**AGENDA**
**CONNECTICUT STATE DENTAL COMMISSION**

**Wednesday, September 26, 2020 at 1:00 PM**
**Department of Public Health**
**410 Capitol Avenue, Hartford Connecticut**
**Third Floor Hearing Room**

**CALL TO ORDER**

**I. MINUTES**
July 29, 2020

**II. NEW BUSINESS**
A. Amend Memorandum of Decision
Ammar Idlibi, DMD – Petition No. 2016-640

**III. OLD BUSINESS**
Non-patient based clinical licensure examinations

**IV. JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS**
Dental Licensure Objective Structured Clinical Examination (DLOSCE)

**ADJOURN**

This meeting will be held by video conference.

Connecticut State Dental Commission via Microsoft Teams

The following is for voice connection only
+1 860-840-2075 - Conference ID: 367 932 892#

*The following minutes are draft minutes which are subject to revision and which have not yet been adopted by the Board.*

**CONNECTICUT STATE DENTAL COMMISSION**
**MINUTES OF MEETING**
**July 29, 2020**

The Connecticut State Dental Commission held a meeting by video conference on June 29, 2020.

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| COMMISSION MEMBERS PRESENT: | Peter Katz, DMD, Chairman<br>Sarita Arteaga, DMD<br>Monica Cipes, DMD<br>Deborah Dodenhoff, RN<br>Mark Longobardi, DMD<br>Anatoliy Ravin, DDS<br>Barbara Ulrich<br>Robert Zager |
| COMMISSION MEMBERS ABSENT: | Steven Reiss, DDS |

Dr. Katz called the meeting to order at 11:00 a.m.

## I. MINUTES

The minutes from the June 10, 2020 meeting were reviewed and unanimously approved on a motion by Mr. Zager.

## II. OFFICE OF LEGAL COMPLIANCE

A. Ralph Giuliano, D.D.S. - Petition No. 2019-695

David Tilles, Staff Attorney, Department of Public Health presented a Consent Order in this matter. Attorney Mary Alice Moore Leonhardt was present for respondent.
Mr. Zager made a motion to approve the Consent Order which imposes a reprimand and a $3000.00 civil penalty. The motion passed unanimously

B. Ean James, DMD – Petition No. 2018-1227

Assistant Attorney General Daniel Shapiro was present for this discussion
David Tilles, Staff Attorney, Department of Public Health presented a Consent Order in this matter. Attorney Jody Erdfarb was present for respondent.
Ms. Dodenhoff made a motion to approve the Consent Order which imposes a $5000.00 civil penalty. The motion passed unanimously

## III. OLD BUSINESS

Non-patient based clinical licensure examinations

Assistant Attorney General Kerry Colson was present for this discussion and to provide counsel to the Commission.
The Commission engaged in discussion concerning requirements for clinical competency licensure examinations without the use of patients. Steven Lepowsky, DDS from the University of Connecticut School of Dental Medicine addressed the Commission regarding this issue.

Mr. Zager made a motion, seconded by Ms. Dodenhoff, to enter executive session to discuss confidential legal communication with Assistant Attorney General Kerry Colson. The motion passed unanimously. No votes were taken, and no motions were made during executive session.

Following executive session, Katz made a motion, seconded by Mr. Zager, to adopt the following:
In lieu of the one year of clinical based postdoctoral general practice or specialty dental residency program pursuant to Conn. Gen. Stat. § 20-107(a) and to protect the public health, welfare and safety, the Connecticut State Dental Commission pursuant to Conn. Gen. Stat. § 20-108(a) accepts and approves the results of clinical or practical examinations for applicants for licensure to practice dentistry (applicants) subject to the following conditions:
A passing score on each section (conjunctive scoring) of a mannequin-based examination that includes:

a. A Class III anterior preparation and restoration of an anterior tooth;
b. A Class II preparation and restoration of a posterior tooth with either composite or amalgam material;
c. Anterior endodontic procedure on a central incisor: access and obturation;
d. Posterior endodontics on a molar: access only and location of canals.
e. A ceramic crown preparation on a central incisor;
f. A porcelain-fused to metal crown preparation on a bicuspid;
g. A full cast crown preparation-zirconia crown on a molar; and,
h. The porcelain-fused to metal crown preparation on the bicuspid under paragraph 1(f) above and the molar zirconia crown preparation under paragraph 1(g) above must be on the same arch and parallel to each other for a three-unit fixed bridge.

2. A passing score on each section of a written examination, including the dental skill set examination, the computer-based examination, and the diagnosis and treatment planning examination. At this time, the computer-based examination referenced herein does not include the Dental Licensure Objective Structured Clinical Examination administered by the Joint Commission on National Dental Examination, which examination remains under consideration.
3. Applicants must retake any section of the mannequin-based examination that the applicant has not received a passing score on and retake the written examination if the applicant for licensure has not received a passing score on any section of that examination.
4. Applicants must allow for remediation time before the applicant may retake the written examination and any portion of the mannequin-based examination that the applicant did not pass. Applicants may not retake the written examination or retake any portion of the mannequin-based examination on the same day that the applicant did not pass the exam.

