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Final Order No. DOH-07-2064-<sup>ftl</sup>-MOA  
FILED DATE - 9/17/07  
Department of Health  
By: Rachael  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF DENTISTRY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2005-67102  
DOAH Case No.: 07-0974PL  
License No.: DN 13321

JENNY DAVENPORT, D.D.S.,

Respondent.

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**FINAL ORDER**

THIS CAUSE came before the BOARD OF DENTISTRY (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on September 14, 2007, in Gainesville, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order and Exceptions to the Recommended Order, and (copies of which are attached hereto as Exhibits A and B, respectively) in the above-styled cause. Petitioner was represented by Jamie Ito, Assistant General Counsel. Respondent was present and represented by Catherine Chapman, Esq.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

**RULINGS ON EXCEPTIONS**

1. The Board reviewed the Respondent's exception to paragraph 64 of the Recommended Order and DENIED the exception based upon the reasons set forth in the Department's filed response to exceptions.

2. The Board reviewed the Respondent's exception to paragraph 66 of the Recommended Order and DENIED the exception based upon the reasons set forth in the Department's filed response to exceptions.

3. The Board reviewed the Respondent's exception to paragraph 45 of the Recommended Order and DENIED the exception based upon the reasons set forth in the Department's filed response to exceptions.

4. The Board reviewed the Respondent's exception to paragraph 20 of the Recommended Order and GRANTED the exception based upon the reasons set forth in the exceptions. Paragraph 20 of the Recommended Order shall read as follows:

Patient L.E. picked up her patient records from Respondent's office on or about January 5, 2007. On or about January 20, 2005, Patient L.E. picked up a crown from Respondent's office, that she believed was necessary to be carried to her appointment with Dr. Hines. After that she did not return to Respondent's office. The patient remembered signing a form releasing the Respondent from providing future treatment and reminding the patient, that if the crown that she had picked up were to be destroyed, she would have to pay for another. The form referred to the fact that the treatment had not been completed.

5. The Board reviewed the Respondent's exception to paragraph 39 of the Recommended Order and GRANTED the exception based upon the reasons set forth in the exceptions. The last sentence of Paragraph 39 of the Recommended Order shall read as follows:

This disclaimer, which refers to the second permanent crown, was signed by Patient L.E. on January 20, 2005, when she retrieved the second crown from Respondent's office.

6. The Board reviewed the Respondent's exception to paragraph 40 of the Recommended Order and DENIED the exception based upon the reasons set forth in the Department's filed response to exceptions.

7. The Board reviewed the Respondent's exception to paragraph 21 of the Recommended Order and GRANTED the exception based upon the reasons set forth in the exceptions. Paragraph 21 of the Recommended Order shall read as follows:

The Respondent attended the University of Puerto Rico for her undergraduate education. She attended dental school at Marquette University and received her D.D.S. in 1992. Respondent is licensed to practice dentistry in Florida, and was licensed to practice dentistry in New Jersey.

#### FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
2. There is competent substantial evidence to support the findings of fact.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

#### PENALTY

Upon a complete review of the record in this case, the Board determines that the disposition recommended by the Administrative Law Judge be REJECTED. The Board instead determined that the disposition be the following:

1. An administrative fine of \$2,000 shall be assessed against the Respondent, to be paid to the Executive Director of the Board of Dentistry, within 6 months of the filing of the Final Order. Please remit payment to: Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, ATTN: Dentistry Compliance Officer.

2. Within one year of the filing of the Board's Final Order, the Respondent shall successfully complete continuing education courses as they relate to the practice of dentistry within the State of Florida as follows:

a. A continuing education course work in endodontics until demonstration of minimum competency is achieved and documented; and

b. Three continuing education clock hours in diagnosis and treatment planning.

Within thirty (30) days of completion of the above listed requirements, Respondent shall submit proof of course content and successful completion to the Board of Dentistry Office. These continuing education courses are in ADDITION to those continuing education credits normally required for renewal of the Respondent's license. Home study courses WILL NOT be accepted to satisfy this condition unless specifically authorized by the Board of Dentistry.

3. Within one year of the Final Order, Respondent shall refund the patient in the amount of "out of pocket" fees for the treatment that the Respondent provided.

Respondent shall refund third-party insurance company, if applicable, in the amount of any fees paid on behalf of the patient for the treatment that the Respondent provided in this cause. Proof payment must be submitted to the Board of Dentistry Office.

4. Within one year of the Final Order, Respondent shall pass the Laws and Rules Examination governing the practice of dentistry in the State of Florida.

5. The Respondent's continuing education courses will be audited for the next biennium. Respondent shall submit proof of continuing education courses for March 1, 2006 - February 28, 2008 audit no later than March 15, 2008 to: Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, ATTN: Dentistry Compliance Officer.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$32,506.68. Said costs are to be paid within one year from the date this Final Order is filed.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 26<sup>th</sup> day of September, 2007.

BOARD OF DENTISTRY



Sue Foster  
Executive Director *on behalf of*  
Eva Ackley, D.M.D., CHAIR

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE FLORIDA APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **JENNY DAVENPORT, D.D.S., c/o Catherine Chapman, Guilday, Tucker, Schwartz & Simpson, P.A., P.O. Box 12500, Tallahassee, Florida 32317-2500**; by interoffice mail to Joy A. Tootle, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Jamie Ito**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this X<sup>th</sup> day of September, 2007.

*Jocelyn Ryan*

**Deputy Agency Clerk**