

FILED DATE - MAR 10 2021

Department of Health

By: Bridget Coate
Deputy Agency Clerk

**STATE OF FLORIDA
THE FLORIDA BOARD OF DENTISTRY**

DEPARTMENT OF HEALTH
PETITIONER,

TATYANA STEPANCHUK, D.M.D.,
RESPONDENT.

CASE NO.: 2018-00406
DOAH CASE NO.: 20-2517PL
LICENSE NO. : DH 18478

**FINAL ORDER AFTER HEARING
INVOLVING DISPUTED ISSUES OF MATERIAL FACT**

This cause came before the FLORIDA BOARD OF DENTISTRY (hereinafter Board), pursuant to Chapters 456; 466; and sections 120.569 and 120.57(1), *Florida Statutes*, at a duly noticed public meeting held on February 19, 2021, for the purpose of considering the Honorable E. Gary Early's (hereinafter Administrative Law Judge or ALJ) Recommended Order issued on December 22, 2020 (attached hereto as Exhibit "A").

APPEARANCES

For Petitioner: Ellen LeGendre Carlos, Esq.
Chad Dunn, Esq.
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265

For Respondent: Linda A. McCollough, Esq.
McCollough Law PLLC
P.O. Box 1222
Tavares, FL 32778-1222

Upon review of the Recommended Order, the Exceptions and written Response thereto, the Respondent's and Petitioner's Motions, hearing oral arguments from the parties, and after a

review of the complete record in this case, the Board makes the following rulings, findings, and conclusions:

I. RULINGS ON EXCEPTIONS

1. Petitioner's Exception 1 – RO Paragraph 17: **GRANTED.** For the written reasons stated by Petitioner, adopted and incorporated fully herein, and based upon the Board's discussion during the presentation of the exception, the Board finds the intent of the Respondent irrelevant, and leaving the implant in the distal socket failed to meet the standard of care and therefore was either negligent or incompetent, constituting a violation of section 466.028(1)(x), F.S. Accordingly, as required by section 120.57(1)(l), Florida Statutes, the Board finds this substituted conclusion of law to be as or more reasonable than the ALJ's, Grants the Exception, and substitutes the following language for Paragraph 17 of the RO:

45. The evidence established that Respondent placed the implant in the distal root socket of tooth 19. The Department established, by clear and convincing evidence, that Respondent failed to place the implant in the correct location by placing the implant in the distal root socket in the area of tooth 19, and therefore, too far from adjacent tooth 20.

2. Petitioner's Exception 2 – RO Paragraph 74: **GRANTED.** For the written reasons stated by Petitioner, adopted and incorporated fully herein, and based upon the Board's discussion during the presentation of the exception, the Board finds the intent of the Respondent irrelevant, and leaving the implant in the distal socket failed to meet the standard of care and therefore was either negligent or incompetent, constituting a violation of section 466.028(1)(x), F.S. Accordingly, as required by section 120.57(1)(l), Florida Statutes, the Board finds this substituted conclusion of law to be as or more reasonable than the ALJ's, Grants the Exception, and substitutes the following language for Paragraph 74 of the RO:

74. The administrative complaint, count one, alleged that respondent failed to meet the minimum standards of performance in diagnosis and treatment when she failed to place the implant in the correct location by placing the implant in the distal root socket in the area of tooth 19 and, therefore, too far from adjacent tooth 20, in violation of section 466.028(1)(x). As set forth in the findings of fact herein, the department has met its burden to establish by clear and convincing evidence that respondent violated the standard of performance as alleged.

3. Petitioner's Exception 3 – RO Penalty: GRANTED. For the written reasons stated by Petitioner, adopted and incorporated fully herein, and based upon the Board's discussion during the presentation of the exception, the Board finds the intent of the Respondent irrelevant, and leaving the implant in the distal socket failed to meet the standard of care and therefore was either negligent or incompetent, constituting a violation of section 466.028(1)(x), F.S. Accordingly, the Board finds the ALJ's recommended penalty should be MODIFIED to include discipline for the 466.028(1)(x), F.S. violation.

