

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>12-18-06</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000406</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Bowling, Wells</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			



South Carolina Department of Labor, Licensing and Regulation



Mark Sanford
Governor

Adrienne Riggs Youmans
Director

South Carolina Board of Dentistry

110 Centerview Drive
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Columbia, SC 29211-1329
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RECEIVED

DEC 15 2006

Department of Health & Human Services
OFFICE OF THE DIRECTOR

TO: INTERESTED PARTIES

FROM: SOUTH CAROLINA STATE BOARD OF DENTISTRY

RE: HARRIS, Roger Marvin, III, D.M.D.
HUGH, Stephen D., D.M.D.
PELLETIER, Mark G., D.D.S.

DATE: DECEMBER 12, 2006

Enclosed please find a copy of the public orders of the South Carolina State Board of Dentistry in the above referenced matter.

HRA/saj

Enclosures

*forwds,
Please log each
separately -
Log-Devina
"The Action"
CC: Bowling
WLL*

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE SOUTH CAROLINA STATE BOARD OF DENTISTRY**

In the Matter of:

MARK G. PELLETIER, DDS,
License No. 3232

**FINAL ORDER
(Public)**

OGC Case #11-05
OIE Case #2005-102

Respondent.

This matter came before the South Carolina State Board of Dentistry (the Board) for hearing on October 27, 2006, as a result of the Notice and Formal Accusation which was served upon the Respondent and filed with the Board. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §40-15-185 (1976), as amended, and the provisions of the SC Administrative Procedures Act (the APA), S.C. Code Ann. §1-23-10, *et seq.*, (1976), as amended, to determine whether sanctions should be imposed based upon the certified report of the disciplinary panel which heard the charges on April 21, 2006. The State was represented by Marvin G. Frierson, Esquire. The Respondent appeared and was represented by Martin S. Driggers, Jr., Esquire.

The Respondent was charged with violation of S.C. Code Ann. §§40-15-190(A)(9), (10), (11), (12), (13) and (14) (1976), as amended.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a dentist duly licensed to practice dentistry in South Carolina, and was so licensed at all times relevant to the issues raised in the Formal Accusation. The Respondent currently practices in Irmo, South Carolina.
2. On or about April 2, 2003, Respondent treated patient WG after she presented to Respondent's office at approximately 8:15 a.m. with a chipped front tooth. WG's daughter was a patient of the Respondent and WG had previously received a free promotional evaluation from Respondent. The Respondent initially proposed treating the chipped tooth by placing a porcelain crown over the chipped tooth and an adjoining tooth, and WG was told the costs would be \$3,000.00. However, at some point

after Respondent began working on WG's teeth, WG was informed more extensive work was needed and the costs would be considerably more than what was initially quoted. The amount quoted at this point was approximately \$12,900.00 for the required restorative work. This was more than WG could afford to pay and arrangement was made for WG to obtain financing through Washington Mutual Finance. The \$4,000.00 from the Washington Mutual loan was paid directly to the Respondent on the patient's behalf, and the patient was initially set up to pay \$1,498.00 per month for six months, this amount was later lowered to \$600.00 monthly for fourteen months, and was later further reduced to \$250.00 per month. With the financial arrangements in place, the Respondent endodontically treated three teeth, prepared seven teeth for crowns or bridges. The patient testified that she was in Respondent's dental chair from approximately 9:00 a.m. until approximately 9:00 p.m.

3. The work that was performed by Respondent on April 2, 2003 was temporary and the permanent restoration would be done upon full payment by WG. Following the initial treatment, WG made several visits to Respondent's office, usually because the temporary needed to be repaired; however, WG's account was never paid in full, and the Respondent never completed the restorative treatments. WG's last visit with Respondent was on or about December 17, 2003, and on or about January 13, 2004, after consulting with another dentist, WG requested copies of her dental records from Respondent. The restoration begun by the Respondent was completed by the dentist WG consulted with after she became dissatisfied with Respondent. There was testimony from this dentist that the work completed by the Respondent was good, although three of the teeth the Respondent billed as extractions were still present in WG's mouth when he initially examined WG.