The motion passed unanimously. This will be forwarded to the Commissioner of the DPH for approval
The Commission also recommended to the Department of Public that it accept applicants for licensure who have been only able to take a mannequin examination due to the COVID-19 pandemic.

## IV. ADJOURN

As there was no further business the meeting was adjourned at 12:35 p.m.

Respectfully submitted,
Peter Katz, DMD
Connecticut State Dental Commission

DOCKET NO: HHBCV185023867S

SUPERIOR COURT

IDLIBI,AMMAR,A
V.
CONNECTICUT STATE DENTAL COMMISSION

JUDICIAL DISTRICT OF NEW BRITAIN
AT NEW BRITAIN

8/10/2020

ORDER

The following order is entered in the above matter:

ORDER:

The dental commission (the commission) states in Finding of Fact # 26, regarding charge 2b (placement of crowns) that the plaintiff "did not practice below the standard of care with respect to the placement of the stainless steel crowns." In the commission's reply brief, the commission states specifically that under its revised decision, the plaintiff was not found liable on charge 2b.

On page 10 within "Discussion and Conclusions of Law" with regard to charge 2b, the commission states: "the Department [of public health] sustained its burden of proof." In the commission's reply brief, this apparent inconsistency with Finding of Fact #26 is explained as follows: the commission on page 10 was referring, without stating, to a portion of charge 2b that alleged that the placement of the crowns was without justification or adequately documented justification, and the department of public health had met its burden of proof on that portion of the charge. Cf. Finding of Fact # 19 and the discussion at page 10, relating to the plaintiff's use of general anesthesia, charge 2c.

The court does not agree with the commission that the inconsistency may be so rationalized. If the plaintiff was admittedly not liable at all on this charge per Finding of Fact #26, and did not fall below the standard of care, the statement on page 10, finding that the department's burden of proof was sustained regarding the lack of "justification," cannot stand. To accept the commission's construction at page 10, would mean that the plaintiff was not fully acquitted of charge 2b. Moreover the penalty chosen by the commission must not be based on inconsistencies, leaving open questions of interpretation.

The court therefore orders the commission to resubmit a revised opinion regarding Finding of Fact #26 and the statement on page 10. The court will issue an opinion on the plaintiff's appeal on the filing of the revised decision.

Judicial Notice (JDNO) was sent regarding this order.

414022

Judge: HENRY COHN
Processed by: Tara Bonzani

**STATE OF CONNECTICUT**
**CONNECTICUT STATE DENTAL COMMISSION**

Ammar Idlibi, D.D.S.
License No: 007893 Petition No. 2016-640

# FINAL MEMORANDUM OF DECISION

## *Procedural Background*

The Department of Public Health ("Department") presented the Connecticut State Dental Commission ("Commission") with a Statement of Charges ("Charges") against dental license number 007893 held by Ammar Idlibi, D.D.S. ("Respondent"), dated September 7, 2017. Commission ("Comm.") Ex. 1. The Charges allege that Respondent's license is subject to disciplinary action pursuant to § 20-114(a) of the Connecticut General Statutes ("the Statutes"). Comm. Ex. 1.

A Statement of Charges and a Notice of Hearing was sent to the Respondent by certified mail, return receipt requested, and via email on October 13, 2017. Comm. Ex. 1. The Department scheduled a hearing for December 14, 2017, and if necessary January 11, 2018. Comm. Ex. 1. On October 13, 2017, the parties were notified that the hearings would be held before a duly authorized panel of Commissioners comprised of Steven G. Reiss, D.D.S., Deborah Dodenhoff, RN, and Anatoliy Ravin, D.D.S. ("panel"). Comm. Ex. 1.

On October 16, 2017, the Department filed a Motion for Continuance, which was granted, and the December 14, 2017, hearing was rescheduled for January 11, 2018. Comm. Ex. 4. On October 18, 2017, Respondent filed an Answer. Comm. Ex. 3. On November 16, 2017, the parties were provided a revised hearing schedule with hearings scheduled for January 11, 2018 and January 16, 2018. Comm. Ex. 5.

On January 8, 2018, the Department filed a Motion for its witness to make testimony by telephone or other electronic means, which was granted. Comm. Ex. 6. On January 11, 2018 and January 16, 2018, the panel held an administrative hearing to

adjudicate Respondent's case. Respondent appeared and represented himself. Transcript ("Tr.") 1-11-2018, p. 3. Attorney David Tilles represented the Department. *Id*.

The panel conducted the hearing in accordance with the Statutes § 4-166 *et seq.,* and the Regulations of Connecticut State Agencies ("Regulations") § 19a-9a-1 *et seq*. Both the Department and Respondent presented evidence, conducted cross-examination, and provided argument on all issues.

All panel members involved in this decision attest that they have either heard the case or read the record in its entirety. The Commission reviewed the panel's proposed final decision in accordance with the provisions of § 4-179 of the Statutes. This decision is based entirely on the record and the specialized professional knowledge of the Commission in evaluating the evidence. The Commission relied on the training and experience of its members in making its findings of fact and conclusions of law. *Pet v. Department of Health Services,* 228 Conn. 651, 670 (1994).