II. FINDINGS OF FACT

1. There is competent, substantial evidence to support the Recommended Order's Findings of Fact.

2. Accordingly, the Recommended Order's Findings of Facts, as modified by the above exceptions, are hereby approved, adopted and incorporated herein by reference as the Findings of Fact of the Board.

III. CONCLUSIONS OF LAW

1. The Board has personal jurisdiction, subject matter jurisdiction, and final order authority in this cause pursuant to sections 120.569; 120.57(1); and Chapters 456 and 466, *Florida Statutes*.

2. Accordingly, the Conclusions of Law as set forth in the Recommended Order, as modified by the above exceptions, are approved, adopted, and incorporated herein by reference as the Conclusions of Law of the Board.

3. There is competent, substantial evidence to support the Recommended Order's Conclusions of Law.

4. The Board's substituted Conclusions of Law are as or more reasonable than the ALJ's.

IV. VIOLATIONS

1. Based on the foregoing adopted Findings of Fact and Conclusions of Law, the Administrative Law Judge's recommendation is **REJECTED regarding Count I and ACCEPTED regarding Count II of the Administrative Complaint.**

2. Accordingly, Respondent is found in **VIOLATION** of section 466.028(1)(x), *Florida Statutes* and Respondent is found in **VIOLATION** of section 466.028 (m) **or** (mm), *Florida Statutes*.

V. DISCIPLINE

The Board finds that the violations warrant discipline and, while **ACCEPTING IN PART** the recommendations of the ALJ as to penalty, hereby **ORDERS** and **ADJUDGES**, that

1. The Respondent shall take and successfully complete a Level I (3 – 6 semester hours, as necessary to demonstrate competency) dental education course on **IMPLANTS**. The course shall be taken at or through a Florida accredited college of dentistry. The course shall be completed within **six (6)** months from the date of this Final Order.

2. The Respondent shall pay an **ADMINISTRATIVE FINE** of Seven Hundred Fifty Dollars (\$750.00). The fine is to be paid within **Ninety (90)** days of the date of this Final Order.

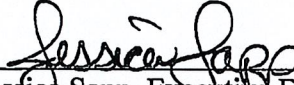
VI. MOTION TO ASSESS COSTS

Both Petitioner and Respondent filed written Motions to Assess Costs in accordance with section 456.072(4), *Florida Statutes*. Because the competing Motions establish a disputed issue of fact, the proceeding to assess costs is BIFURCATED pending resolution of the final amount(s) due.

THIS FINAL ORDER SHALL BECOME EFFECTIVE UPON BEING FILED WITH THE AGENCY CLERK FOR THE DEPARTMENT OF HEALTH

DONE AND ORDERED this 10 day of March, 2021.

BOARD OF DENTISTRY



Jessica Sapp, Executive Director
on behalf of
Nicholas White, D.M.D.
Chair of the Board of Dentistry

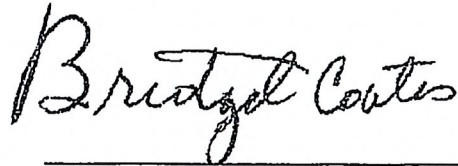
NOTICE OF RIGHT TO JUDICIAL REVIEW

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 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 US Mail to Tatyana Stepanchuk, D.M.D., 8750 Perimeter Park Boulevard, Suite 101,

Jacksonville FL 32216 and Tatyana Stepanchuk c/o Linda A. McCollough, Esq.,
McCollough Law PLLC, P.O. Box 1222, Tavares, FL 32778-1222; Honorable E. Gary Early,
Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway,
Tallahassee, Florida 32399-3060; and by Electronic Mail to Chad Dunn, Deputy General
Counsel, Florida Department of Health, Chad.Dunn@flhealth.gov; and to Lawrence D. Harris,
Assistant Attorney General, Lawrence.Harris@myfloridalegal.com this 10 day of
March, 2021.



DEPUTY AGENCY CLERK