4. The State alleges that patient WG was under duress when she approved having more extensive dental work performed on April 2, 2003, and that Respondent performed the work without appropriate pre-operative planning, study models, periodontal probing, and without the patient understanding the treatment plan or her options. The State further alleges that there is no record of anesthesia, and that the Respondent billed the patient for three extractions, three crowns or bridge units and one build-up that were not performed.

5. The Respondent and three members of his staff testified about discussions and interaction with patient WG on April 2, 2003 and on subsequent visits.

6. After careful consideration of the evidence presented, the Panel found, and the Board concurs in this finding, that the evidence does not support a finding that patient WG was under duress when she approved the extensive restorative dental treatments to be performed by Respondent. Also, the evidence does not support a finding that WG did not understand the treatment plan or her options or that there were other deficiencies as to the actual treatment provided. However, in reviewing the billing, the Respondent did not initially charge WG for the temporary restoration, and included charges for extractions that were not done. The charges and applied payments were for the completed restoration, and it was not until after WG complained to the Board that Respondent changed the billing to reflect charges for the temps.

7. Based upon the evidence presented, the Board finds that the Respondent has violated the Board's Practice Act.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S. C. Code Ann. §40-15-190 (1976), as amended, has the authority to order the revocation or suspension of a license to practice dentistry, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension including, but not limited to, probation or requiring the person to undertake additional professional training subject to the direction and approval of the Board or imposing restraint upon the dental practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a civil penalty of up to ten thousand dollars and the costs of the disciplinary action.
2. The Respondent has violated S.C. Code Ann. §40-15-190(A)(13) (1976), as amended, in that the Respondent has obtained a fee which is charged through dishonesty or under false circumstances.
3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified dentists against the countervailing concern that society be protected from professional ineptitude and misconduct.
4. The sanction imposed is designed not to punish the Respondent, but to protect the life, health and welfare of the people at large.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that within thirty (30) days of the date of this final order, the Respondent shall pay a civil penalty of One Thousand and No/100 (\$1,000.00) Dollars. Said penalty shall not be deemed paid until received by the Board, and Respondent's failure to submit payment within the designated time period, may result in the immediate temporary suspension of Respondent's license until such time as Respondent comes into compliance and until further order from the Board.

IT IS FURTHER ORDERED that this final order shall become effective immediately upon service of the order upon the Respondent or Respondent's counsel.

AND IT IS SO ORDERED.

SC BOARD OF DENTISTRY

BY:

Michelle D. Bevell DMD

MICHELLE D. BEDELL, DMD
Board Chairman

November 15, 2006.

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
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5. The Respondent and three members of his staff testified about discussions and interaction with patient WG on April 2, 2003 and on subsequent visits.

6. After careful consideration of the evidence presented, the Panel found, and the Board concurs in this finding, that the evidence does not support a finding that patient WG was under duress when she approved the extensive restorative dental treatments to be performed by Respondent. Also, the evidence does not support a finding that WG did not understand the treatment plan or her options or that there were other deficiencies as to the actual treatment provided. However, in reviewing the billing, the Respondent did not initially charge WG for the temporary restoration, and included charges for extractions that were not done. The charges and applied payments were for the completed restoration, and it was not until after WG complained to the Board that Respondent changed the billing to reflect charges for the temps.

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2. The Respondent has violated S.C. Code Ann. §40-15-190(A)(13) (1976), as amended, in that the Respondent has obtained a fee which is charged through dishonesty or under false circumstances.
3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified dentists against the countervailing concern that society be protected from professional ineptitude and misconduct.
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AND IT IS SO ORDERED.

SC BOARD OF DENTISTRY

BY:

Michelle D. Beede DMD

MICHELLE D. BEDELL, DMD
Board Chairman

November 15, 2006.