After the Commission issued its final memorandum of decision ("MOD"), plaintiff appealed the decision to the Connecticut Superior Court. On January 7, 2020, the Court (Cohn, J.) issued a Memorandum of Decision which remanded the case back to the Commission to "elaborate on Finding #26" and ordered the Commission to issue a revised final decision answering the question of whether plaintiff's treatment justified a finding of a violation of the AAPD standards.

On remand, the case was first heard by the panel who subsequently issued a new proposed final decision which found, among other things, that "the use of stainless steel crowns was not justified, and respondent practiced below the standard of care in using eight stainless steel crowns."

On April 8, 2020, the full Commission considered the panel's new proposed final decision. The Commission rejected the new proposed decision with respect to the new findings in Paragraph #26. The Commission voted to change the new proposed decision and the findings in Paragraph #26.

After determining that it was not a violation of the standard of care to place the eight stainless steel crowns, the Commission carefully considered whether to change its remedy in light of the new findings. The Commission voted to keep the period of probation and other terms of the Order the same. The Commission found that the remedy

contained in the initial Final Memorandum of Decision was appropriate based upon the other findings regarding the allegations in Count One of the Statement of Charges.

**On August 10, 2020, the Court issued an Order ordering the Commission "to resubmit a revised opinion regarding Finding of Fact #26 and the statement on page 10." In response to such Order, the Commission met and voted to approve this Amended Final Memorandum of Decision. In doing so, the Commission also considered whether to change the remedy in light of the change to this new Amended Memorandum of Decision, and the Commission voted to keep the remainder of the decision the same including the remedy.**

## *Allegations*

1. In paragraph 1 of the Charges, the Department alleges that Ammar Idlibi, D.D.S., of Bristol, Connecticut, is and has been at all times referenced in the Charges, the holder of Connecticut dentist license number 007893.

2. In paragraph 2 of the Charges, the Department alleges that Respondent provided care to three-year old Patient 1 on or about April 26, 2016. At that time, Respondent took x-rays and placed stainless steel crowns on eight teeth, all done under general anesthesia. Respondent's care for Patient 1 failed to meet the standard of care in one or more of the following ways:

    a. He failed to obtain adequate informed consent for eight crowns;
    b. He placed one or more crowns without adequate justification, or without adequately documented justification;
    c. He failed to make adequate attempts at treatment without general anesthesia, or failed to adequately document such attempts;
    d. He failed to adequately chart findings of cervical de-calcification;[1]
    e. He failed to attempt treatment of cervical de-calcification other than placement of crowns; and/or
    f. He failed to adequately chart caries or other dental disease for one or more of the teeth that he crowned.

3. In paragraph 3 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to § 20-114(a)(2) of the Statutes.

## *Findings of Fact*

[1] The Charges originally had a typographical error, instead of stating the word "de-calcification," it erroneously stated "calcification." The Department orally requested a correction of the word, to which Respondent did not object. Tr. 1-11-2018, p. 29.

1. Respondent of Bristol, Connecticut, is and has been at all times referenced in this Charges, the holder of Connecticut dentist license number 007893.

2. On or about January 11, 2016, Joseph Guzzardi, D.D.S. performed an oral examination on Patient 1, a three-year-old female. Dr. Guzzardi informed Patient 1's mother that Patient 1 needed a stainless steel crown on tooth S. Tr. 1-11-2018, p. 118. He also indicated that teeth K and T appeared to have small cavities and that, absent the presence of interproximal cavities upon a more intense examination, those two teeth would only require treatment with fillings. *Id.*

3. On or about January 11, 2016, Dr. Guzzardi was unable to take x-rays and perform a full examination that could lead to an adequate diagnosis and treatment without using general anesthesia on Patient 1 because she would not cooperate. Tr. 1-11-2018, p. 118.

4. On or about January 11, 2016, Dr. Guzzardi prepared a proposed treatment plan. Tr. 1-11-2018, p. 119.

5. On January 16, 2016, Dr. Guzzardi's noted that Patient 1 only brushed with fluoride paste once per day independently, Patient 1 was timid and would not cooperate with the dental examination, and that she probably required stainless steel crowns. Tr. 1-11-2018, p. 127. Consequently, Dr. Guzzardi identified Patient 1 as a high risk patient. *Id.*

6. On or about January 21, 2016, Dr. Guzzardi held a telephonic consultation with Patient 1's mother, and informed her that tooth S required a stainless steel crown under general anesthesia because it had multi-surface cavities. He also informed her that Patient 1 had a high sugar diet, and that she should obtain second and third consultations before agreeing to the proposed treatment plan. Patient 1's mom informed Dr. Guzzardi that she did not wish to place a stainless steel crown on Patient 1. Tr. 1-11-2018, pp. 119-120.

7. On or about January 21, 2016, Dr. Guzzardi informed Patient 1's mother that Patient 1 may need multiple stainless steel crowns depending on what a more comprehensive examination and x-rays performed under general anesthesia revealed. Tr. 1-11-2018, p. 121.

