JEFF W. REISIG/182205
YOLO COUNTY DISTRICT ATTORNEY
By: Robert A. Gorman/176092
Deputy District Attorney
301 Second Street
Woodland, CA 95695
(530) 666-8180
D. A. File No: 07-5176/vlg
Attorney for the People

FILED
YOLO COUNTY
SUPERIOR COURT
OCT 27 2007
By: Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 INDICTMENT

The Grand Jury of the County of Yolo, State of California, hereby accuses the above-named defendant of the following felonies:

COUNT 1: On or about August 27, 2007, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

/ / /

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COUNT 2: On or about May 26, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 3: On or about May 26, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 4: On or about August 15, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 5: On or about September 21, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to

wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 6: On or about February 20, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 7: On or about February 26, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 8: On or about April 26, 2007, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 9: On or about October 18, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted]., for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 10: On or about June 18, 2007, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted]., for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 11: On or about February 16, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted]., for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 12: On or about May, 2006, through September, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of

another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 13: On or about December, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted]., for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 14: On or about May, 2006, through June, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 15: On or about March 22, 2007, MARK KEVIN ANDERSON did commit a MISDEMEANOR, namely, a violation of Section 243(e)(1) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part, as defined in Section 243.4(f)(1) of the California Penal Code, of another person, to wit, [redacted], when the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification and sexual abuse.

COUNT 16: On or about February 14, 2007, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 17: On or about December, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 18: On or about December, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 19: On or about January 18, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to

wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 20: On or about December, 2005, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

COUNT 21: On or about January, 2006, MARK KEVIN ANDERSON did commit a FELONY, namely, a violation of Section 243.4(c) of the California Penal Code, SEXUAL BATTERY, in that MARK KEVIN ANDERSON did willfully and unlawfully touch an intimate part of another person, to wit, [redacted], for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because MARK KEVIN ANDERSON fraudulently represented that the touching served a professional purpose.

A TRUE BILL [redacted]

Foreperson of the Grand Jury of the
County of Yolo, State of California

Presented by the foreperson of the Grand Jury in the presence of the Grand Jury in the Superior Court of the County of Yolo, State of California, and filed as recorded of said Court this 27th day of October, 2007.

189

JAMES B. PERRY
Court Executive Officer

CLERK OF THE SUPERIOR COURT

By: Eric Ledroia
Deputy

WITNESSES:

[redacted]

190

[redacted]

191

SUPERIOR COURT IN THE STATE OF CALIFORNIA, COUNTY OF YOLO

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff,

Case CR-F -07-0005176

vs.

CHARGES

MARK KEVIN ANDERSON
Defendant.

Count 1: **243.4(c) PC** – ***1/3 MBT, 1 year (consecutive to count 2)***

Count 2: **243.4(c) PC** – ***LBT, 2 years (principal term)***

Count 9: **243.4(c) PC** – ***1/3 MBT, 1 year (consecutive to count 2)***

Count 11: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

Count 12: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

Count 14: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

Count 15: **243(e)(1) PC** – ***180 days county jail (concurrent to count 2)***

Count 16: **243.4(c) PC** – ***1/3 MBT, 1 year (consecutive to count 2)***

Count 17: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

Count 18: **243.4(c) PC** – ***1/3 MBT, 1 year (consecutive to count 2)***

Count 19: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

Count 20: **243.4(c) PC** – ***LBT, 2 years (concurrent to count 2)***

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 1 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 2 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 9 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 10 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a misdemeanor, to wit: BATTERY, a violation of Section 242 of the California Penal Code, a lesser included offense to the crime charged in Count 10 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [signature]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a misdemeanor, to wit: SEXUAL BATTERY, a violation of Section 243.4(e) of the California Penal Code, a lesser included offense to the crime charged in Count 10 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 12 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [signature]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 11 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By H. Simen
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 13 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a misdemeanor, to wit: BATTERY, a violation of Section 242 of the California Penal Code, a lesser included offense to the crime charged in Count 13 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By H Cumen
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant(s)	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, NOT GUILTY of a misdemeanor, to wit: SEXUAL BATTERY, a violation of Section 243.4(e) of the California Penal Code, a lesser included offense to the crime charged in Count 13 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 14 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a misdemeanor, to wit: SEXUAL BATTERY, a violation of Section 243.4(e)(1) of the California Penal Code, as charged in Count 15 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 16 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

FILED
YOLO SUPERIOR COURT
MAR 10 2009
By [illegible]
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MARK KEVIN ANDERSON, Defendant	Case No. 07-5176 VERDICT

We, the Jury sworn to try the above-entitled case, find the Defendant MARK KEVIN ANDERSON, GUILTY of a felony, to wit: SEXUAL BATTERY, a violation of Section 243.4(c) of the California Penal Code, as charged in Count 17 ([redacted]) of the Indictment.

Dated: 3/10/09

Foreperson

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - DETERMINATE

[NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED]

CR-290

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: Yolo			FILED YOLO SUPERIOR COURT JUL 08 2009 By Heather Amen Deputy
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Mark Kevin Anderson	DOB: 10-01-59	CRF 07-5176 -A	
AKA:		-B	
CII NO.: H12181180	☒ NOT PRESENT	-C	
BOOKING NO.:			
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT	☒ AMENDED ABSTRACT	-D	

DATE OF HEARING 04-24-09	DEPT. NO. Three	JUDGE Stephen L. Mock
CLERK H. Amen	REPORTER K. Crittenton	PROBATION NO. OR PROBATION OFFICER 165139 ☐ IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE R. Gorman, DDA		COUNSEL FOR DEFENDANT M. Rothschild ☐ APPTD.

1. Defendant was convicted of the commission of the following felonies:
   ☒ Additional counts are listed on attachment
   1 (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY: JURY	COURT	PLEA	TERM (L, M, U)	CONCURRENT	CONSECUTIVE 1/3 VIOLENT	CONSECUTIVE 1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (see 6 below)	654 STAY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED: YRS.	MOS.
2	PC	243.4(c)	Sexual Battery	06	03-10-09	X			L							2	0
1	PC	243.4(c)	Sexual Battery	07	03-10-09	X			M			X				1	0
9	PC	243.4(c)	Sexual Battery	06	03-10-09	X			M			X				1	0
11	PC	243.4(c)	Sexual Battery	06	03-10-09	X			L	X						(2	0)
12	PC	243.4(c)	Sexual Battery	06	03-10-09	X			L	X						(2	0)
14	PC	243.4(c)	Sexual Battery	06	03-10-09	X			L	X						(2	0)

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

COUNT	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL	

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL	

4. ☐ Deft. sentenced per: ☐ PC 667(b)-(i) or PC 1170.12 (two strikes) ☐ PC 1170(a)(3). Pre-confinement credits equal or exceed time imposed. (Paper Commitment.) Deft. ordered to report to local Parole Office upon release.

5. INCOMPLETED SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: 2 | 0

7. ☐ Additional indeterminate term (see CR-292).

8. TOTAL TIME EXCLUDING COUNTY JAIL TERM: 6 | 0

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

ABSTRACT OF JUDGMENT – PRISON COMMITMENT
ATTACHMENT PAGE

CR-290-A

PEOPLE OF THE STATE OF CALIFORNIA vs.
DEFENDANT: Mark Kevin Anderson

CRF 07-5176 -A	-B	-C	-D

1. Defendant was convicted of the commission of the following felonies:
This attachment page number: ___

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY: JURY	COURT	PLEA	TERM (L, M, U)	CONCURRENT	CONSECUTIVE 1/3 VIOLENT	CONSECUTIVE 1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (refer to line 9)	654 STAY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED: YRS.	MOS.
16	PC	243.4(c)	Sexual Battery	07	03-10-09	X			M			X				1	0
17	PC	243.4(c)	Sexual Battery	05	03-10-09	X			L	X						(2	0)
18	PC	243.4(c)	Sexual Battery	06	03-10-09	X			M			X				1	0
19	PC	243.4(c)	Sexual Battery	06	03-10-09	X			L	X						(2	0)
20	PC	243.4(c)	Sexual Battery	05	03-10-09	X			L	X						(2	0)
															TOTAL	2	0

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

COUNT	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL	
						TOTAL		

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL	

4. TOTAL TIME IMPOSED ON THIS ATTACHMENT PAGE:	2	0

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Mark Kevin Anderson			
CRF 07-5176 -A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

a. Restitution Fine(s):

Case A: $2300 per PC 1202.4(b) forthwith per PC 2085.5; $2300 per PC 1202.45 suspended unless parole is revoked.
$_____ per PC 1202.44 is now due, probation having been revoked.

Case B: $_____ per PC 1202.4(b) forthwith per PC 2085.5; $_____ per PC 1202.45 suspended unless parole is revoked.
$_____ per PC 1202.44 is now due, probation having been revoked.

Case C: $_____ per PC 1202.4(b) forthwith per PC 2085.5; $_____ per PC 1202.45 suspended unless parole is revoked.
$_____ per PC 1202.44 is now due, probation having been revoked.

