

BEFORE THE STATE BOARD OF DENTAL EXAMINERS

STATE OF COLORADO

Case No. RG DE DAJVQ

---

**STIPULATION AND FINAL AGENCY ORDER**

---

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE DENTISTRY IN THE STATE OF COLORADO OF GINO ORTEGON-AZUERO, D.D.S., NO. 6787,

Respondent.

---

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Dental Examiners ("Board") and Gino Ortegon-Azuero, D.D.S. ("Respondent") as follows:

**FINDINGS AND CONCLUSIONS**

**Jurisdiction**

1. The Board has jurisdiction over the person of Respondent, his license to practice dentistry and the subject matter of this stipulation pursuant to the provisions of title 12, article 35, part 1, C.R.S. (1991), otherwise known as the Dental Practice Law of Colorado.

2. Respondent has been licensed to practice as a dentist in the State of Colorado at all times relevant to this disciplinary action.

**Purpose**

3. It is the intention of the parties to this stipulation and agreement to resolve all claims and issues related to the following Colorado Board of Dental Examiners complaints: 3695009083, 3695009175, 3696000242, DA-00-7297 and DA-00-7999.

## **Background**

4. During all times relevant to this disciplinary matter, Respondent was practicing as a contract dentist at the Huggins Diagnostic Center, also known as the Huggins Diagnostic and Rehabilitation Center (hereafter "HDC"), a professional corporation, in Colorado Springs, Colorado.

5. The HDC treatment program typically involves removal of all amalgam fillings, crowns, and root-canal treated teeth from a patient's mouth for the purpose of relieving an assortment of medical symptoms.

## **Patient A.G.**

6. Patient A.G. was an elderly female suffering from chronic fatigue and cancer when she attended an in-office program at the Huggins Diagnostic Center (HDC) from approximately May 14, 1992, through July 2, 1992.

7. While A.G. attended the HDC program, Respondent provided dental care and treatment to A.G. which involved:

- a. inappropriate removal of fillings, teeth and crowns without clinical justification;
- b. inappropriate surgical explorations or "cavitations" performed without clinical justification;
- c. a failure to obtain adequate informed consent to the treatment rendered; and
- d. a failure to document an adequate dental history, dental examination, and dental treatment plan.

8. Respondent's extraction of functional root-canal treated teeth was below generally accepted standards of practice.

9. Respondent's removal of functional full gold crowns or porcelain fused to gold crowns was below generally accepted standards of practice.

10. Respondent's routine exploratory surgery for "area cavitations" performed in the absence of radiographic evidence of pathology was below generally accepted standards of practice.

11. Respondent's care and treatment of A.G. as described above was violative of the following provisions of the Dental Practice Law: §12-35-118(1)(h), (j), (x), and (y) C.R.S. (1991).

#### **Patient H.G.**

12. Patient H.G. was an elderly male suffering from amyotrophic lateral sclerosis (ALS), also known as Lou Gehrig's Disease, when he attended the in-office program at the Huggins Diagnostic Center (HDC) from approximately April 7, 1992, through April 24, 1992. H.G. was seen for additional care on dates in May, June, and July of 1992.

13. While H.G. attended the HDC program, Respondent provided dental care and treatment for H.G. which involved:

- a. inappropriate removal of fillings, teeth and crowns without clinical justification;
- b. inappropriate surgical explorations or "cavitations" performed without clinical justification;
- c. a failure to obtain adequate informed consent to the treatment rendered; and
- d. a failure to document an adequate dental history, dental examination, and dental treatment plan.

14. Respondent's removal of amalgam restorations in the absence of evidence of recurrent decay or pathology is below generally accepted standards of practice.

15. Respondent's extraction of functional root-canal treated teeth was below generally accepted standards of practice.

16. Respondent's removal of functional crowns was below generally accepted standards of practice.

17. Respondent's routine exploratory surgery for "area cavitations" performed in the absence of radiographic evidence of pathology was below generally accepted standards of practice.