8. In January 2016, Dr. Guzzardi determined that Patient 1 required dental treatment under general anesthesia because her tooth S exhibited symptoms of reversible pulpitis with multiple surface cavities[2], and Patient 1 was uncooperative. Thus, Dr. Guzzardi

[2] Decay or cavities in teeth is a bacterial infection of the tooth. Tr. 1-11-2018, p. 200. It can be diagnosed with an x-ray or by clinical examination, such as poking the tooth with a pointed instrument. *Id.* If the cavity is deep enough that touches the root, the dentist will need to perform a root canal (go into the root of the tooth), or a pulpotomy (removal of the pulp or heart of the tooth). *Id.* at p. 201.

was unable to use a temporary filling and take radiographs without placing the patient under general anesthesia. Tr. 1-11-2018, pp. 128-129.

9. Proposed treatment plans often change for patients after taking radiographs under general anesthesia. Tr. 1-11-2018, p. 129.

10. On or around March 28, 2016, Patient 1's mother gave her consent for Dr. Guzzardi or Respondent to treat the patient, depending on which doctor was available at the scheduled date. Rec. Ex. 1, p. 2. Dr. Guzzardi and Respondent worked in the same practice at the time. Tr. 1-11-2018, p. 25.

11. Dr. Guzzardi provided dental care to Patient 1 until April 8, 2016. On April 8, 2016, Dr. Guzzardi attempted to treat Patient 1 under general anesthesia in his office, but was unsuccessful. Tr. 1-11-2018, p. 122.

12. At all relevant times in the course of Dr. Guzzardi's treatment of Patient 1, Patient 1's mother only agreed to a stainless steel crown on tooth S, but she understood that more may be needed. Tr. 1-11-2018, pp. 122-123.

13. Patient 1's mother requested and Dr. Guzzardi agreed that he would consult with her after he had performed a full set of x-rays and clinical diagnosis under general anesthesia, and before he placed the stainless steel crowns on the patient. Tr. 1-11-2018, p. 123.

14. At all relevant times, Dr. Guzzardi did not have any discussion with Respondent regarding the scope of his discussions with Patient 1's mother. Tr. 1-11-2018, pp. 123-124.

15. Patient 1 was scheduled to be treated by Respondent on April 26, 2016, because Dr. Guzzardi was not available to be in the operating room on that date. Rec. Ex. 1, p. 2.

16. Respondent provided care to Patient 1 on or about April 26, 2016. At that time, Respondent took x-rays and placed stainless steel crowns on eight teeth, all done under general anesthesia. Dept. Ex. 2. Tr. 1-11-2018, pp. 64-65.

17. Respondent's care for Patient 1 failed to meet the standard of care in that he failed to obtain adequate informed consent for eight stainless steel crowns. Dept. Ex. 7. Tr. 1-11-2018 pp. 66,136-137, 210-211, 216. Tr. 1-16-2018 pp. 53, 85-86, 91, 102, 107, 116-117, 140, 160, 161, 192-193.

18. **The Department did not prove that** Respondent placed one or more crowns without adequate justification, or without adequately documented justification. Dept. Ex. 9, Tr. 1-11-2018, pp. 193-195, 199-200, 205, Tr. 1-16-2018 pp. 56-57, 58, 107.

19. The evidence is insufficient to establish that Respondent failed to make adequate attempts at treatment without general anesthesia, or failed to adequately document such attempts. Resp. Ex. 1 pp. 1-2, 492,381. Tr. 1-16-2018, p. 33 -34, 128.

20. Respondent failed to adequately chart findings of cervical decalcification. Resp. Ex. 1 p. 10. Dept. Ex. 9.

21. Respondent failed to attempt treatment of cervical de-calcification other than by placement of crowns. Resp. Ex. 1 p. 10, 376.

22. Respondent failed to adequately chart caries or other dental disease for one or more of the teeth that he crowned. Resp. Ex. 1 p. 10.

23. Patient 1 is classified as a high risk patient because of the amount of caries found in her teeth, the plaque score, and her high sugar intake. Tr. 1-16-2018, pp. 32-33. A high risk three-year-old patient is one who drinks mostly juice, eats a lot of candy, and does not have good oral hygiene. Tr. 1-11-2018, pp. 220-221.

24. Children's primary teeth have very thin enamel coatings. Thus, cavities will easily affect the inner surfaces of the teeth. Tr. 1-16-2018, p. 46.

25. Cavities found during clinical examination are usually deeper and more extensive than the same cavities diagnosed on x-rays. Tr. 1-16-2018, p. 46.