Case D: $_____ per PC 1202.4(b) forthwith per PC 2085.5; $_____ per PC 1202.45 suspended unless parole is revoked.
$_____ per PC 1202.44 is now due, probation having been revoked.

b. Restitution per PC 1202.4(f):

Case A: $_____ ☐ Amount to be determined to ☐ victim(s)* ☐ Restitution Fund
Case B: $_____ ☐ Amount to be determined to ☐ victim(s)* ☐ Restitution Fund
Case C: $_____ ☐ Amount to be determined to ☐ victim(s)* ☐ Restitution Fund
Case D: $_____ ☐ Amount to be determined to ☐ victim(s)* ☐ Restitution Fund

☐ * Victim name(s), if known, and amount breakdown in item 11, below. ☐ * Victim names(s) in probation officer's report.

c. Fine(s):

Case A: $_____ per PC 1202.5. $_____ per VC 23550 or _____ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive for each qualifying offense
☐ includes: ☐ $50 Lab Fee per HS 11372.5(a) ☐ $_____ Drug Program Fee per HS 11372.7(a)

Case B: $_____ per PC 1202.5. $_____ per VC 23550 or _____ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive for each qualifying offense
☐ includes: ☐ $50 Lab Fee per HS 11372.5(a) ☐ $_____ Drug Program Fee per HS 11372.7(a)

Case C: $_____ per PC 1202.5. $_____ per VC 23550 or _____ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive for each qualifying offense
☐ includes: ☐ $50 Lab Fee per HS 11372.5(a) ☐ $_____ Drug Program Fee per HS 11372.7(a)

Case D: $_____ per PC 1202.5. $_____ per VC 23550 or _____ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive for each qualifying offense
☐ includes: ☐ $50 Lab Fee per HS 11372.5(a) ☐ $_____ Drug Program Fee per HS 11372.7(a)

d. Court Security Fee: $240 per PC 1465.8.
e. Criminal Conviction Assessment: $360 per GC 70373.

10. TESTING a. ☐ Compliance with PC 296 verified b. ☒ DNA per PC 296 c. ☐ AIDS per PC 1202.1 d. ☐ other *(specify)*:

11. Other orders *(specify)*:
Defendant advised of the requirement to register per 290 PC
6/25/09 – Restitution fines pursuant to 1202.4(b) PC and 1202.45 PC amended.

12. IMMEDIATE SENTENCE:

☐ Probation to prepare and submit Post-sentence report to CDCR per PC 1203c.

Defendant's race/national origin: **W**

13. EXECUTION OF SENTENCE IMPOSED:

a. ☒ at initial sentencing hearing.
b. ☐ at resentencing per decision on appeal.
c. ☐ after revocation of probation.
d. ☐ at resentencing per recall of commitment. (PC1170(d))
e. ☐ other *(specify)*:

14. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT	
A	2	2	0	☐ 4019 ☐ 2933.1
B				☐ 4019 ☐ 2933.1
C				☐ 4019 ☐ 2933.1
D				☐ 4019 ☐ 2933.1
Date Sentence Pronounced: 04-24-09		Time Served in State Institution: DMH [ ] CDCR [ ] CRC [ ]		

15. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.
To be delivered to ☒ the reception center designated by the director of the California Department of Corrections and Rehabilitation.
☐ other *(specify)*:

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
Heather Amen *Heather Amen*	July 8, 2009

SUPERIOR COURT IN THE STATE OF CALIFORNIA
COUNTY OF YOLO

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff,

Case CR-F -07-0005176

vs.

EX-PARTE MINUTE ORDER

MARK KEVIN ANDERSON
Defendant.

Judge: Stephen L. Mock
Clerk: Heather Amen
Date: June 25, 2009

HEARING: Amend restitution fines pursuant to 1202.4 PC

Court orders the restitution fines pursuant to 1202.4(b) PC amended to $2300. Pursuant to 1202.45 PC the restitution fine amended to $2300 and suspended unless parole is revoked.

SUPERIOR COURT IN THE STATE OF CALIFORNIA
COUNTY OF YOLO

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff,

Case CR-F -07-0005176

vs.

MINUTE ORDER

MARK KEVIN ANDERSON,
Defendant.

Judge: Stephen L. Mock
Clerk: Heather Amen
Reporter: Keri Crittenton
Date: April 24, 2009

HEARING: SENTENCING

Counsel for the People: Robert Gorman, DDA

Counsel for Defendant(s): Michael Rothschild

Probation Officer: Robert Partlow

10:06 AM

Defendant and counsel present in open court.

Counsel for the People stated he received a request for a copy of the probation report and faxed a copy of the probation report to Lynsey Paulo at channel 3.

Counsel for the defendant requests the Court consider the People's actions when the issue of sanctions is addressed.

Court is in receipt of the Defendant's motion for a new trial and response by the People.

Arguments presented by both counsel.

Court denied motion for new trial as to the first argument listed in the motion. The Court allowed Mrs. Losoya to testify because of testimony by Ms. Osegueda in a previous hearing that

she had never received any complaints regarding Dr. Anderson.

Court denied motion for new trial as to the second argument listed in the motion. Court found counsel had adequate opportunity to cross examine the witnesses.

Court denied motion for new trial in counts 12 and 14 as to the third argument listed in the motion.

Motion for New Trial denied in its entirety by the Court.

Counsel for the People stated they would not go forward on counts 3 – 8. The People move to dismiss said counts.

Motion granted by the Court to dismiss counts 3, 4, 5, 6, 7, and 8.

Court is in receipt of a Pre-Sentence report prepared by probation officer Robert Partlow. Court has also received a report from a psychologist, and an alternative probation order submitted by defense counsel. Two impact statements were received before court this morning.

Impact statements were made by [redacted], [redacted], [redacted], [redacted], and [redacted].

Defendant made a statement to the Court.

11:50 AM

Court in recess until 1:20 PM today.

1:25 PM

Defendant and counsel present in open court.

Arguments presented as to Defendant's request for bail pending appeal.

Court denied the motion for bail on appeal.

Court takes the issue of sanctions under submission, and will file a written ruling within fourteen days.

Both counsel made statements to the Court regarding sentencing.

Defense counsel stated no legal cause why sentence should not now be imposed.

Court has read all documents provided by counsel and probation.

Defendant's motion for a grant of probation is denied by the Court. Probation is not justified in

this case.

Defendant sentenced to the Department of Corrections as follows:

Count 2 (principal term) – Lower Base Term, 2 years

Counts 11, 12, 14, 17, 19, 20 – Lower Base Term, 2 years for each count. Sentence as to these counts shall be served concurrent to count 2.

Counts, 1, 9, 16, 18 – 1/3 Middle Base Term, 1 year for each count. Sentence as to these counts shall run consecutive to count 2.

Count 15: 180 days county jail. Sentence to run concurrent to count 2.

Total aggregate term: 6 years

Defendant entitled to 2 days custody credit.

Court notified the defendant of his lifetime requirement to register pursuant to 290 PC.

Pursuant to 1202.4 PC, the defendant shall pay a restitution fine of $2500, to be collected by the Department of Corrections.

Pursuant to 1202.45 PC, the defendant shall pay a restitution fine of $2500. Execution of which is stayed pending successful completion on parole. If defendant violates parole Department of Corrections is ordered to collect that amount.

Defendant advised regarding appeal rights and parole.

Defendant remanded to the custody of the Sheriff for delivery to the Department of Corrections.

Court adjourned.

ANDERSON DPT3 4/24/09 CRF 070005176
MARK KEVIN 8:30AM
PROB/SENT See attached
~~001 PC243.4(C) GBI 002 PC243.4(C) 0003 PC243.4(C)~~
R ~~004 PC243.4(C) 005 PC243.4(C) 006 PC243.4(C) MORE TWA~~
JUDGE MOCK, STEPHEN L CT RPTR Cuttentoy BOOKING FEE $154.48 CLERK Cuneo

A APPEARANCES:
1 ☑ Deft. appears ☐ In custody ☐ Deft. not appearing
2 ☑ With / by Atty / Pub. Def. Rothschild
3 ☑ Deputy Dist. Atty. Gorman
4 ☑ Deputy Probation Officer Cordlow
5 ☐ Interpreter sworn _____ L: _____
6 ☐ _____
7 ☐ Stip. to Pro-Tem Judge

B ARRAIGNMENT:
1 ☐ Answers true name as charged
2 ☐ Waives reading of Compl / Info / Dec
3 ☐ Handed copy of Compl / Info / Dec
4 ☐ Handed copy of Discovery
5 ☐ Defendant Duly Arraigned
6 ☐ Waives Formal Arraignment

C REFERRALS ORDERED:
1 ☐ _____ Referred to: PUBLIC DEFENDER
☐ _____ Referred To: PROBATION
2 ☐ Pre-Plea ☐ Bail Study ☐ O.R. Report
3 ☐ R & S ☐ Diversion ☐ Supplemental
4 ☐ Pub. Def. Conflict Filed; Appointed
5 _____
6 ☐ Report to _____ for booking

D ORDERED CONTINUED TO:

	Date	Time	For	Dept.
1 ☐				
2 ☐				
3 ☐				
4 ☐				

5 ☐ Copies to DA _____ 6 ☑ Crt Ack PO Rpt
7 ☐ Continued Party Mot. 8 ☐ Continued Court Mot.