18. The Respondent's care and treatment of H.G., as described above, was violative of the following provisions of the Dental Practice Law, §12-35-118(1)(h), (j), (x), and (y) C.R.S. (1991).

#### **Patient B.C.**

19. Patient B.C., a female, attended the detoxification program at the Huggins Diagnostic Center (HDC) from approximately June 8, 1992, through March 19, 1993.

20. Respondent provided dental care to B.C. during this time period which involved;

a. inappropriate removal of fillings, teeth and crowns without clinical justification;

b. inappropriate surgical explorations or "cavitations" performed without clinical justification;

c. a failure to obtain adequate informed consent to the treatment rendered; and

d. a failure to document an adequate dental history, dental examination, and dental treatment plan.

21. Respondent's removal of amalgam restorations in the absence of evidence of recurrent decay or pathology is below generally accepted standards of practice.

22. Respondent's extraction of functional root-canal treated teeth was below generally accepted standards of practice.

23. Respondent's removal and replacement of functional crowns was below generally accepted standards of practice.

24. Respondent's routine exploratory surgery for "area cavitations" performed in the absence of radiographic evidence of pathology was below generally accepted standards of practice.

25. The Respondent's care and treatment of B.C., as described above, was violative of the following provisions of the Dental Practice Law, §12-35-118(1)(h), (j), (x), and (y) C.R.S. (1991).

**Patient D.B.**

26. Patient D.B. is a female who attended the in-office program at the Huggins Diagnostic Center (HDC) from approximately August 1991 through February 1993.

27. Respondent treated D.B. on two occasions. The first phase of treatment occurred in September, November and December, 1991. The second phase of treatment occurred in April and May of 1992. Respondent's dental care and treatment involved:

- a. inappropriate removal of fillings and teeth without clinical justification;
- b. a failure to obtain adequate informed consent to the treatment rendered; and
- c. a failure to document an adequate dental history, dental examination, and dental treatment plan.

28. Respondent's removal of amalgam restorations in the absence of evidence of recurrent decay or pathology or a diagnosis from a qualified physician of the patient's allergy to mercury is below generally accepted standards of practice.

29. Respondent's extraction of functional root-canal treated teeth was below generally accepted standards of practice.

30. Respondent's improper placement of composite restorations and inadequate bridgework fell below generally accepted standards of care.

31. The Respondent's care and treatment of D.B., as described above, was violative of the following provisions of the Dental Practice Law, §12-35-118(1)(h), (j), (x), and (y) C.R.S. (1991).

## **Patient S.C.**

32. Patient S.C., a female suffering from Rheumatoid Arthritis, attended the in-office program at the Huggins Diagnostic Center (HDC) in 1992 after hearing about the program on 60 Minutes.

33. While S.C. was attending the HDC program, Respondent provided S.C. with dental care and treatment which involved:

a. inappropriate removal of serviceable fillings and crowns without clinical justification;

b. a failure to obtain adequate informed consent to the treatment rendered; and

c. a failure to document an adequate dental history, dental examination, and dental treatment plan.

34. Respondent's removal of amalgam restorations and crowns in the absence of evidence of recurrent decay or pathology or a diagnosis from a qualified physician of the patient's allergy to mercury is below generally accepted standards of practice.

35. The Respondent's care and treatment of S.C. as described above, was violative of the following provisions of the Dental Practice Law, §12-35-118(1)(h), (j), (x), and (y), C.R.S. (1991).

### **Malpractice Judgment/Claim**

36. Respondent failed to report certain malpractice settlement and judgment to the Board within the prescribed 90-day period. The malpractice settlement was with Francis Pranato and the judgment was with Diane Bailey.

37. Respondent's failure(s) to report such settlements and judgments is violative of §§12-35-118(1)(p) and (q), C.R.S. (1991).