26. In accordance with the American Academy of Pediatric Dentistry ("AAPD") Guidelines, stainless steel crowns are an appropriate treatment for interproximal multi-surface caries in primary teeth. Tr. 1-16-2018, pp. 47-48. The AAPD published a Guideline on Pediatric Restorative Dentistry ("Guideline"). Record, Volume III, pp. 68-76. The Guideline provides "recommendations" when caring for children. Id. at 68 (last sentence). The Guideline expressly stated that there would be "exceptions to the recommendations based upon individual clinical findings". Id. The AAPD Guideline also recommends glass ionomers for children. Id at 70. "Glass ionomers have several properties that make them favorable to use in children:" Id. With respect to stainless steel crowns, the Guidelines indicate that they can be useful if certain conditions are met. Id. at 72. The AAPD Guideline does not establish the standard of care. It makes recommendations if certain circumstances are present based upon clinical presentation. Id. at 68. The Guideline can be used to help determine whether a practitioner practiced within the standard of care based on the clinical presentation of the patient. In this case, based upon the Commission's review of all of the evidence, including the x-rays, and including the testimony of Dr. Federman, the Commission concludes that respondent did not practice below the standard of care with respect to the placement of the stainless steel crowns.

27. Decalcification of teeth is part of the cavities process and the initial lesion of teeth decay or infection of the tooth. It is a clinical sign of tooth decay. Tr. 1-16-2018, p. 56.

28. Glass ionomer filling is a recaldent (recalcifying agent) that contains fluoride and glass beads used to treat teeth with cavities. It sticks to decay and helps form secondary dentine, making the affected tooth stronger and healthier. Tr. 1-11-2018, pp. 177, 178. Glass ionomer treatment for children under three years of age, with primary teeth cavities can be used instead of using stainless steel crowns because it is efficient and less traumatic. *Id.* at pp. 178-179.

29. MI paste is a recaldent paste used for children in order to treat very small cavities and to re-calcify white lines on teeth (hypo-calcification and a precursor to decay). Tr. 1-11-2018, pp. 186-187.

***Discussion and Conclusions of Law***

Section 20-114 of the Statutes provides, in pertinent part, that:

> (a) The Dental Commission may take any of the actions set forth in section 19a-17 for any of the following causes . . . (2) proof that a practitioner has become unfit or incompetent or has been guilty of cruelty, incompetence, negligence or indecent conduct toward patients; . . . .

The Department is alleging that on or about April 26, 2016, Respondent provided care to three-year old Patient 1 that failed to meet the standard of care. Specifically, the Department alleges that the Respondent: failed to obtain adequate informed consent for eight crowns; placed one or more crowns without adequate justification, or without adequately documented justification; failed to make adequate attempts at treatment without general anesthesia, or failed to adequately document such attempts; failed to adequately chart findings of cervical decalcification; failed to attempt treatment of cervical de-calcification other than by placement of crowns; and lastly failed to adequately chart caries or other dental disease for one or more of the teeth that he crowned. The Department bears the burden of proof by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 227 (2013).

Respondent admitted to the allegation contained in paragraphs 1 of the Charges, which states that the Respondent, of Bristol, Connecticut, is and has been at all times referenced in this Charges, the holder of Connecticut dentist license number 007893. Findings of Fact ("F.F.") 1; Comm. Ex. 3. Therefore, these allegations are not in dispute.

*See, Jones Destruction, Inc. v. Upjohn,* 161 Conn. 191, 199 (1971); *Commissioner of Public Works v. Middletown*, 53 Conn. App. 438, 444 (1999) *cert. denied,* 250 Conn. 923 (1999).

With regard to the allegations in paragraph 2a of the Charges, that Respondent's care for Patient 1 failed to meet the standard of care when he failed to obtain adequate informed consent for eight crowns, the Department sustained its burden of proof.

Informed consent in pediatric dentistry is defined as the process of providing the parent of a minor child with relevant information regarding diagnosis and treatment needs so that the parent can make an educated decision regarding treatment. Dept. Ex. 7. The AAPD also provides that "dentists are required to provide information to patients/parents about the dental health problems that the dentist observes, the nature of any proposed treatment, the potential benefits and risks associated with that treatment, any alternatives to the treatment proposed, and the potential risks and benefits of alternative treatments, including no treatment." *Id*.

To ensure compliance with the requirement of informed consent, informed consent is seen not from the practitioner's point of view but rather the patient's point of view. Tr. 1-16-2018 p. 102. The AAPD also provides that consent for sedation or general anesthesia should be obtained separately from consent for other procedures. Dept. Ex. 7. The AAPD further provides that consent may need to be updated or changed accordingly as changes to the treatment plan occur. *Id*.

The standard of care places the authority to make decisions about the patient's treatment needs squarely in the hands of the patient or their representatives. *Id*. Accordingly, the standard of care requires that a dentist, who is treating a child, must allow the child's parent to make a decision about the type of preventive care the child will receive. It is the parent's choice to decide whether the child will get treated by a composite, glass ionomer, or a stainless-steel crown. Tr. 1-11-2018, pp. 187, 212.

In this case, Patient 1's mother testimony was reliable and credible. She testified that when she signed consent for treatment and the administration of anesthesia, she told Respondent to come out and talk to her about the treatment plan once Respondent had finished taking x-rays, performed his clinical evaluation, and determined a treatment plan. Dept. Ex. 1 pp. 18, 20. Tr. 1-11-2018 p. 66.