E MOTIONS / AMENDMENTS / ORDERS:
1 ☐ Motion to / for _____
2 ☐ Argued & Submitted ☐ Submitted without argument
3 ☐ Granted ☐ Denied ☐ Taken Under Submission
☐ Grounds: _____
4 ☐ Complaint amended on its face to add CT # _____
a violation of section _____
5 ☐ Count # _____ Reduced to _____ ☐ 17b
6 ☐ Complaint amended on its face to correct count # _____
to a violation of _____
7 ☐ Protective Order signed / filed / served in open court / to remain in effect to _____

F WAIVERS / PLEAS:
1 ☐ Defendant waives Constitutional Rights (SEE REVERSE)
2 ☐ Pleads Guilty, CT # _____
3 ☐ Pleads No Contest, CT # _____
4 ☐ Pleads Not Guilty, CT # _____
5 ☐ Jury Trial Waived / Demanded
6 ☐ Time for Trial / PX / Waived / NOT Waived / Cont.
7 ☐ Defendant requests permission to withdraw NOT GUILTY / GUILTY / NO CONTEST Plea
8 ☐ Prior convictions _____
☐ Admitted ☐ Denied
9 ☐ Constitutional Rights and plea form filed
10 ☐ Defendant waives time for sentencing
11 ☐ Court Finds / Cou Stip: Factual Basis
12 ☐ Cou / Peo States Reason for Plea on the Record
13 ☐ Diversion granted, count _____ suspended for _____ months.
14 ☑ Per Court / DA dismiss Complaint / CT # 3-8

G WARRANT ORDERS:
1 ☐ Bench / Arrest Warrant to Issue
☐ Bail Set at $ _____
☐ No NTA / OR Release
2 ☐ For Victim impact statement
3 ☐ Recalled ☐ Filed ☐ Set Aside
4 ☐ Hold Until _____
5 ☐ Held Warrant Issued
6 ☐ Civil Assessment Ordered $300.00

H PROBATION ORDERS: ☐ Formal ☐ Informal ☐ See Probation Order
1 ☐ Probation Reinstated / Modified: Original terms in full force and effect except as follows:
2 ☐ Sentenced to Total aggregate term: 6 years
3 ☐ Case transfered to _____ purs. to 1203.9PC
4 ☐ Defendant given rights to Revocation Hearing: Admits / Denies allegations.
5 ☐ Sent to State Prison, Execution of Sent. Susp.
6 ☐ Probation Revoked: Defendant found in violation of probation.
7 ☐ Probation terminated _____
8 ☐ Diversion terminated: passed / failed
9 ☐ Criminal Proceedings Reinstated / Dismissed
10 ☐ Probation Extended to _____
11 ☐ Proceedings Susp _____
12 ☐ Def Accepts Prob. / Reinstatement

I FINE / REFERRAL ORDERS:
1 ☐ Fine (Inc. P/A)
2 ☐ A/R Fee $35
3 ☐ Court Sec $ _____
4 ☐ NTA Fee $10
5 ☐ Rest 1202.4 $110/$220
6 ☐ Other
7 ☐ _____ Mo./Beginning _____
8 ☐ Referred to traffic school $ _____ by _____
9 ☐ Proof shown dismiss CT # _____
10 ☐ Fine / Jail Suspended on CT # _____
11 ☐ Pay attorney fee costs ☐ Misd. ☐ Felony ☐ Waived
12 ☐ Proof of correction on CT # _____ due by _____
13 ☐ $ _____ Fix-It Fee on CT # _____ due _____
14 ☐ Civil Assmt. owed $300 or reduced to _____
15 ☐ Warrant repo & DMV Fees owed WR $15 DMV $10

J BAIL ORDERS:
1 ☐ BB / CB / PB forfeited
2 ☐ BB / CB / PB forfeiture set aside and reinstated / exonerated
☐ Upon pmt. of $ _____ for re-assumption fee.
3 ☐ BB / CB / PB exonerated

K JAIL ORDERS:
1 ☐ Be imprisoned _____ hrs / days / months / yr. with CTS
☐ Plus _____ days in lieu of fine in ☐ Co. Jail ☐ State Prison
☑ See Additional Page for State Prison Sent.
2 ☐ Credit for Time Served _____ hrs / days / months
3 ☐ Sentence to commence _____
4 ☐ Serve consecutive / concurrent with _____

L REMANDING ORDERS:
1 ☐ Remanded to County Jail Bail set $ _____
2 ☑ Remanded to Serve Time — Delivery to CDC
3 ☐ Ordered Released ☐ On own OR ☐ Conditional
4 ☐ To be transported by Prob. Ofcr. / Program Rep.

M DEFENDANT STATUS:
1 ☐ OR ☐ BB ☐ CB ☐ PB ☐ NTA / LTA Continued ☐ ROP ☐ OTA
☐ Search person / property / residence ☐ Test Alcohol / Drugs
2 ☐ Attend Counseling / NA / AA _____ x Week
3 ☐ Bring proof at next court date. ☐ Counseling to be approved by Probation.

I certify the foregoing copy of judgment rendered on the above date by the above named Judge.

CLERK OF THE COURT BY _____, DEPUTY

TO THE SHERIFF: The foregoing certified copy of Judgment in the above entitled action is your authority for the execution thereof. (PC1213)

CR370-10/08

DHCS

DAVID MAXWELL-JOLLY
Director

State of California—Health and Human Services Agency
Department of Health Care Services

ARNOLD SCHWARZENEGGER
Governor

JUN 25 2009

Mark Kevin Anderson
aka Mark K. Anderson
74 West Lincoln Avenue
Woodland, CA 95695

Re: Dentist;
License No. 35467.

Dear Dr. Anderson:

The Deputy Director and Chief Counsel of the State Department of Health Care Services (Department) has been notified by the Board of Dental Examiners that your license has been suspended, while a disciplinary hearing on that license was pending, effective September 28, 2007. Pursuant to Welfare and Institutions Code section 14043.6, the Department shall automatically suspend, as a provider in the Medi-Cal program, any individual who, or any entity that, has a license, certificate, or other approval to provide health care which is revoked or suspended by a federal or state licensing, certification, or approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing on that license, certificate, or approval was pending. This suspension is non-discretionary, and shall be effective on the date that the license, certificate, or approval was revoked, lost, or surrendered. In addition, California Code of Regulations, title 22, section 51223 requires that, in order to participate in the Medi-Cal program, you must be licensed by the Board of Dental Examiners. Furthermore, pursuant to Business and Professions Code section 1626, it is unlawful to practice dentistry without a license.

Therefore, pursuant to the authority delegated to me by the Director of the Department of Health Care Services, you are hereby notified that you are prohibited from participating in the Medi-Cal program for an indefinite period of time, effective September 28, 2007. Your name will be posted on the "Medi-Cal Suspended and Ineligible Provider List," available on the Internet. During the period of your suspension, no person or entity, including an employer, may submit any claims to the Medi-Cal program for items or services rendered by you. Additionally, no provider numbers may be issued to you or to any other person, entity, or employer on your behalf prior to your reinstatement to the Medi-Cal program by the Department of Health Care Services. Any involvement by you directly or indirectly (i.e., as an office manager, administrator,

Office of Legal Services, MS 0010, P.O. Box 997413, Sacramento, CA, 95899-7413
FAX: (916) 440-7712

JUN 25 2009

billing clerk processing or preparing claims for payment, salesperson for medical equipment, etc., or utilizing any other provider number or group or clinic number for services rendered by you) will result in nonpayment of the claim(s) submitted. Any person who presents or causes to be presented a claim for equipment or services rendered by a person suspended from participation in the Medi-Cal program shall be subject to suspension from participation in the Medi-Cal program, the assessment of civil money penalties, and/or criminal prosecution. (See Welf. & Inst. Code, §§ 14043.61, 14107, 14123.2; Cal. Code Regs., tit. 22, §§ 51458.1, 51484, 51485.1.) The Department will seek recoupment of any monies paid for claims presented to the Medi-Cal program for services or supplies provided by you during the duration of your suspension.

If you have any questions about this action, please submit your concerns, in writing, to Kimberly Woodward, Legal Assistant, at the above address.

Sincerely,

Vince J. Blackburn
Senior Counsel

cc: See next page.

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Attorneys for Complainant

BEFORE THE
DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: MARK KEVIN ANDERSON, a.k.a. MARK K. ANDERSON, D.D.S. 74 West Lincoln Avenue Woodland, California 95695 State Dental Certificate No. 35467 Respondent.	Case No. DBC 2007-48 OAH No. 2007090811 **ACCUSATION**

Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Dental Board of California ("Board"), Department of Consumer Affairs.