### **Aggravating and Mitigating Factors**

38. As aggravating factors the Board notes the repetitive nature of the conduct, the vulnerability of the patients, and the harm suffered by the patients.

39. As mitigating factors, the Board notes that Respondent has not had any complaints since those which form the basis of this disciplinary action since Respondent left the Huggins Clinic in October of 1992 over five years ago. Also Respondent's good faith belief that his reporting of a settlement and a judgment in two malpractice cases to National Practitioners Databank would also constitute reporting to the Board. Respondent now realizes this is not the case and will in the future fully comply with C.R.S. 12-35-118(1)(p) and (q).

40. The Board finds and Respondent agrees that the following disposition is just and appropriate under the circumstances.

### **DISPOSITION**

#### **Suspension, Probation and Continuing Education**

41. **Suspension.** Respondent hereby consents to the Board's entry of an order whereby his license to practice dentistry in the State of Colorado shall be **SUSPENDED FOR 36 MONTHS, 2 MONTH OF WHICH SHALL BE ACTIVELY SERVED** commencing thirty (30) days after the effective date of this Stipulation and Final Agency Order. During the interim period between the effective date and commencement of suspension, Respondent shall take appropriate steps to inform his patients of his suspension and to facilitate their transition to another dental care provider. Prior to commencement of the two month period of active suspension Respondent, shall surrender all indicia of his licensure to practice dentistry in the state of Colorado to the Board. Respondent shall not practice dentistry in Colorado for the duration of the active suspension period.

a. **Reinstatement.** After serving two months of active suspension, Respondent shall submit to the Board an affidavit attesting that he did not practice dentistry in Colorado during the active suspension period. Upon Board receipt of such affidavit, Respondent's license shall be reinstated, he shall be issued a restricted and probationary license, and he may resume his practice of dentistry in Colorado, subject to the terms and conditions of probation described below.

b. **Stayed Suspension.** The remaining 34 months of suspension shall be stayed and held in abeyance pending Respondent's completion of the probation described below.

42. Probation. Respondent hereby agrees and consents to the Board's entry of an order whereby his license shall be placed on probation for a minimum period of FIVE YEARS commencing from the effective date of reinstatement of his license.

a. Education. During the first year of probation Respondent shall complete 52 HOURS OF BOARD-APPROVED CONTINUING EDUCATION in the areas of endodontics (20 hours), crown and bridge (20 hours), ethics and informed consent (8 hours), and risk management (4 hours) within the first year of probation. Respondent shall document his successful completion of all education by way of certificate, passing grade, or other form acceptable to the Board.

b. Inspections and evaluations. During the probation period the Board may select an evaluator/inspector who may conduct two (2) random and unannounced inspections and evaluations of Respondent's dental practice, during the five year period, to assure Respondent's practice of general dentistry, endodontics, and crown and bridge is consistent with generally accepted standards of practice. Respondent shall bear the costs of such inspections and evaluations.

43. Other requirements. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order, he shall:

- a. not advise any patient that he or she should remove amalgam fillings in order to cure, prevent or improve any medical illness or condition;
- b. not extract functional root canal treated teeth;
- c. not remove crowns without adequate clinical justification;
- d. not perform surgery or explorations, without adequate clinical justification; and he shall
- e. comply fully with this Stipulation and Final Agency Order;
- f. promptly pay all reasonable fees and costs associated with this Stipulation and Final Agency Order, including any inspections, evaluations, and continuing education fees and costs; and

g. comply fully with the Colorado Dental Practice Law, all applicable standards of practice, all Board rules and regulations, and any other state and federal laws related to dentists and the practice of dentistry.

44. Advisement's and Waivers. Respondent acknowledges his understanding that he has the following rights:

- a. To have formal notice of hearing and charges served upon him;
- b. To respond to said formal notice of charges;
- c. To have a formal disciplinary hearing pursuant to the Dental Practice Law and the State Administrative Procedure Act; and
- d. To appeal certain final actions and orders of the Board.

Respondent knowingly and freely waives these rights and waives his right to appeal or contest this Stipulation and Final Agency Order. Respondent further acknowledge and agrees that all waivers are made by him voluntarily and in consideration for Board's limiting the action taken against him to the agreed disposition.

45. Acknowledgments. Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily, after the opportunity to consult with the counsel of his choice. Respondent has read this Stipulation and Final Agency Order in its entirety, he understands its legal consequences, and he agrees that none of its terms or conditions is unconscionable.

46. Consequences of Violation. Time is of the essence to this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any proven violation of this Stipulation and Final Agency Order shall constitute a willful violation of a lawful Board order and sufficient grounds for a order vacating the stay of suspension, and for such other and further discipline as the Board may deem appropriate. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

47. Integration and Severability. This Stipulation and Final Agency Order constitutes the entire agreement between the parties. There are no other promises or agreements, express or implied, between the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of

competent jurisdiction, the offensive provision shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be binding upon the parties and given full force and effect.

48. Public Record. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record maintained in the custody of the Board.

49. Effective date. This Stipulation and Final Agency Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

50. Termination date. Termination of this Stipulation and agreement by the Board must be requested, in writing, by Respondent. Respondent is solely responsible for establishing through written and other documentation satisfactory to the Board that he has satisfied all terms and conditions of this Stipulation and Final Agency Order. This Stipulation and Final Agency Order shall continue in force and effect until formally terminated by the Board by way of Board order or other written advisement. Upon official termination, Respondent shall be discharged and Respondent's license will be restored to an unrestricted status.

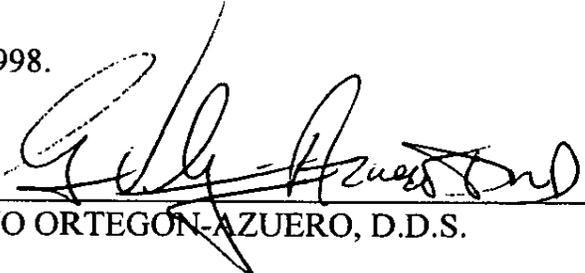
51. Modification of Order. After three years from the date of this Order Respondent may apply to the Board to modify this Stipulation and agreement by establishing through written and other documentation satisfactory to the Board that he has satisfied all terms and conditions of this Stipulation and Final Agency Order. Whether the Stipulation and Order would be modified would be within the discretion of the Board.

Dated this 2<sup>nd</sup> day of FEBRUARY 1998.

BOARD OF DENTAL EXAMINERS

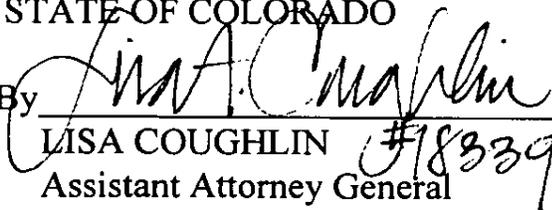


Gene Bloom, DDS, Chairperson  
The Colorado State Board of  
Dental Examiners

  
GINO ORTEGON-AZUERO, D.D.S.

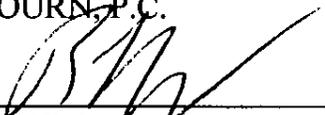
ATTORNEY GENERAL GALE A. NORTON  
STATE OF COLORADO

By

  
LISA COUGHLIN #18339  
Assistant Attorney General  
1525 Sherman Street, 5<sup>th</sup> Floor  
Denver, Colorado 80203-1760

APPROVED BY:

ZARLENGO, MOTT, ZARLENGO AND  
WINBOURN, P.C.

By  \_\_\_\_\_

Reed L. Winbourn #1068

300 South Jackson Street #570

Denver, CO 80209

(303) 321-8585

ATTORNEYS FOR GINO ORTEGON-AZUERO, D.D.S.