number 13 and provide appropriate corrective treatment.

WHEREFORE, Petitioner respectfully requests that the Board of Dentistry enter an order imposing one or more of the following penalties: 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 19th day of January 2017.

Celeste Philip, MD, MPH
Surgeon General and Secretary

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CLERK Angel Sanders
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PCP Members: J.T., T.M., N.F.

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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.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

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.