LICENSE HISTORY

2. On or about July 28, 1987, the Board issued State Dental Certificate Number 35467 to Mark Kevin Anderson, also known as Mark K. Anderson, D.D.S. ("Respondent"). Respondent's dental certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

///

INTERIM SUSPENSION ORDER

3. On September 28, 2007, pursuant to the ex parte interim order issued by Presiding Administrative Law Judge Jonathan Lew (hereinafter "ALJ Lew") in the disciplinary proceeding titled *Richard L. Wallinder, Jr., etc. v. Mark K. Anderson, D.D.S.*, Respondent's dental certificate was immediately suspended pending further disciplinary action by the Board and issuance of a final decision and order in this action, as more particularly set forth in paragraph 14 below. A noticed hearing was scheduled for October 11, 2007. A second noticed hearing was held on October 15, 2007. On October 16, 2007, Administrative Law Judge Melissa G. Crowell issued an order directing that the interim suspension order of September 28, 2007, shall remain in effect, and that Respondent is prohibited from practicing dentistry in the State of California until such time as the Board renders a decision in accordance with Business and Professions Code ("Code") section 494, subdivision (f).

STATUTORY PROVISIONS

4. Code section 1601.2 states:

> Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Code section 1625 states, in pertinent part:

> Dentistry is the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation.

6. Code section 726 states, in pertinent part:

> The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3 . . .

//

//

7. Code section 1680 states, in pertinent part:

Unprofessional conduct by a person licensed under this chapter [Chapter 4 (commencing with section 1600)] is defined as, but is not limited to, any one of the following:

. . . .

(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry . . .

8. Code section 1670 states:

Any licentiate may have his license revoked or suspended or be reprimanded or be placed on probation by the board for unprofessional conduct, or incompetence, or gross negligence, or repeated acts of negligence in his or her profession, or for the issuance of a license by mistake, or for any other cause applicable to the licentiate provided in this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

9. Code section 1684 states, in pertinent part:

In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for a person licensed under this chapter to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field or fields of competence as established by his or her education, experience, training, or any combination thereof. This includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental profession . . .

10. Code section 118, subdivision (b), states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

11. Code section 494 states, in pertinent part:

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

///

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

. . . .

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency . . .

Cost Recovery

12. Code section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . . upon request of the entity bringing the proceedings may request the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

FACTUAL BACKGROUND: EX PARTE INTERIM SUSPENSION ORDER

13. On September 28, 2007, ALJ Lew issued an ex parte interim order immediately suspending Respondent's dental certificate, as set forth in paragraph 3, above. ALJ Lew further ordered that "Respondent shall notify all current and prospective patients through October 11, 2007, of his suspension of licensure. Respondent shall submit satisfactory evidence of compliance with this notification requirement to a designated Board representative within five (5) business days." (i.e., October 5, 2007.) ALJ Lew also ordered that "Respondent shall not mislead patients regarding the reasons for suspension from practicing dentistry."[1]

14. On October 11, 2007, Enforcement Unit staff of the Board received a letter from Respondent, by facsimile, stating that he had instructed his staff to notify all current and

///

1. Code section 1680, subdivision (v), provides that willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee constitutes unprofessional conduct.

prospective patients through October 11, 2007, of the present license suspension, and that "That notification has transpired pursuant to the order."

FIRST CAUSE FOR DISCIPLINE

(Violations of Ex Parte Interim Suspension Order)

15. Respondent is subject to disciplinary action pursuant to Code section 494, subsection (i), in that he violated the terms of the ex parte interim order, as follows:

a. Respondent failed to provide the Board's representative with any proof of his compliance with the notification to patient requirement within five (5) business days of issuance of the ex parte interim order.

STATEMENT OF FACTS

1. Patient C.B.

16. C.B.[2] is a 28 year old female. Respondent has been C.B.'s dentist for approximately ten years.

17. On or about August 27, 2007, C.B. went to Respondent's dental clinic located in Woodland so that she could get fitted for a splint to prevent her teeth from grinding at night. During the procedure, C.B. was seated horizontally in a dental chair with her legs slightly higher than her head and Respondent was directly behind her ready to fit her for the splint. Respondent started massaging C.B.'s neck and jaw line, then massaged the inner part of her chest using both of his hands in the area right above her breast. Respondent asked C.B. "Did you get a breast augmentation?" to which she responded: "Yes." Then, Respondent put both of his hands underneath C.B.'s shirt, started caressing the top and side portions of her breasts, and stated "they did a good job, you can't even feel the bags." Respondent grabbed the dental bib C.B. was wearing, inserted his other hand under her bra, and began fondling her breasts for about ten seconds, nearly touching the nipple. A dental hygienist (whose identity is presently unknown to Complainant) walked into the room and Respondent quickly took his hands out of C.B.'s bra and clothing.

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2. Initials are used in order to protect the confidentiality of patients and witnesses.

2. Patient T.M.

18. T.M. is a 36 year old female. Respondent had been T.M.'s dentist for about 11 years.

19. T.M. was diagnosed with temporomandibular joint disorder ("TMJ") by Respondent and had about eight appointments with Respondent to resolve her TMJ problems. During approximately six of those visits, Respondent touched or massaged T.M.'s breasts. Respondent would start out the massages at T.M.'s jaw, then would continue to her neck, shoulders, and eventually her chest area. Respondent would work his way down her breasts a little farther each time he massaged T.M. Respondent assured T.M. that the massages were a part of her TMJ therapy in that her neck, shoulder, and chest muscles were "all connected to her jaw."

20. On or about May 26, 2006, T.M. made an appointment with Respondent at his dental clinic in Woodland to get a chipped front tooth fixed. After T.M. arrived at the clinic and got into the dental chair, Respondent came behind her and started massaging her as usual. Then, Respondent put his hands into her bra and cupped her breasts for about ten seconds, touching her nipples with his bare hands. After Respondent cupped T.M.'s breasts, he told her that she had "really nice breasts." T.M. has not returned to Respondent's dental office since this incident.

3. Patient E.G.

21. E.G. is a 23 year old female. Respondent had been E.G.'s dentist for the last five years.

22. In or about 2002 or 2003, during E. G.'s freshman year in college, Respondent touched E.G.'s breasts during a dental procedure. Respondent spoke with E.G. at that time regarding TMJ, then began massaging her jaw, neck, shoulders, and chest. Respondent explained to E.G. that the muscles in the jaw are connected to the neck, and the neck is connected to the shoulders and chest. Then, Respondent massaged the contour of E.G.'s breasts for about a minute.

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23. In or about May 2003, E.G. went to Respondent for a check-up following a traffic accident. Respondent spoke to E.G. again about TMJ and started massaging her jaws, neck, shoulders, chest, and breasts. Respondent then put his hand inside of E.G.'s bra, explaining that it was part of the TMJ therapy.

24. In late 2005 or early 2006, E.G. went to Respondent to have her teeth cleaned. Respondent started massaging E.G.'s jaws, neck, shoulders, chest, and breasts as usual. With each massage that Respondent performed on E.G., he would work his way a little farther down her breasts. Then, Respondent touched E.G.'s right breast nipple. Respondent massaged E.G.'s breasts for approximately a minute, explaining that it was part of the TMJ procedure. E.G. has not returned to Respondent's dental office since this incident.

4. Patient R.B.

25. R.B. is a 33 year old female. Respondent had been R.B.'s dentist since 1992.

26. In or around 2004, Respondent diagnosed R.B. with TMJ. In or around 2004, Respondent massaged R.B.'s jaw, neck, and shoulders, then her chest area, including her breasts, using his bare hands, but did not touch her nipples. Respondent told R.B. that all the muscles are connected, assuring R.B. that massaging her in this way was part of the TMJ therapy.

27. In or about 2005 or 2006, during a dental appointment with Respondent, Respondent sat behind R.B. and began massaging her jaw, neck, shoulders, and breast area. Then, Respondent put his bare hands on R.B.'s breasts and nipples, and left his hand there, massaging R.B. for about a minute. Respondent began whispering something indiscernible in R.B.'s ear and his voice was quivering as he held R.B.'s breast.

5. Patient K.V.

28. K.V. is a 31 year old female. Respondent has been K.V.'s dentist for over ten years and is the dentist for her entire family.

29. K.V. began having problems with Respondent after he diagnosed her with TMJ. Respondent would massage K.V.'s jaw, neck, shoulders, and chest muscles at each visit,

and would reach under the dental bib and her shirt and grope one or both of her breasts. Respondent's hands were clammy and shaking whenever he groped K.V.'s breasts and would touch her nipples as well. These incidents occurred on at least six occasions, and on each of these visits, Respondent was alone with K.V. in the room.

6. Patient B.N.

30. B.N. is a 43 year old female. B.N. became a regular dental patient of Respondent's within the last ten years and received treatment from Respondent for TMJ.