Patient 1's mother's testimony is corroborated by Dr. Guzzardi's testimony. Dr. Guzzardi's testimony was reliable and credible. He testified that in the April 8th visit he agreed to come out and tell the patient's mother what he found on the x-rays because the patient's mother told him that she would feel more comfortable if he discussed with her a definitive treatment plan prior to actually doing it, especially if the treatment plan required the placement of stainless steel crowns. Tr. 1-11-2018 pp. 123,137. Based on the testimony of Patient 1's mother and Dr. Guzzardi, it is evident that the April 8th consent had within it a condition that Dr. Guzzardi would come out and let the patient's mother know what he found on the x-ray before doing anything else. According to Patient 1's mother, this was the same request she made of the Respondent when she signed the consent forms for her daughter's treatment on April 26, 2016. Dept. Ex. 1 pp. 18, 20; Tr. 1-11-2018, p. 66.

Respondent in his testimony asserts that he obtained adequate informed consent to treat the patient because he specifically told the patient's mother that her daughter was likely to get eight crowns and that the mother consented that she was okay with that. Tr. 1-16-2018 p. 160. Respondent also testified that there was no condition that he come out and talk to the patient's mother because he spent 15 to 20 minutes talking about the procedure and crowns and that the patient's mother did not ask him a single question or interact with him to the point that he was wondering if she was getting what he was saying or whether there was some kind of a barrier where she's not understanding. Tr. 1-16-2018 pp. 159-160. In his support, Respondent showed a standardized form signed by Patient 1's mother that indicates that "[s]he acknowledge[s] and consent[s] to the use of stainless steel crowns. . . ." Resp . Ex. 1, p. 9.

The Board finds that the standardized consent form is insufficient consent in the present case (*Pet,* 228 Conn. at 670), and finds that Respondent's testimony is not credible in light of Patient 1's mother's corroborated testimony to the contrary. Tr. 1-11-2018 p. 66, 123, 127. Moreover, the Board agrees with pediatric dentist and Department's expert witness Dr. Jenny T. Federman's testimony. She testified that Respondent should still have come out of the operating room for ten to fifteen minutes and explain to Patient 1's mother his finding and obtain her authorization to place the eight crowns, as requested. Tr. 1-11-2018, pp. 213-214; *see Pet,* 228 Conn. at 670.

When Respondent realized that he would be placing eight crowns, as opposed to the one that had been agreed upon, the treatment plan changed significantly. Tr. 1-16-2018 p. 107. Thus, Respondent should have come out and talked to the patient's mother, or called the mother from the operatory room. *See Pet,* 228 Conn. at 670. The testimony by Patient 1's mother that the Respondent failed to come and talk to her about the change in treatment plan demonstrates that the Respondent violated the standard of care. Thus, the Department sustained its burden of proof with regard to the allegations contained in paragraph 2a of the Charges.

With regard to the allegations contained in paragraph 2b of the Charges that Respondent placed one or more crowns without adequate justification, or without adequately documented justification, the Department **did not** sustain its burden of proof.

With regard to the allegations in paragraph 2c of the Charges, that Respondent's care for Patient 1 failed to meet the standard of care in that he failed to make adequate attempts at treatment without general anesthesia, or failed to document such attempts adequately, the Department failed to sustain its burden of proof.

The AAPD recognizes that there exists a pediatric population for whom routine behavior management is not a viable option, where deep sedation and general anesthesia is necessary to provide optimum care. Resp. Ex. 1 p. 381. The AAPD Guidelines further provide that patients who cannot cooperate due to a lack of psychological or emotional maturity, for whom local anesthesia is ineffective, may be treated under general anesthesia. Resp. Ex 1 p. 492. Dr. Federman's testimony that she does not place children under general anesthesia because she wants them to have a good experience and learn how to be good dental patients, while noble, does not establish the standard of care. Tr. 1-11-2018, pp. 148-149. Accordingly, Respondent's actions in not following Dr. Federman's approach do not constitute a violation of the standard of care.

The standard of care, established in part by the AAPD provides that in situations where a patient is uncooperative, general anesthesia may be administered in order to provide optimum treatment. Resp. Ex. 1 pp. 381, 492. Dr. Kohn testified that Respondent followed the AAPD Guidelines on the indication for the use of general anesthesia. Tr. 1-16-2018, p. 33. Dr. Kohn also opined that Respondent was justified to treat Patient 1 under general anesthesia. *Id.* Specifically, because Patient 1 had several visits with

multiple dentists, showed signs of frank (soft cavities) cavities that had not yet been fully diagnosed and treated, and the fact that Patient 1 could not sit for radiographs made the use of general anesthesia justified. *Id.* at p. 34. Furthermore, Patient 1's mother authorized the general anesthesia. *Id.* The Department failed to sustain its burden of proof because it failed to provide credible evidence that the use of general anesthesia on Patient 1 was a deviation from the standard of care.

With regard to the allegations contained in paragraph 2d of the Charges, the Department sustained its burden of proof that Respondent failed to adequately chart findings of cervical decalcification.

