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Joint Secretary
State Board of Dentistry

GEORGIA BOARD OF
DENTISTRY

BEFORE THE GEORGIA BOARD OF DENTISTRY MAR 1 1991

DOCKET NUMBER
90-278

IN THE MATTER OF:)	
)	Docket No. 90-278
JOHNNY R. GARDNER)	
)	AG No. 64PA-CA-92342-89
)	
Respondent.)	

FINAL DECISION

Pursuant to the request of the Respondent on February 8, 1991, a review was held of the Initial Decision docketed in this matter on October 24, 1990. The Respondent appeared before the Board pro se. Assistant Attorney General Roger Siegel appeared on behalf of the State. Based upon the evidence received at the hearing and the arguments by the Respondent and Mr. Siegel at the Review, the Board make the following finding of fact and conclusions of law and enters the following order.

FINDINGS OF FACT

The findings of fact entered by the Hearing Officer in the Initial Decision are hereby adopted and incorporated by reference herein.

CONCLUSIONS OF LAW

The Conclusions of Law entered by the Hearing Officer in the Initial Decision are hereby adopted and incorporated by reference herein.

ORDER

The sanction recommended by the Hearing Officer in the Initial Decision is hereby adopted and incorporated by reference herein, and the Respondent is hereby ordered to cease and desist performing

any of the acts enumerated at O.C.G.A. § 43-11-17 as constituting
the practice of dentistry in the State of Georgia.

Entered this 1st day of ~~February~~, 1991.
MARCH

GEORGIA BOARD OF DENTISTRY

BY:

Douglas J. Giorgio, Jr., D.D.S.
President

ATTEST:

William G. Miller, Jr.
Joint Secretary
State Examining Boards

[SEAL]

BEFORE THE GEORGIA BOARD OF DENTISTRY

OCT 24 1990

DOCKET NUMBER

90-278

IN THE MATTER OF:

JOHNNY GARDNER,
License No.:

Respondent

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DOCKET NO.: 90-278
AG NO. 64PA-CA-92342-89

INITIAL DECISION

Statement of Proceedings

The Georgia Board of Dentistry filed a Notice of Cease and Desist Hearing on May 17, 1990 in the Office of the Joint Secretary, State Examining Boards in the matter of Johnny Gardner (hereinafter "Respondent"). The Board filed an amended Notice of Hearing on July 9, 1990 adding additional "Matters Asserted". The Notices allege specific facts as the basis for imposition of a Cease and Desist Order. The undersigned Hearing Officer was appointed to hear the matter and render an Initial Decision pursuant to O.C.G.A. §50-13-13.

Following a continuance which was granted at Respondent's request, this disciplinary matter was heard by the undersigned Hearing Officer on July 27, 1990. Assistant Attorney General Roger Siegel appeared on behalf of the Board and two witnesses testified for the Board. The Respondent was present, appearing pro se with the assistance of his wife, Cindy Gardner.

Upon careful consideration of the evidence presented and the applicable laws, the Hearing Officer makes the following Findings of Fact, Conclusions of Law and Order.

Findings of Fact

1.

Respondent Johnny Gardner is not licensed as a dentist or physician in the State of Georgia and was not so licensed during the relevant period in question (Tr. pp. 22-24).

2.

During the month of January, 1989, patient A.S. went to the Mid-State Dental Clinic to have the bottom plate of her dentures relined. Upon her initial visit, she was examined by a Dr. Hannicutt. The dentures were relined and, upon her return visit approximately a week later, she was seen by the Respondent and only the Respondent, who performed adjustments to the denture plate. The plate still did not fit properly, and patient A.S. returned approximately three more times. On each occasion, this patient was seen only by the Respondent, the plate never fit to her satisfaction, and tension developed concerning her treatment and the failure of Mid-State Dental Clinic to provide her with a receipt upon request. Eventually, Respondent offered to make a new bottom plate for patient A.S. at no charge, Respondent took the impressions of her mouth, and Respondent performed the fitting when A.S. returned. Patient A.S. was at no time seen by a licensed dentist or physician in connection with the examination, delivery and fitting of this new plate (Tr. pp. 28-36).

In October or November, 1989, patient D.W. went to Mid-State Dental Clinic and was seen by the Respondent for a new upper plate. Using a mold, Respondent made an impression of D.W.'s mouth. Approximately a week later, the patient returned, at which time Respondent fitted her with the upper plate. The plate did not fit tight. Respondent removed and adjusted the plate. When the plate still did not fit, Respondent reinserted the denture with adhesive. When the patient removed the plate for cleaning, the adhesive was lost. The patient returned for a third visit, at which time the denture was relined by Respondent. At no time was patient D.W. seen by a licensed dentist or physician, and at no time was she satisfied with the fit of her dentures. Patient D.W. spoke with a Dr. Kornwald by telephone concerning her dissatisfaction, but at no time was she treated by him. Patient D.W. eventually left the Mid-State Dental Clinic and saw another provider for a second opinion and provision of new dentures (Tr. pp. 45-63).

Conclusions of Law

O.C.G.A. §43-11-17 enumerates specific acts which constitute the practice of dentistry, including but not limited to the following:

- "(5) Examines any human mouth, teeth, gums or jaws or takes an impression thereof for the purpose of diagnosing, treating or operating upon the same;
- (6) Makes, repairs, adjusts or relines appliances usable on teeth or as teeth unless such

appliances, repairs, adjustment or relines are ordered by and returned to a licensed dentist;" (O.C.G.A. §43-11-17(a)(5) and (6).

Respondent's conduct as enumerated in the above Findings of Fact is in direct violation of said statute and therefore constitutes sufficient grounds for imposition of a Cease and Desist Order under O.C.G.A. §§43-1-20.1 and in accordance with the Administrative Procedure Act, O.C.G.A. Title 50, Chapter 13, and the Rules and Regulations of the Board and the Rules and Regulations of the Joint Secretary, State Examining Boards.

Order

1.

Respondent Johnny Gardner does not possess a license as a dentist or a physician pursuant to Title 43 of the Official Code of Georgia Annotated; therefore, it is ordered that he immediately cease and desist from performing any of the acts enumerated at O.C.G.A. §43-11-17 as constituting the practice of dentistry in the State of Georgia. It is further ordered that Respondent Johnny Gardner refrain from any practice which would require licensure under O.C.G.A. Chapter 11, Title 43, as amended, until such time as he may become properly licensed by the Board.

In the absence of any application by Respondent Gardner for review by the Georgia Board of Dentistry within thirty (30) days from the date of the notice of this Initial Decision, or an Order by said Board within thirty (30) days for review of the

Decision on its own motion, this Initial Decision, without further proceedings, shall become the decision of the Board.

This 23rd day of October, 1990.

Ruth F. Claiborne

RUTH F. CLAIBORNE
Hearing Officer for the State
Examining Boards