31. In mid to late 2005, during a dental visit, Respondent told B.N. that she was stressed out and her muscles were tense. Respondent told B.N. that he would do a massage because all the muscles were connected to her jaw. Respondent massaged B.N.'s jaw, neck, shoulders, and chest above the contour of her breasts. Respondent repeated this "massage" at each of B.N.'s dental visits and would rest his hands on her breasts as he spoke to her while she was seated in the dental chair.

32. B.N.'s last dental appointment with Respondent was approximately eight (8) months to a year ago. B.N. called Respondent because her jaw was hurting and she had a migraine headache. Respondent told B.N. to come to the dental clinic for a massage to see if that would relieve the pain. B.N. arrived at the clinic between approximately 4:30 and 5:00 p.m. and was alone with Respondent. Respondent began his normal massage and massaged B.N.'s jaws, neck, shoulders, and chest. Then, Respondent put his bare hands under B.N.'s bra and began "poking" at her breasts, using his four fingers. Respondent moved from one side of B.N.'s breast to the other, touching and sliding his fingers across her nipples. Respondent was always positioned behind B.N. when he did his massages. As Respondent was touching B.N.'s breasts, he stated something to the effect that, "They still feel soft, how are they doing", referring to B.N.'s breast augmentation. B.N. reported that she had undergone a breast augmentation in 2004. Respondent would regularly make comments about B.N.'s breast augmentation during B.N.'s dental appointments.

33. During this last appointment, Respondent stated to B.N. that he had just received training to examine moles. Respondent then lifted the bottom back of B.N.'s shirt, all

the way to her neck, and B.N. held onto the front of her shirt just underneath her bra. B.N. then got up quickly and left the premises. B.N. never returned for further treatment from Respondent.

7. Patient A.R.G.

34. A.R.G. is a 28 year old female. Respondent has been A.R.G.'s dentist for approximately six years

35. A.R.G. was experiencing problems that she believed were related to TMJ. During A.R.G.'s first few visits, Respondent would begin massaging her face while she was in the examination chair. Respondent started at her jaw, then moved down to her neck, then her chest. When Respondent approached the top of one of A.R.G.'s breasts under her shirt and reached the soft breast tissue, he stopped. Respondent told A.R.G. while he was massaging her that all of these muscles "were connected together" from her chest to her jaw, and that was why he was massaging all of these muscles.

36. A few visits later, A.R.G. was having trouble with her night guard not fitting correctly and returned to Respondent. While A.R.G. was in the examination chair, Respondent came behind her and began his massage. Respondent worked his way down to the top of A.R.G.'s shirt while massaging her, then reached under her bra and groped her left breast and nipple. A.R.G. immediately hopped up in the chair, told Respondent that he was done, and left.

8. Patient B.B.

37. B.B. is a 49 year old female. Respondent had been B.B.'s dentist for over 10 years.

38. A couple of years ago, during a dental visit with Respondent, B.B. told Respondent that she had jaw pain. Respondent got behind B.B. while she was lying in the examination chair and began massaging her jaw, neck, and shoulders. Respondent then massaged B.B.'s chest area at the contour of her breasts.

39. At B.B.'s next dental visit, approximately a year and a half ago, Respondent began massaging B.B.'s, neck, shoulders, and chest area. On this occasion, however, Respondent massaged around the edges of B.B.'s bra, over her clothing.

40. At the last visit, about one year ago, Respondent began massaging B.B.'s jaw, neck, shoulders, and chest area. Then, Respondent "plunged" his hands under B.B.'s bra and touched her nipples, skin to skin. During each visit, Respondent was alone with B.B. in the examination room. Respondent used his bare hands each time he massaged B.B. and would work his way further down B.B.'s breasts with each subsequent massage, until the last time when he touched her nipples.

9. Patient A.M.G.

41. A.M.G. is a 31 year old female. Respondent had been A.M.G.'s dentist for more than five (5) years. A.M.G. stopped her dental visits with Respondent approximately two and a half years ago because he touched her inappropriately.

42. A.M.G.'s problems with Respondent occurred during her last three visits. During the first of these visits, Respondent asked A.M.G. if she found herself clenching her teeth and experiencing sore muscles. A.M.G. told Respondent that she did clench her teeth, her muscles were sore, and she was experiencing headaches. Respondent told A.M.G. that she may have TMJ. Respondent got behind A.M.G. as she sat in the dental chair and started massaging her jaws, neck, shoulder, and chest area.

43. On the next visit, Respondent got behind A.M.G. and started massaging her jaws, neck, shoulders, and chest area. As Respondent was massaging A.M.G.'s chest area, he began massaging below the top contour of her breasts. Respondent felt a cyst located about one (1) inch below the top contour of her breast and asked A.M.G. if she had a cyst, to which she responded, "Yes".

44. A.M.G.'s last visit with Respondent was a follow-up visit after A.M.G. had received and started using a mouth guard. Respondent got behind A.M.G. as she was sitting in the dental chair. Respondent started massaging her jaws, neck, shoulders, and chest. Then, Respondent put his hands inside of A.M.G.'s bra and touched her left nipple. A.M.G. got upset and Respondent quickly pulled his hands out of her bra. A.M.G. immediately jumped out of the dental chair, walked out of the examination room and left the premises.

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45. Respondent told A.M.G. that all the muscles were connected together from her jaw down to her chest, assuring A.M.G. that the massages were part of the treatment for TMJ. Respondent would always use his bare hands during the massages. From the time A.M.G. was diagnosed with TMJ to her last visit, Respondent would work his way further down her breasts with each subsequent massage, until he reached her nipple. This last visit was approximately two years ago.

10. Patient L.C.

46. L.C. is a 45 year old female. Respondent had been L.C.'s dentist for approximately two (2) years.

47. On or about June 28, 2005, L.C. had her first dental appointment with Respondent, for a six month check-up. L.C. was lying in the examination chair and had a dental bib around her neck. Respondent laid his dental tools on L.C.'s chest and sat in a chair next to her. On about two occasions, for about 30 seconds each time, Respondent laid one of his hands on L.C.'s chest as he talked to her during the dental procedure.

48. In or about September 2005, L.C. went to Respondent's dental clinic in Woodland to have a crown put on. Respondent looked at L.C.'s dental records and asked her if she had TMJ and asked her if she felt sore. L.C. told Respondent that she did, in fact, have TMJ. Respondent walked behind L.C. and suggested that a massage would really help her. Respondent was alone in the room with L.C. at the time. Respondent massaged L.C.'s shoulder area for approximately 20 seconds, then moved to her chest area, just above her breasts. Respondent then put his bare hands inside of L.C.'s bra and touched the side of her right nipple. L.C. jumped and Respondent quickly pulled his hand out of her bra. L.C. never returned for further treatment from Respondent.

11. Patient M.L.

49. M.L. is a 55 year old female. Respondent had been M.L.'s dentist for about 10 or 11 years.

50. Approximately four (4) years ago, M.L. had an appointment at Respondent's dental clinic to get a couple of teeth filled. After Respondent completed the

procedure and the hygienist left the room, Respondent told M.L. that she "looked stressed" and "when you're stressed, you get knots in your jaw, neck, shoulder, and chest." Respondent stated that he was trained on a new procedure to relieve the stress. M.L. was lying down in the dental chair and Respondent was standing behind her. Respondent began massaging M.L.'s jaw, neck, shoulders, and chest. Then, Respondent put his bare hand under M.L.'s shirt and into her bra, touching her breasts for about 10 to 15 seconds.

12. Patient T.H.

51. T.H. is a 36 year old female. Respondent had been T.H.'s dentist for a number of years. T.H. had been told by Respondent that she has TMJ.

52. On or about October 18, 2006, T.H. went to Respondent's dental clinic in Woodland to be fitted for a splint. Respondent massaged T.H.'s jaw, then her neck and shoulders, and then her chest. Respondent worked his way down to T.H.'s breasts, then rubbed her breasts about an inch away from her nipples for approximately one (1) minute.

53. During T.H.'s next visit on or about December 13, 2006, Respondent massaged T.H.'s jaw, neck, shoulders, and chest, then worked his way down to her breasts. Respondent massaged T.H.'s breasts for approximately one minute. Both times when Respondent fondled T.H.'s breasts, he made her feel like this was part of her therapy for TMJ. Afterwards, T.H. complained to the receptionist and asked the receptionist why Respondent "has to massage that way for TMJ". The receptionist stated that they "have had complaints about that before." T.H. never returned to see Respondent.

13. Patient S.T.

54. S.T. is a 43 year old female. S.T. first sought treatment from Respondent on or around December 2004, for a chipped, rear molar. S.T. became a patient of Respondent's after that time.

55. In or about September 2005, S.T. made an appointment with Respondent to have her teeth cleaned and her jaw examined for a jaw joint problem that had been causing her pain. During the procedure, S.T. was reclined slightly in the examination chair. Respondent pushed on both sides of her jaw with his hands, then began massaging her neck area.