Dr. Guzzardi testified that based on his examination of the patient, he reasoned that tooth S would need a stainless steel crown and that tooth K and T appeared to have small cavities or interproximal cavities between the teeth but could not see any cavities on the other teeth or make a determinations on whether they needed any treatment because of the patient's behavior. Resp. Ex. 1 p. 1. Tr. 1-11-2018, p. 118. Dr. Guzzardi also testified that based on the patient's behavior, he was unable to give a definitive treatment plan for the patient because he was unable to get radiographs. Tr. 1-11-2018, p. 118. According to Dr. Guzzardi, without radiographs his treatment plan was just guessing. Tr. 1-11-2018, p. 121. Based on Dr. Guzzardi's testimony, it is evident that there was no definitive treatment plan for the patient at the time the patient presented to the Respondent on April 26. *Id*.

In Respondent's operative report, Respondent reports that tooth S had advanced caries and was restored with a stainless-steel crown cemented with a glass ionomer. Resp. Ex. 1 p. 10. Respondent's operative note also reports that teeth K, L, and T had multi-surface interproximal caries and cervical decalcification, and was restored with a stainless steel crown cemented with a glass ionomer cement. *Id*. Lastly, Respondent's operative notes report that teeth A, B, I and J had interproximal caries and general cervical decalcifications and were restored with a stainless-steel crown cemented with a glass ionomer cement. *Id*. These notes fail to adequately chart findings of cervical decalcification. F.F. 6. Reviewing the Respondent's x-rays, submitted into evidence as Dept. Ex. 9, and the Respondent's operative notes, the Board finds that there is insufficient evidence for the Respondent's findings of cervical decalcification.

Dr. Kohn testified that cervical decalcification of teeth is part of the cavities process and the initial lesion of tooth decay or infection of the tooth. F.F. 13. It has a chalky white appearance and is the first sign of clinical tooth decay. Tr. 1-16-2018, p. 56. Dr. Kohn also testified that, when an operative note makes a notation for multi-surface caries, it could mean decalcification, part of a continuum of tooth decay. It can include decalcified lesions that are really soft and chalky, which can be just scraped away. It can also include a decalcification that is not soft, and which amounts to an actual cavity. *Id*. Lastly, Dr. Kohn testified that based on the quality of the x-ray images he could not discern any interproximal decay on the teeth except, possibly, on the distal side of tooth L and the distal side of tooth S. Tr. 1-16-2018, pp. 76-79. Dr. Federman testified that she did not see any decay on the x-rays provided that warranted a crown. Tr. 1-11-2018, p. 199.

The Board agrees with Dr. Federman's testimony that the x-rays fail to show cervical decalcifications on K, L, T, A, B, I and J that require crowns. The Board also finds that the Respondent's operative note fails to adequately describe the cervical decalcifications that the Respondent found in his examination. The Respondent's operative note does not describe whether the cervical decalcification was at the initial chalky white stage that could be scrapped away or whether it amounted to a cavity and therefore warranted more aggressive treatment. *See* Pet, 228 Conn. at 670.

Respondent concedes that if you show his x-rays to any general dentist, the dentist will tell you that he was not justified in placing the eight crowns and it does not make sense to do so. Tr. 1-11-2018, p. 169. Knowing that his x-rays do not provide justification for placement of eight crowns, Respondent should have provided greater detail about his clinical findings in his operative notes to justify his aggressive treatment. Respondent's operative note fails to provide such justification. Resp. Ex. 1 p. 10. The operative note fails to specify, which sides of the teeth have cervical decalcification, the depth of the decalcification, and the type of disease that may result if left untreated. Resp. Ex. 1 p. 10. Based on its own training and experience, the Board also fails to see a justification for 8 crowns. *See* Pet, 228 Conn. at 670. Thus, the Board finds that the Department has sufficiently established by a preponderance of evidence that the Respondent failed to adequately chart findings of cervical decalcification in violation of the standard of care.

With regard to the allegations contained in paragraph 2e of the Charges, that Respondent failed to attempt treatment of cervical de-calcification other than by placement of crowns, the Department did not sustain its burden of proof.

With regard to the allegations contained in paragraph 2f of the Charges that Respondent failed to adequately chart caries or other dental disease for one or more of the teeth that he crowned, the Department sustained its burden of proof. The preponderance of the evidence establishes that Patient 1's x-rays only showed two small cavities on the occlusal side of tooth S, but no cavities on the remaining teeth. Respondent contends that he placed stainless steel crowns on all the molars, including tooth S because he found that all of those teeth had multiple surface cavities. However, as discussed above, the chart is devoid of any such clinical finding. Therefore, the Department sustained its burden of proof with regard to the allegations contained in paragraph 2f of the Charges.

### ***Conclusion***

After considering the facts as proven by the Department as well as Respondent's defenses and testimony, the Commission finds that Respondent practice of dentistry fell below the standard of care and merits disciplinary action for the conduct alleged and proven in the Charges.

### ***Order***

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by §§ 19a-17 and 20-114 of the Statutes, the Commission orders the following in the case of Connecticut dental license number 007893 held by Ammar Idlibi, D.D.S., Petition No. 2016-640, for the conduct alleged and proven in the Charges, which warrants the disciplinary action imposed by this Order:

1. Respondent shall pay a civil penalty of ten thousand dollars ($10,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number of the face of the check, and shall be payable within thirty days of the effective date of this Memorandum of Decision ("Decision").

2. Respondent's license number 007893 to practice as a dentist in the State of Connecticut is hereby reprimanded.

3. Based on the allegations proven in the Charges, Respondent's license number 007893 to practice as a dentist in the State of Connecticut is hereby placed on probation for three (3) years, effective on the date of this Decision.

4. The terms and conditions of the probation are as follows:

   a. Within six (6) months of the effective date of this Decision, Respondent shall successfully complete courses, pre-approved by the Department, in ethics, medical record documentation, and informed consent. Respondent shall provide the Department with proof of course completion, in a form satisfactory to the Department, within thirty (30) days of completing the course.

   b. Respondent shall obtain, at his own expense, the services of a dentist, preapproved by the Department ("supervisor") to conduct quarterly random review of twenty percent (20%) or twenty (20) of Respondent's patient records, created or updated during the term of this Decision, whichever is the larger. In the event Respondent has twenty (20) or fewer patients, the supervisor shall review all of Respondent's patients' records.

      (1) Respondent shall provide a copy of this Decision to his supervisor.

      (2) Respondent's supervisor shall furnish written confirmation to the Department of his or her engagement in that capacity and acknowledge receipt of a copy of this Decision within fifteen (15) days of the effective date of this Decision.

      (3) Respondent's supervisor shall conduct such review and meet with him not less than once each quarter during the probationary period.

      (4) The supervisor shall have the right to monitor Respondent's practice by any other reasonable means which she or he deems appropriate. Respondent shall fully cooperate with the supervisor.

      (5) Respondent's patients' records shall include digital imaging of teeth.

      (6) Respondent shall be responsible for providing written quarterly monitoring reports directly to the Department for the entire probationary period. Such

monitor reports shall include documentation of the date and duration of meetings with Respondent, number and a general description of the patients' records, additional monitoring techniques utilized, and statement regarding whether Respondent is practicing with reasonable skill and safety.

5. All correspondence related to this Decision and Order must be delivered to:

Lavita Sookram, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

6. All reports required by the terms of this Decision shall be due according to a schedule to be established by the Department.

7. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

8. Respondent shall pay all costs necessary to comply with this Decision.

9. In the event Respondent is not employed as a dentist for periods of thirty (30) consecutive days or longer, or is employed as a dentist for less than twenty (20) hours per week, or is employed outside of the State of Connecticut, Respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Decision.

10. Legal notice shall be sufficient if sent to Respondent's last known address of record reported to the Office of Practitioner Licensing and Investigations of the Department.

11. This Decision has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

12. This Decision is effective on the date it is signed by the Commission.

Dated at Hartford, Connecticut this _____ day of September, 2020.

Connecticut State Dental Commission

_____
Peter Katz, DMD
Chairman

# STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

Deidre S. Gifford, MD, MPH
Acting Commissioner

Ned Lamont
Governor
Susan Bysiewicz
Lt. Governor


## CONNECTICUT STATE DENTAL COMMISSION

In lieu of the one year of clinical based postdoctoral general practice or specialty dental residency program pursuant to Conn. Gen. Stat. § 20-107(a) and to protect the public health, welfare and safety, the Connecticut State Dental Commission pursuant to Conn. Gen. Stat. § 20-108(a) accepts and approves the results of clinical or practical examinations for applicants for licensure to practice dentistry (applicants) subject to the following conditions:

1. A passing score on each section (conjunctive scoring) of a mannequin-based examination that includes:
    a. A Class III anterior preparation and restoration of an anterior tooth;
    b. A Class II preparation and restoration of a posterior tooth with either composite or amalgam material;
    c. Anterior endodontic procedure on a central incisor: access and obturation;
    d. Posterior endodontics on a molar: access only and location of canals.
    e. A ceramic crown preparation on a central incisor;
    f. A porcelain-fused to metal crown preparation on a bicuspid;
    g. A full cast crown preparation-zirconia crown on a molar; and,
    h. The porcelain-fused to metal crown preparation on the bicuspid under paragraph 1(f) above and the molar zirconia crown preparation under paragraph 1(g) above must be on the same arch and parallel to each other for a three-unit fixed bridge.


Connecticut Department of Public Health

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2. A passing score on each section of a written examination, including the dental skill set examination, the computer-based examination, and the diagnosis and treatment planning examination. At this time, the computer-based examination referenced herein does not include the Dental Licensure Objective Structured Clinical Examination administered by the Joint Commission on National Dental Examination, which examination remains under consideration.
3. Applicants must retake any section of the mannequin-based examination that the applicant has not received a passing score on and retake the written examination if the applicant for licensure has not received a passing score on any section of that examination.
4. Applicants must allow for remediation time before the applicant may retake the written examination and any portion of the mannequin-based examination that the applicant did not pass. Applicants may not retake the written examination or retake any portion of the mannequin-based examination on the same day that the applicant did not pass the exam.

Dated: July 30, 2020

Peter S. Katz, D.M.D., Chairperson
Connecticut State Dental Commission