Respondent then placed his hand under S.T.'s shirt, and began to press in her armpit area, stating that there were nerves in that area that could effect her jaw. Respondent then moved his hands around S.T.'s breasts and cupped them underneath, while stating, "I'm a professional." After this visit, S.T. stopped going to Respondent for dental work.

14. Patient M.G.

56. M.G. is a 26 year old female. Respondent had been M.G.'s dentist for almost 20 years, and has never been to any other dentist.

57. In or about 2006, M.G. visited Respondent for her annual check-up. Respondent began checking M.G.'s teeth, then continued his examination from behind her while she sat in the dental chair. M.G. was the only person present with Respondent. Respondent started massaging and manipulating M.G.'s jaw with his hands, continued to her neck, and then down to the front of her chest. Respondent reached in under M.G.'s shirt, stopped at the top edge of her breasts, and asked her if she had any pain where he was touching her. Respondent massaged an area a half inch below the top contour of M.G.'s breasts into the soft tissue, using his bare hands.

58. Respondent massaged M.G. the same way on one other occasion prior to this incident. On both occasions, M.G. was the only person in the room with Respondent.

15. Patient R.K.

59. R.K. is a 26 year old female. On or about January 11, 2006, R.K. went to Respondent's dental clinic to have a root canal done. After Respondent finished the procedure, he started talking to R.K. about her moles and the need to have them examined by a medical doctor. Respondent told R.K. that as part of his dental training, he has been taught to examine moles and that R.K. had numerous moles on her body. Respondent began touching the moles around R.K.'s neck and eventually worked his way down to her breasts. Respondent touched the moles on R.K.'s breasts with his bare hands. R.K. has not returned to Respondent's dental office since this incident.

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16. Patient G.S.

60. G.S. is a 46 year old female. Respondent had been G.S.'s dentist for about three (3) or four (4) years.

61. Approximately six months ago, G.S. went to Respondent's dental clinic for a teeth cleaning and check-up. After the hygienist finished cleaning G.S.'s teeth and left the room, Respondent came in and looked at G.S.'s teeth. G.S. was reclined in the dental chair and Respondent was to the right and slightly behind her. Respondent then started massaging G.S.'s neck with his bare hands and continued massaging her down to her chest, just above the contour of her breasts. G.S. immediately asked Respondent: "What are you doing?" Respondent explained to G.S. that when they have a patient under the lights, they (dentists) like to look for skin cancer.

17. Patient D.L.

62. D.L. is a 46 year old female. Respondent had been D.L.'s dentist for about 17 years.

63. Approximately two or three years ago, D.L. was at a dental appointment with Respondent when Respondent told D.L. that he had just returned from a dental conference and that they were required by the state to check patients for TMJ stress by massaging the muscles. Respondent began massaging D.L.'s jaw, then her neck, shoulders and worked his way down to her chest and massaged the area around the contour of her breasts.

64. D.L.'s last dental appointment with Respondent was on or about July 18, 2007. Respondent began giving a TMJ check and massaged D.L.'s jaw, neck, shoulders, and chest area at the contour of D.L.'s breasts and massaged that area for approximately five to ten seconds. During the examination, Respondent placed his tools on D.L.'s chest. When D.L. confronted Respondent about this, he explained that it would be easier for her to get out of the chair in a hurry without knocking a tray of tools to the floor. Respondent agreed to make a note in D.L.'s chart to use a tray for the tools.

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18. Patient P.D.

65. P.D. is a 61 year old female. Respondent had been P.D.'s dentist for about 10 years.

66. During her last appointment with Respondent, P.D. was sitting in the examination chair wearing a dental bib. Respondent was sitting slightly behind and to the right of P.D. and was waiting with his right arm lying across her breasts. Respondent left his arm resting across her breasts as he was making small talk with P.D. Respondent then began massaging P.D.'s jaw, then her neck, shoulders, and chest area. Respondent massaged the top of P.D.'s breasts at the contour of P.D.'s breasts, and continued massaging her breasts for about 30 to 60 seconds.

19. Patient H.M.

67. H.M. is a 27 year old female. Respondent had been H.M.'s dentist for more than two years.

68. During a visit with Respondent for teeth cleaning and an examination, Respondent came in to the room, while H.M. was laying back in the dental chair. Respondent stood behind H.M. and began massaging her shoulders and neck. Respondent then commented on how tense she was and asked her if she was having any jaw pain. H.M. stated that she was having jaw pain and Respondent continued with his massage. Respondent then asked H.M. if she had any new moles and worked his way down her chest. Respondent stopped massaging H.M. when his hands hit the top of her breasts and pulled his hands out of her shirt.

69. In a subsequent visit with Respondent for a cleaning and an examination, Respondent massaged H.M.'s shoulders, then asked her if she had jaw pain because she was very tense. Respondent massaged down into her shirt and stopped at the top of her breasts.

70. In another dental visit with Respondent, H.M. was to have her wisdom teeth removed. Respondent gave H.M. a local anesthetic and gas (nitrous oxide). After the medications were administered, H.M. "went out for few minutes" then woke up with Respondent rubbing her breasts through the dental bib and her shirt.

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71. On yet another appointment with Respondent, H.M. told Respondent that she had no jaw pain and did not need a massage. Respondent did not touch H.M. inappropriately.

20. Patient L.R.

72. Respondent was L.R.'s dentist for about two years. L.R. had been suffering from very bad headaches and was told by Respondent that she may have TMJ.

73. L.R.'s last appointment with Respondent was in 2007. During this time, Respondent started massaging L.R.'s jaws, neck, shoulders, and around the contours of her breasts while she was seated in the dental chair. L.R. never returned for further treatment from Respondent.

SECOND THROUGH TWENTY-FIRST CAUSES FOR DISCIPLINE

(Gross Negligence)

74. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 17 through 73 above.

75. At all times relevant to the charges brought herein, Respondent maintained a family practice as a general practitioner/dentist in Woodland, California.

76. Respondent is subject to disciplinary action pursuant to Code section 1670, on the grounds of unprofessional conduct, in that he committed acts constituting gross negligence, including, but not limited to, the following:

A. In providing care and treatment to this patients, as set forth above in paragraphs 17 through 73, Respondent engaged in inappropriate contact with his female patients by massaging and/or touching them on and around their breast(s) and chest area.

B. During the course of his care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent made comments and/or asked questions regarding his female patients' breast(s).

C. In providing care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent performed examinations of his patients' skin, including the areas of the back and chest, for moles and skin cancer.

TWENTY-SECOND THROUGH FORTY-SECOND CAUSES FOR DISCIPLINE

(Incompetence)

77. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 17 through 73, and 75 above.

78. Respondent is subject to disciplinary action pursuant to Code section 1670, on the grounds of unprofessional conduct, in that he committed acts constituting incompetence in his care and treatment of his female patients, including, but not limited to, the following:

A. In providing care and treatment to this patients, as set forth above in paragraphs 17 through 73, Respondent engaged in inappropriate contact with his female patients by massaging and/or touching them on and around their breast(s) and chest area.

B. During the course of his care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent made comments and/or asked questions regarding his female patients' breast(s).

C. In providing care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent performed examinations of his patients' skin, including the areas of the back and chest, for moles and skin cancer.

FORTY-THIRD THROUGH SIXTY-THIRD CAUSES FOR DISCIPLINE

(Repeated Acts of Negligence)

79. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 17 through 73, and 75 above.

80. Respondent is subject to disciplinary action pursuant to Code section 1670, on the grounds of unprofessional conduct, in that he committed repeated acts of negligence in his care and treatment of his female patients, including, but not limited to the following:

A. In providing care and treatment to this patients, as set forth above in paragraphs 17 through 73, Respondent engaged in inappropriate contact with his female patients by massaging and/or touching them on and around their breast(s) and chest area.

B. During the course of his care and treatment to his female patients, as set

forth above in paragraphs 17 through 73, Respondent made comments and/or asked questions regarding his female patients' breast(s).

C. In providing care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent performed examinations of his patients' skin, including the areas of the back and chest, for moles and skin cancer.

SIXTY-FOURTH THROUGH EIGHTY-FOURTH CAUSES FOR DISCIPLINE

(Performance of Services Outside the Scope of Practice as a General Practitioner/Dentist)

81. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 17 through 73, and 75 above.

82. Respondent is subject to disciplinary action pursuant to Code section 1670 on the grounds of unprofessional conduct, as defined by Code section 1684, in that he performed acts beyond the scope of the practice of dentistry as defined by Business and Professions Code section 1625, including, but not limited to, as follows:

A. In providing care and treatment to this patients, as set forth above in paragraphs 17 through 73, Respondent engaged in inappropriate contact with his female patients by massaging and/or touching them on and around their breast(s) and chest area.

B. During the course of his care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent made comments and/or asked questions regarding his female patients' breast(s).

C. In providing care and treatment to his female patients, as set forth above in paragraphs 17 through 73, Respondent performed examinations of his patients' skin, including the areas of the back and chest, for moles and skin cancer.

EIGHTY-FIFTH THROUGH ONE-HUNDRED FIFTH CAUSES FOR DISCIPLINE

(Sexual Abuse or Sexual Misconduct With a Patient)

83. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 17 through 73, and 75 above.

84. Respondent is subject to disciplinary action pursuant to Code section 1670 on the grounds of unprofessional conduct, as defined by Code section 1680, subsection (e), and pursuant to Code 726, in that he committed acts of sexual abuse and/or sexual misconduct that are substantially related to the practice of dentistry in that Respondent touched his patients' breast(s) and/or nipples and/or chest area with his bare hands (skin to skin touching), massaged his patients' breast(s) and/or nipples and asked questions and made comments about his female patients' breast(s).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Dental Board of California issue a decision:

1. Revoking or suspending State Dental Certificate Number 35467, issued to Mark Kevin Anderson, also known as Mark K. Anderson, D.D.S.;

2. Ordering Mark Kevin Anderson, also known as Mark K. Anderson, D.D.S., to pay the Dental Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 10/31/07

RICHARD L. WALLINDER, JR.
Executive Officer
Dental Board of California
Department of Consumer Affairs
State of California

Complainant

BEFORE THE
DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of: MARK KEVIN ANDERSON, Respondent.	OAH number 2010041107

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Dental Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on January 1, 2011.

IT IS SO ORDERED this 1st day of December 2010.

John A Bettinger

JOHN BETTINGER, DDS
BOARD PRESIDENT
DENTAL BOARD OF CALIFORNIA

BEFORE THE
DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: MARK KEVIN ANDERSON, a.k.a. MARK K. ANDERSON, D.D.S. Woodland, California State Dental Certificate No. 35467 Respondent.	Case No. 01-2007-179 OAH No. 2010041107

PROPOSED DECISION

Administrative Law Judge Catherine B. Frink, State of California, Office of Administrative Hearings (OAH), heard this matter in Sacramento, California on September 28, 2010.

Jeffrey M. Phillips, Deputy Attorney General, represented complainant Richard DeCuir, Executive Officer of the Dental Board of California (board or DBC).

There was no appearance by or on behalf of respondent Mark K. Anderson, D.D.S.

Evidence was received, and the record was held open for the submission of additional evidence. On October 4, 2010, complainant submitted a Declaration of Costs, which was marked as Exhibit 7 in evidence. Complainant also submitted the following documents, which were marked collectively as Exhibit 9 and received in evidence for jurisdictional purposes: Interim Suspension Order (ISO) in DBC Case No. 01-2007-179 (OAH Case No. 2007090811), dated September 28, 2007; Decision dated October 16, 2007, after a noticed hearing on the ISO in DBC Case No. 01-2007-179 (OAH Case No. 2007090811); and Order Denying Motion to Modify Interim Suspension Order, dated December 27, 2007.

The record was closed, and the matter was submitted for decision on October 4, 2010.

SUMMARY

Respondent's dental certificate is currently under suspension as the result of an interim suspension order issued on September 28, 2007. Complainant established cause to

revoke respondent's dental certificate based on his criminal convictions of 11 counts of sexual battery perpetrated on dental patients, and on his sexual abuse of those patients. Respondent did not appear at the hearing, and submitted no evidence to warrant a lesser penalty than outright revocation of his dental certificate. The board is entitled to reasonable costs of investigation and prosecution of this matter, in the amount of $33,322.50.

FACTUAL FINDINGS

Procedural Background and Default

1. Complainant filed the Accusation in his official capacity on October 31, 2007. On November 9, 2007, respondent filed a Notice of Defense through his then-counsel, Robert B. Zaro, Attorney at Law, Zaro, Sillis & Ramazzini, LLP.

2. By letter dated August 4, 2010, Mr. Zaro informed OAH that his office no longer represented respondent.

3. On August 9, 2010, respondent was served by certified mail and first class mail with a Notice of Hearing, at his address of record with the board: 74 West Lincoln Avenue, Woodland CA 95695. Respondent was also served at a second address: 802 College Street, Woodland, CA 95695. Mr. Zaro was not served with the Notice of Hearing.

4. On August 23, 2010, Mr. Zaro sent a letter to Mr. Phillips, which stated, in pertinent part:

> We previously represented Respondent Mark Anderson, DDS, in the above-referenced matter. The hearing is currently set for September 28, 2010.
>
> Dr. Anderson has authorized our office to inform the California Dental Board (Board) that Respondent surrenders his California Dental License at this time. Our records indicate that the license was received by Investigator Nancy Butler on October 2, 2007. Therefore, upon receipt of this correspondence, please confirm the hearing date is vacated.

5. Despite proper service of the Notice of Hearing, as well as evidence that respondent had actual knowledge of the hearing date as reflected in Finding 4, respondent did not appear and was not otherwise represented at hearing. Upon proof of compliance with Government Code sections 11505 and 11509, the matter proceeded as a default pursuant to Government Code section 11520.

Amendment of the Accusation

6. At hearing, complainant amended the Accusation to add the following allegations:

Causes for Discipline #106-117
(Conviction of a Crime)

85. Respondent is subject to disciplinary action for unprofessional conduct pursuant to Business and Professions Code section 1670.1 in that he was convicted of crimes substantially related to the practice of dentistry. On March 10, 2009, in Yolo County Superior Court Case No. CR-F-5176 (People v. Mark Kevin Anderson), a jury verdict found 11 counts of sexual battery of Respondent's female patients, in violation of Penal Code section 243.4(c), in that Respondent fraudulently represented to his patients that the touching of his patients served a professional purpose.

Causes for Discipline #106-117
(Sexual Abuse of Patients)

86. Respondent is subject to disciplinary action pursuant to Business and Professions Code section 1680(e) in that he committed 11 acts of sexual abuse of his patients based on the March 10, 2009 jury verdict of Yolo County Superior Court Case No. CR-F-5176 (People v. Mark Kevin Anderson) of 11 counts of sexual battery of female patients.

License History

7. On July 28, 1987, the board issued State Dental Certificate Number 35467 to respondent. The license expired on October 31, 2009, and had not been renewed as of the date of hearing.

Interim Suspension Order

8. On September 28, 2007, pursuant to the ex parte interim order issued by Presiding Administrative Law Judge Jonathan Lew in the disciplinary proceeding titled *Richard L. Wallinder, Jr. v. Mark K. Anderson, D.D.S.*, respondent's dental certificate was immediately suspended pending further disciplinary action by the board and issuance of a final decision and order in accordance with Business and Professions Code section 494. As part of the ex parte interim suspension order, respondent was required to notify all current and prospective patients through October 11, 2007, of his suspension of licensure, and to submit satisfactory evidence of compliance with this notification requirement to a designated board representative within five business days (notification requirement).

9. A noticed hearing was scheduled for October 11, 2007. A second noticed hearing was held on October 15, 2007, before Administrative Law Judge (ALJ) Melissa G. Crowell. On October 16, 2007, ALJ Crowell issued an order directing that "[t]he interim suspension order of September 28, 2007, shall remain in effect," and that respondent "is prohibited from practicing dentistry in the State of California until such time as the board renders a decision in accordance with Business and Professions Code section 494, subdivision (f)." ALJ Crowell specifically found that respondent did not comply with the requirement of the ex parte interim suspension order that he submit evidence of compliance with the notification requirement to the board within five business days of the issuance of the order.

10. Complainant filed the Accusation against respondent on October 31, 2007, within the statutory timelines set forth in Business and Professions Code section 494, subdivision (f).

11. On December 27, 2007, ALJ Crowell issued an Order Denying Motion to Modify Interim Suspension Order, in which she denied respondent's request to allow him to practice dentistry on male patients in a monitored environment. The Order stated, in part, that on October 27, 2007, an indictment was filed against respondent in Yolo County Superior Court, charging respondent with 21 felony counts of sexual battery involving 14 different female patients.

Convictions

12. On March 10, 2009, in the Yolo County Superior Court, Case No. CR-F-07-0005176, respondent was found guilty by a jury and was convicted on 11 felony counts of violating Penal Code section 243.4, subdivision (c), sexual battery.[1] Respondent was also convicted of one count of violation of Penal Code section 243, subdivision (e)(1), misdemeanor sexual battery.[2] As a consequence of the convictions, probation was denied, and respondent was sentenced to state prison for a total aggregate term of six years, with two days custody credit. Respondent was required to register as a sex offender pursuant to Penal Code section 290, and was ordered to pay a restitution fine of $2,500.

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[1] Penal Code section 243.4, subdivision (c), states in pertinent part, that "[a]ny person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery."

[2] Penal Code section 243, subdivision (e)(1), states in pertinent part that "[a]ny person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery."

13. The convictions established that respondent willfully and unlawfully touched an intimate part of the following individuals, on the dates set forth below, for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim was unconscious of the nature of the act because respondent fraudulently represented that the touching served a professional purpose:

A. Patient C.B., on August 27, 2007;

B. Patient T.M., on May 26, 2006;

C. Patient T. H., on October 18, 2006;

D. Patient R.B., on June 1, 2006;

E. Patient B.N., between May 2006 and September 2006;

F. Patient A.G., between May 2006 and June 2006;

G. Patient L.R., on February 14, 2007;

H. Patient L.C., in December 2005;

I. Patient B.B., on September 28, 2006;

J. Patient A.G., on January 18, 2006; and

K. Patient A.G., on in December 2005.

Sexual Abuse of Patients

14. As set forth in Finding 13, respondent committed sexual abuse of patients C.B., T.M., T.H., R.B., B.N., A.G.,[3] L.R., L.C., and B.B., in that on the occasions noted above, he touched an intimate part of each patient, for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the individuals were unconscious of the nature of the acts at the time the were committed because respondent fraudulently represented that the touching served a professional purpose.

Other Matters

15. In the Accusation, complainant alleged specific facts describing acts of misconduct with respect to respondent's treatment of patients C.B., T.M., E.G., R.B., K.V., B.N., A.R.G., B.B., A.M.G., L.C., M.L., T.H., S.T., M.G., R.K., G.S., D.L., P.D., H.M., and

[3] The evidence did not establish whether or not the individual(s) identified as A.G. in Findings 13.F, 13.J, and 13.K are the same person.

L.R. Based on those alleged facts, the Accusation included causes for discipline for unprofessional conduct based on alleged violations of Business and Professions Code section 1670 (Gross Negligence, Incompetence, and/or Repeated Acts of Negligence); section 1670 in conjunction with sections 1684 and 1625 (Performance of Services Outside the Scope of Practice as a General Practitioner/Dentist); and section 1670 in conjunction with sections 1680 and 726 (Sexual Abuse or Sexual Misconduct Substantially Related to the Practice of Dentistry). However, complainant did not submit evidence at hearing to prove the underlying facts to support these allegations; rather, complainant submitted certified court documents as evidence to support the amendments to the Accusation set forth in Finding 6.

16. There was no evidence of mitigation, extenuation, or rehabilitation submitted by or on behalf of respondent.

Costs

17. The Accusation contains a request for costs of investigation and enforcement of this matter pursuant to Business and Professions Code section 125.3. The costs were certified in the manner provided by Business and Professions Code section 125.3, subdivision (c), in the amount of $46,436.50. The declaration of Jeffrey M. Phillips, Deputy Attorney General (declaration), was submitted in support of the cost certification. Attached to the declaration was a computer-generated billing printout from the Office of the Attorney General. According to the declaration and accompanying computer printout, Mr. Phillips expended 184.25 hours at $158 per hour during the 2008-09 fiscal year; 103.25 hours at $158 per hour during the 2008-09 fiscal year; and 2 hours at $170 per hour during the 2010-11 fiscal year (289.5 hours total), for a total of $45,765. Deputy Attorney General Sterling A. Smith expended 1 hour at $158 per hour during the 2008-09 fiscal year, for a total of $158. Supervising Deputy Attorney General Arthur D. Taggart expended .25 hours at $158 per hour during the 2007-08 fiscal year, for a total of $39.50. Supervising Deputy Attorney General Janice K. Lachman expended 3 hours at $158 per hour during the 2007-08 fiscal year, for a total of $474.

18. Of the total hours expended by Mr. Phillips for the 2008-09 fiscal year, 83 hours were billed to "trial," on the following dates in 2009: January 14 (5.5 hours); January 15 (7 hours); January 21 (4 hours); January 22 (8 hours); January 26 (5 hours); January 29 (5.5 hours); February 4 (8 hours); February 5 (6.5 hours); February 10 (4.5 hours); February 18 (1 hour); February 19 (8 hours); February 23 (5.5 hours); February 24 (7.5 hours); February 25 (3 hours); March 2 (.5 hours); and March 10 (3.5 hours). It appears that these billings reflect the time spent by Mr. Phillips attending respondent's criminal trial. In the absence of other evidence demonstrating that these costs pertained to the investigation or enforcement of this licensing matter, $13,114 in costs shall be disallowed (83 hours at $158 per hour). The remaining costs billed by Mr. Phillips, Mr. Smith, Mr. Taggart and Ms. Lachman appear to be reasonable and the activities necessary to the development and presentation of the case. Therefore, complainant established $33,322.50 as the reasonable costs of investigation and enforcement of this matter.

LEGAL CONCLUSIONS

Applicable Statutes

1. Business and Professions Code section 494 governs the imposition of interim orders of suspension on professional licensees. Section 494, subdivision (i), provides that failure to comply with an interim order shall constitute a separate cause for disciplinary action against any licensee, and may be heard at, and as a part of, the noticed hearing on the interim suspension order. Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

2. Business and Professions Code section 1670 provides in part that a licensee may have his license revoked for unprofessional conduct, or for any other cause applicable to the licensee provided in the Dental Practice Act.[4]

3. Business and Professions Code section 1670.1, subdivision (a), provides in part that a licensee may have his license revoked for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist licensed under the Dental Practice Act, and that a certified copy of the record of shall be conclusive evidence of the conviction.

4. Business and Professions Code section 1680, subdivision (e), defines unprofessional conduct to include the committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

Substantial Relationship

5. California Code of Regulations, title 16 (CCR), section 1019 states in part that a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a dentist if to a substantial degree it evidences present or potential unfitness of a licensee to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare.

6. Respondent's 11 felony convictions for violation of Penal Code section 243.4, subdivision (c), are substantially related to the qualifications, functions, and duties of a dentist, within the meaning of CCR section 1019, in that they demonstrate present and

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[4] Business and Professions Code sections 1600 – 1976.

potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety and welfare. Respondent's conduct arose in the context of his employment as a dentist, and constituted sexual abuse of patients.

Cause for Discipline

7. As set forth in Findings 8 and 9, the board has established by clear and convincing evidence that respondent's dental certificate is subject to discipline under Business and Professions Code section 494, subdivision (i), in that respondent failed to abide by all of the requirements of the September 28, 2007 ex parte interim suspension order.

8. As set forth in Findings 12 and 13, and Legal Conclusions 5 and 6, the board has established by clear and convincing evidence that respondent's dental certificate is subject to discipline under Business and Professions Code section 1670.1, in that respondent has been convicted of crimes substantially related to the qualifications, functions, or duties of a licensed dentist.

9. As set forth in Findings 13 and 14, the board has established by clear and convincing evidence that respondent's dental certificate is subject to discipline under Business and Professions Code sections 1670 and 1680, subdivision (e), in that respondent has engaged in unprofessional conduct by committing acts of sexual abuse with patients that are substantially related to the practice of dentistry.

10. No cause for discipline of respondent's dental certificate was established pursuant to Business and Professions Code section 1670 (Gross Negligence, Incompetence, and/or Repeated Acts of Negligence); section 1670 in conjunction with sections 1684 and 1625 (Performance of Services Outside the Scope of Practice as a General Practitioner/Dentist); and section 1670 in conjunction with sections 1680 and 726 (Sexual Abuse or Sexual Misconduct Substantially Related to the Practice of Dentistry), by reason of Finding 15.

Disciplinary Considerations

11. The board has adopted criteria to evaluate the rehabilitation of licensees after conviction of a crime, which are set forth in CCR section 1020, subdivision (b).[5] These factors were considered in determining respondent's suitability for continued licensure.

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[5] CCR section 1020 states:

(b) When considering the suspension or revocation of a license on the grounds of conviction of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s);

12. In this case, respondent's convictions are extremely serious, and go to the heart of the practice of dentistry. The conviction occurred less than two years prior to the date of hearing. The evidence did not establish whether respondent has complied with the terms of his parole, or if he has been released from incarceration. There was no evidence that the conviction has been expunged pursuant to Penal Code section 1203.4. Respondent submitted no evidence of rehabilitation. His dental certificate must be revoked in order to protect the public.[6]

Costs

13. Business and Professions Code section 125.3 provides, in pertinent part, that the board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Section 125.3, subdivision (c), provides that a certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General. In this case, the costs were certified by Mr. Phillips as the designated representative of complainant (Finding 17).

14. As set forth in Findings 17 and 18, the reasonable costs of investigation and enforcement are $33,322.50, reflecting a downward adjustment from the $46,436.50 claimed by the board.

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(2) Total criminal record;

(3) The time that has elapsed since commission of the act(s) or offense(s);

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee;

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;

(6) Evidence, if any of rehabilitation submitted by the licensee.

[6] The fact that respondent sought to "surrender" his license in August of 2010 (Finding 4) does not preclude the board from taking action to revoke respondent's dental certificate.

ORDER

1. State Dental Certificate Number 35467 issued to respondent Mark Kevin Anderson, a.k.a. Mark K. Anderson, D.D.S., is revoked by reason of Legal Conclusions 7, 8, and 9.

2. Respondent Mark Kevin Anderson, a.k.a. Mark K. Anderson, is ordered to pay to the board the costs of investigation and prosecution of this matter, in the amount of $33,322.50, pursuant to Legal Conclusions 13 and 14.

Dated: November 1, 2010.

Catherine B. Frink

CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings