

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FIRST DIVISION
June 13, 2016

No. 1-15-0938
2016 IL App (1st) 150938-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

SANG U. WOO,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 14 CH 12222
ILLINOIS DEPARTMENT OF FINANCIAL)	
AND PROFESSIONAL REGULATION,)	
)	Honorable Kathleen Pantle,
Defendant-Appellee.)	Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Cunningham and Justice Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Plaintiff's failure to comply with supreme court rules did not warrant dismissal of appeal; finding that plaintiff violated the Illinois Dental Practice Act (225 ILCS 25/1 *et seq.* (West 2008)) was not clearly erroneous; discipline was not excessive; charges of unprofessional conduct applied to plaintiff's conduct; affirmed.

¶ 2 Plaintiff Sang U. Woo (Woo) appeals an order of the circuit court denying his complaint for administrative review and affirming the decision of the Director of the Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation

(Department) to impose a 30-day suspension from practicing dentistry, indefinite probation for a minimum of two years, requirements for additional training, and a \$9,000 fine. On appeal, Woo contends that his conduct did not violate the Illinois Dental Practice Act (Act) (225 ILCS 25/1 *et seq.* (West 2008)), and that the discipline imposed was excessive. Woo additionally asserts that the legislature did not intend to apply the charge of unprofessional conduct to three patients or two incidents. We affirm.

¶ 3 On October 31, 2011, the Department filed a second amended complaint against Woo that concerned Woo's treatment of three children: Jamar, Jamal, and Jaylen. At the time, Jamar and Jamal were five years old and Jaylen was three years old. We summarize below the counts that pertained to each child.

¶ 4 Concerning Jamar's treatment, the Department alleged that Woo rendered composites and inadequate restorations on teeth B and T. The Department further stated that Woo billed the Illinois Medical Assistance Program for three-surface composites on teeth T, I, J, and L, but Woo did not actually render three-surface composites on these teeth. Further, the Department alleged that Woo failed to take diagnostic bitewing x-rays for teeth I, J, K, and L, but nonetheless rendered restorations on teeth I, J, and L, and performed a pulpotomy on tooth K. The Department also asserted that Woo placed a bitewing x-ray for Jamal in Jamar's dental record. Additionally, the Department stated that Woo failed to develop a proper treatment plan. Turning to Jamal's treatment, the Department alleged that Woo rendered composites and inadequate restorations on teeth B and I. The Department also stated that Woo failed to develop a proper treatment plan for Jamal. As for Jaylen's treatment, the Department alleged that Woo rendered composites and inadequate restorations on teeth A, B, and L, and that Woo failed to develop a proper treatment plan.

¶ 5 The Department asserted that under the Act, Woo engaged in professional incompetence as manifested by poor standards of care and dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. The Department further stated that Woo failed to make a record of all dental work performed for each patient, willfully made or filed false records or reports, and that Woo's acts or omissions constituted repeated irregularities in billing a third party for services rendered to a patient. See 225 ILCS 25/23(11), 23(15), 23(22), 23(23), 23(25) (West 2008) and 225 ILCS 25/50 (West 2008). Based on the allegations, the Department requested that Woo's dental license be suspended, revoked, or otherwise disciplined, and that Woo pay a fine not exceeding \$10,000 per violation.

¶ 6 The matter proceeded to an evidentiary hearing. We summarize only the testimony that corresponds to the allegations in the Department's second amended complaint. The Department presented three witnesses: Pete Vasiliades, an investigator for the Department; Andy Malcolm, a pediatric dentist who treated the children in January 2010; and John Kenney, a general and pediatric dentist who provided expert testimony. Woo testified on his own behalf.

¶ 7 Woo testified that he had been practicing general dentistry in the Chicago area since 1989. Although the majority of his patients were adults, Woo stated that he also saw children and had training in pedodontics in dental school. Woo testified that when Jamar, Jamal, and Jaylen first came to his office, they were very hyperactive, ran around his office, and would not sit in the dental chair. Woo wanted to help them because they had Medicaid and had "no place to go." Woo stated that the children had rampant cavities and he made a treatment plan for each child. Woo further stated that because the children were very difficult patients, he tried to finish each treatment within 30 minutes. He planned to see them in six-month intervals, but the children went to another dentist in the meantime.

¶ 8 Woo had three visits with Jamar in September and October 2009, and planned to finish Jamar's emergent care issues in those three visits. Woo testified that he took four bitewing x-rays of Jamar's teeth. Woo also worked on three surfaces of tooth B and removed a cavity on tooth T. Woo also stated that he performed three-surface restorations on teeth I, J, and L. On Jamar's second visit, Woo performed a pulpotomy on tooth K because it had an abscess, for which Jamar was on antibiotics and was already subsiding. Woo did not use an injection anesthetic on tooth K because the tooth was non-vital and he did not want to scare Jamar. Woo stated that when Jamar came back two weeks after the pulpotomy, there was no infection and Woo planned to put a crown on tooth K in six months.

¶ 9 Woo further testified that he took x-rays for Jamal and that Jamal had rampant cavities. Woo stated that he performed three-surface composites on teeth I and B. Woo also stated that he performed a pulpotomy on tooth I. Woo denied that tooth B had been infected at this visit. Woo testified that after receiving Lidocaine, Jamal "[became] ballistic" and screamed and ran out of the chair. He referred Jamal to a pedodontist at the University of Illinois, which had a waiting list.

¶ 10 As for Jaylen, Woo performed two-surface restorations on teeth A and B and a three-surface restoration on tooth L. Woo's future treatment plan for Jaylen was "oral hygiene and outcome of fillings in six months," and to decide after six months whether further treatment was necessary.

¶ 11 Woo stated that overall, he took a different approach than Malcolm, the dentist who subsequently treated the children. Woo stated that because he is not a pedodontist, he uses a more conservative approach. Woo asserted that he would not remove teeth because of the need for teeth to serve as space maintainers and because removing teeth can cause problems with

eating and nutrition. Woo's approach was to remove the cavities "and give them [an] oral hygiene diet" to stop the cavities. According to Woo, the most likely causes for the condition of the children's teeth were their level of oral hygiene and that their local water was not fluoridated. Woo also stated that the children had been neglected by a previous dentist who refused to treat the children because they had rampant cavities. Woo further testified that a dentist cannot determine the cause of rampant cavities at the first appointment. Woo asserted that he had a passion to help the three children and "didn't do this for financial gain."

¶ 12 The Department presented the testimony of Malcolm, the pediatric dentist who examined and treated the three children beginning in January 2010. Malcolm stated that he was able to take x-rays of all three children. Malcolm testified that when he saw Jamar, tooth B had a one-surface composite and there were cavities beneath the restoration. Malcolm also observed decay around the composite that had been placed on tooth T, and ultimately performed a pulpotomy and placed a stainless steel crown on tooth T. Malcolm explained that a pulpotomy is done when decay goes into the nerves. Malcolm further stated that tooth K was grossly decayed, had a buccal abscess, and had no history of restoration. Malcolm determined that tooth K could not be restored and extracted it. Additionally, Malcolm testified that tooth I had a one-surface restoration, tooth J had a one or two-surface restoration, and tooth L had a one-surface composite.

¶ 13 As for Jamal, Malcolm testified that tooth B had a composite restoration on two surfaces, as well as recurrent, remaining, or new decay around the filling. Malcolm extracted tooth B two months later because there were signs that the tooth was becoming infected. Malcolm further stated that tooth I had a composite restoration on two surfaces and decay was under the

restoration. Additionally, Malcolm observed an overhang of composite, which indicated that a matrix band had not been seated down far enough. Malcolm subsequently extracted tooth I.

¶ 14 Turning to Jaylen's teeth, Malcolm stated that tooth A had decay on three surfaces and possibly a small remnant of a composite restoration. Malcolm performed a pulpotomy and placed a crown on tooth A because the decay was deep enough that it went into the nerve.

Malcolm further stated that tooth B had decay on four surfaces and a small remnant of composite on one surface. Malcolm performed a pulpotomy and placed a stainless steel crown on tooth B because the decay involved the nerve. Additionally, Malcolm stated that tooth L had decay on four surfaces and a small remnant of composite on one surface. Because the decay had contaminated the nerve, Malcolm performed a pulpotomy and placed a stainless steel crown on tooth L.

¶ 15 More generally, Malcolm testified that well-placed, intact restorations usually help prevent the spread of decay at a rapid rate, even with poor hygiene. Malcolm further stated that even in towns that do not have fluoride in their water, people still ingest fluoride through other means, such as through processed foods, juice, and sources of drinking water outside their homes.

¶ 16 John Kenney, a general and pediatric dentist, testified as the Department's expert. Kenney stated that to reach the minimum standards of the profession for a first visit with a pediatric patient who presents with cavities, a general dentist should perform a clinical and visual exam, chart the condition, and take bitewings and selective parietal x-rays of any tooth that needed restoration. According to Kenney, Woo took one bitewing x-ray for Jamar, two bitewings for Jamal, and no x-rays for Jaylen.

¶ 17 Kenney recalled that Woo indicated he performed a three-surface restoration on Jamar's tooth B, but x-rays showed that tooth B had cavities present when Jamar saw Malcolm. Kenney also stated that the type of restoration he observed on an x-ray of tooth T did not match what Woo indicated in his records. Based on records, Kenney stated that Woo did not administer Lidocaine for work done on Jamar's teeth T and B. Further, Woo indicated that he performed three-surface restorations on teeth L, I, and J, but Kenney only saw evidence of a one-surface restoration on tooth L, did not see clear evidence of a three-surface restoration on tooth I, and saw evidence of a two-surface restoration on tooth J. Kenney further testified that when presented to Woo, tooth K would not have been a good candidate for a pulp treatment and should have been extracted due to the abscess.

¶ 18 Kenney stated that Jamal's tooth B had evidence of incomplete cavity removal. Kenney also observed an overhang of composite on Jamal's tooth I. Kenney stated that not all cavities were removed from tooth I and the filling impinged into the tooth's pulp chamber. Kenney asserted that "you've already *** nicked the corner of the pulp, which started rapid degeneration of the pulp inside the tooth." Kenney stated that Woo should have done pulp treatments on teeth B and I because the cavities were so deep. According to Kenney, Woo's treatment plan for Jamal did not meet the minimum standards of the profession for general dentistry and Woo's restorations of teeth B and I fell below the minimum standards of the profession for general dentistry.

¶ 19 As for Jaylen, Kenney stated that Woo had performed restorations on teeth A, B, and L, but Woo's records did not indicate any use of local anesthetic for these restorations. Woo's notes indicated that Jaylen was uncooperative and that " 'behavior management was tried, but patient didn't listen.' "

¶ 20 Kenney testified that doing dental work without anesthetic will make a child more apprehensive and upset. Kenney stated that by using both topical and local anesthesia, a dentist is able to remove all cavities, and if the dentist does expose pulp, “you’re able to treat it with the patient being comfortable rather than just taking part of the decay out without local anesthetic.” Kenney further testified that a general dentist is expected to manage a pediatric patient, and if he cannot, the child should be referred to a pediatric dentist. Kenney also stated that a dental infection is serious and can result in cellulitis, a life-threatening condition.

¶ 21 The Department also presented the testimony of Pete Vasiliades, an investigator for the Department who had interviewed Woo. Woo told Vasiliades that he did not use Lidocaine for most of the procedures because he “felt that he could get the job done without it,” but Vasiliades also stated that according to reports, Woo used Lidocaine for one of the children.

¶ 22 Additionally, the Department requested that the court take judicial notice of a consent order involving Woo that was entered in July 2005. In the order, the Department alleged that Woo had sought and received payment for treatment not actually rendered to a patient. In addition to having his license reprimanded, Woo had to pay a \$500 fine, repay \$302.10 to an insurance company, and take and pass the Jurisprudence, Ethics, and Risk Management exam.

¶ 23 After closing arguments, the Administrative Law Judge (ALJ) filed a report and recommendation with the Illinois Dental Board. Commenting on the witness's testimony, the ALJ found that Malcolm provided credible and unbiased testimony about his initial examination of the children's mouths and the condition of their teeth. The ALJ further found that Kenney provided "specific, knowledgeable[,] and overwhelmingly credible expert testimony" about his review of Woo's treatment of the three children. The ALJ stated that Kenney's testimony was

largely consistent with Malcolm's findings. The ALJ also noted instances where Woo's testimony conflicted with Malcolm's and Kenney's findings.

¶ 24 The ALJ also detailed his factual findings. Regarding Jamar's treatment, the ALJ found that Woo rendered inadequate restorations on teeth B and T. The ALJ further found that Woo billed for, but did not render, three-surface composites on teeth I, J, and L, and T. Further, the ALJ stated that Woo failed to take diagnostic x-rays before performing restorations on teeth I, J, and L, and performing a pulpotomy on tooth K. The ALJ also found that Woo placed Jamal's bitewing x-ray in Jamar's record, but that this error was inadvertent and unintentional. The ALJ further found that Woo failed to develop a proper treatment plan for Jamar. As for Jamal's treatment, the ALJ found that Woo rendered inadequate restorations on teeth B and I, and failed to develop a proper treatment plan. Lastly, for Jaylen's treatment, the ALJ found that Woo rendered inadequate restorations on teeth A, B, and L, and failed to develop a proper treatment plan.

¶ 25 According to the ALJ, the Department proved by clear and convincing evidence that Woo violated the Act by: (1) engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public; (2) willfully making or filing false records or reports in his practice as a dentist; and (3) having repeated irregularities in billing for services rendered to a patient.

¶ 26 In recommending a sanction, the ALJ noted the children's vulnerability and stated that the offenses were serious in that the children developed decay and infection due to Woo's failure to completely remove cavities before placing restorations. The ALJ also recalled Kenney's testimony that an infection could become life-threatening if untreated. Additionally, the ALJ asserted that Woo's stated plan to examine the children again in six months could have resulted

in greater injury if the children had not sought additional care from Malcolm when they did. The ALJ stated that this was not the first time that Woo's practice had been called into question. The ALJ referenced the 2005 consent order, wherein Woo's license was reprimanded for allegations that he billed for services not rendered—a charge similar to the conduct alleged and proven in the instant case. The ALJ added that Woo benefitted financially from billing for additional surfaces of teeth that he did not actually restore. In mitigation, the ALJ stated that Woo cooperated with the investigation. The ALJ recommended a fine of \$9,000 (\$3,000 for each patient), that Woo's license be placed on indefinite probation for at least two years, and that Woo be prohibited from treating pediatric patients until he took 30 hours of pediatric dental training in addition to existing continuing education requirements.

¶ 27 Subsequently, the Illinois Board of Dentistry adopted and incorporated the ALJ's findings of fact and conclusions of law. The Board accepted the ALJ's recommended \$9,000 fine, but altered other parts of the sanction. In addition to the fine, the Board recommended that Woo's license be suspended for 30 days, followed by an indefinite probation for at least two years. The Board also recommended that during his probation, Woo take and pass the Jurisprudence, Ethics, and Risk Management exam, complete 10 hours of additional continuing education in ethics, and that Woo be prohibited from treating pediatric patients until he completed 50 hours of pediatric dental training. Woo also had to receive written approval from the Department's Dental Coordinator before starting any course.

¶ 28 Woo filed a motion for rehearing, contending that there were errors in the ALJ's findings of fact. Woo also asserted that the recommended discipline was excessive and went against the purpose of the Act. Woo stated that neither the ALJ nor the Board found that he was unfit to practice general dentistry for adults. Woo also maintained that a suspension would actually harm

the public, as there were a limited number of providers who accepted public aid in Woo's geographic area.

¶ 29 On July 2, 2014, the Director of the Division of Professional Regulation of the Department denied Woo's motion for rehearing. The Director adopted the Board's findings of fact, conclusions of law, and recommendation.

¶ 30 On July 25, 2014, Woo filed a complaint for administrative review in the circuit court.¹ On March 4, 2015, the circuit court affirmed the Director's decision in a written order. The court noted that Woo had made three main arguments: the sanction was punitive and unrelated to the Act's purpose, the Director exceeded his authority by rejecting the ALJ's recommendation, and the Director's action was unsupported by the evidence. The court found that the fines and suspension were not contrary to the purpose of the Act, but were instead necessary to carry out the legislature's intent to protect the public. The court also stated that the Director did not exceed his authority by amending the ALJ's recommend penalty. Additionally, the court found that Woo's argument amounted to a request to reweigh the evidence, and that the facts in the record were adequate to support the ALJ's findings of fact.

¶ 31 On appeal, Woo raises a number of challenges to the Director's decision. However, we first address the Department's contention that we should dismiss Woo's appeal because his brief is grossly deficient. The Department asserts that Woo's brief violates Illinois Supreme Court rules 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1, 2005) in several ways, and contends that we may dismiss his appeal accordingly for flagrant noncompliance.

¶ 32 While we agree that Woo's brief violates supreme court rules, we decline to dismiss the appeal. Turning to the specific problems with Woo's brief, Illinois Supreme Court Rule 341(h)(1) (eff. Feb. 6, 2013) requires a brief to contain a points and authorities statement that

¹ The record contains only part of Woo's memorandum in support of his complaint for administrative review.

consists of the "headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear." As the Department notes, Woo's heading in his points and authorities statement does not match the headings in his argument section. Further, only one of the decisions listed in his points and authorities section is actually cited in the argument.

¶ 33 Woo was also required to include a concise statement of the standard of review for each issue, "either in the discussion of the issue in the argument or under a separate heading placed before the discussion in the argument." Ill. S. Ct. R. 341(h)(3) (eff. Feb. 6, 2013). Instead, Woo places the statement of the standard of review in the issues presented section. Further, Woo fails to include the specific standard of review for one issue he raises—whether the discipline imposed was excessive.

¶ 34 Additionally, Woo did not follow the requirements for a statement of jurisdiction. Rule 341(h)(4)(ii) (eff. Feb. 6, 2013) provides that all facts in this statement must be supported by page references to the record on appeal. Woo does not include a page reference for when the order being appealed was entered, and he only cites to his appendix when providing the date he filed his notice of appeal. Further, Woo provides the incorrect date for when his notice of appeal was filed.

¶ 35 Certain sections of Woo's brief are in the wrong order, which violates Rule 341(h) (eff. Feb. 6, 2013) ("[t]he appellant's brief shall contain the following parts in the order named"). Rule 341(h) requires that any statute at issue be placed immediately before the statement of facts. Instead, Woo incorrectly lists the statute after the points and authorities statement.

¶ 36 Next, Woo's statement of facts runs afoul of Rule 341(h)(6) (eff. Feb. 6, 2013), which provides that the statement of facts should contain the facts necessary for an understanding of the case, "stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal *** or to the pages of the abstract." For some statements, Woo fails to provide any reference to the record at all. Woo also uses two different numbering systems for citing to the record—one to the numbering system assigned by the clerk's office and other denoted with "Tr.," which he does not explain. Consistent citations to the record using the page numbers assigned by the clerk's office would have been particularly helpful here because portions of the record were assembled backwards.

¶ 37 Woo's argument section is also problematic. Rule 341(h)(7) (eff. Feb. 6, 2013) requires that the argument contain citations to authority and pages of the record. Woo cites to one case in his argument section and does not cite to any pages of the record to support his contentions.

Further, several statements are completely unsupported by our review of the record, including:

- "When these three young patients presented to Woo, he was shocked at the level of decay which their parent or guardian, through sheer child abuse and/or neglect, had allowed them to develop and grow ***."
- "[A]nd any somatic or dental emergency care needs to be followed up soon thereafter by the same or different dentist, not four months later, which is further evidence of severe child neglect or abuse ***."
- "Treating outside the mouth is far easier than treating within the mouth, which exposes the dentist to physical harm and HIV contraction ***."

- "[F]urther illustrates Woo's attorney below witnessing surgeries and procedures which only one practitioner would attempt, and all colleagues would shun, because of the advanced stage of morbidity of the patient."

We will disregard these unsupported and unfounded statements.

¶ 38 Lastly, Rule 342(a) requires that the appellant's brief include an appendix with a table of contents that has page references to the record on appeal. Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). Woo's table of contents does not use the page numbers assigned by the clerk's office, which makes it difficult to use his table of contents.

¶ 39 " 'Our rules are not mere suggestions,' " have the force of law, and are to be construed in the same way as statutes. *In re Denzel W.*, 237 Ill. 2d 285, 294 (2010). When an appellant's brief does not comply with supreme court rules, this court has the inherent authority to dismiss the appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). While Woo's violations of rules 341 and 342 are significant, they are not so flagrant as to hinder or preclude our review. *Spangenberg v. Verner*, 321 Ill. App. 3d 429, 432 (2001). Additionally, we reiterate that although we will not dismiss the appeal, we will disregard the inappropriate statements Woo includes in his brief. See *id.*

¶ 40 We now address the arguments that Woo raises on appeal. Woo first contends that he should not have been disciplined because he attempted to treat misbehaving children who presented a "shocking age-specific level of tooth decay." Woo states that this level of decay made any adequate treatment at or above the standard of care "beyond far more difficult" to achieve. Woo also asserts that he developed a strategy to save or replace each child's decayed teeth, but their parent decided to seek care elsewhere. Woo states that his actions cannot be considered unprofessional conduct.

¶ 41 We note that Woo appears to only challenge the finding that he engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. Woo does not take issue with the Director's other conclusions that he made false records and had repeated billing irregularities. We also note that the Director did not conclude that Woo's conduct constituted professional incompetence as manifested by poor standards of care.

¶ 42 Woo's argument that his conduct was not unprofessional is forfeited because it is not supported by citations to authority, in violation of Rule 341(h)(7) (eff. Feb. 6, 2013). See *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23 (arguments presented with no citations to legal authority can be forfeited on the basis of noncompliance with Rule 341). Even if the issue were not forfeited, Woo's argument would fail on its merits.

¶ 43 Final administrative decisions made by the Department pursuant to the Act are subject to judicial review under the provisions of the Administrative Review Law. *Danigeles v. Illinois Department of Financial & Professional Regulation*, 2015 IL App (1st) 142622, ¶ 69 (citing section 32 of the Act (225 ILCS 25/32 (West 2012)) and the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2012))). We review the Director's decision and not the decision of the ALJ or the circuit court. *Parikh v. Division of Professional Regulation of the Department of Financial & Professional Regulation*, 2014 IL App (1st) 123319, ¶ 19. Our standard of review on appeal depends on the question presented: we review factual questions under the manifest weight of the evidence standard, questions of law *de novo*, and mixed questions of law and fact under the clearly erroneous standard. *Danigeles*, 2015 IL App (1st) 142622, ¶ 69. Mixed questions of fact and law "are questions in which the historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard," or

whether the rule of law as applied to established facts was violated. (Internal quotation marks omitted.) *Parikh*, 2014 IL App (1st) 123319, ¶ 19.

¶ 44 Here, Woo's contention that his conduct was not unprofessional under the Act presents a mixed question of fact and law. See *id.* ¶ 30 ("whether Parikh's conduct constituted a violation of the Act *** presents a mixed question of law and fact"). As noted above, we review this question under the clearly erroneous standard, which "lies between the manifest weight of the evidence standard and the *de novo* standard, and lends some deference to the agency's decision." *Id.* A decision is deemed clearly erroneous only where, on review of the entire record, we are "left with the definite and firm conviction that a mistake has been committed." *Id.* Further, to the extent that Woo challenges certain factual findings, we note that the findings of fact are considered to be *prima facie* true and correct. *Danigeles*, 2015 IL App (1st) 142622, ¶ 77. We will overturn findings of fact if they are against the manifest weight of the evidence, meaning that the opposite conclusion is clearly evident. *Id.* We additionally note that the Director, as the trier of fact, evaluates all the evidence, judges the credibility of witnesses, resolves any conflicts in the evidence, and draws reasonable inferences and conclusions from the facts. *Id.* ¶ 72. Further, the Director may accept as much or as little of a witness's testimony as he pleases, and it is not our function to reevaluate the credibility of witnesses or resolve conflicting evidence. *Id.*

¶ 45 Much of Woo's argument is devoted to the children's alleged behavior and the condition of their teeth when they first met Woo. However, there was ample evidence to support the conclusion that Woo's treatment of the children's teeth was inadequate and his conduct was unprofessional. Malcolm testified that there was decay around or beneath restorations in each of the children's mouths. Malcolm further testified that Jamar's tooth K was grossly decayed, had a buccal abscess, and had no history of restoration. Malcolm stated that well-placed, intact

restorations usually help prevent the spread of decay at a rapid rate, even where the patient has poor hygiene. Kenney also observed evidence of incomplete cavity removal on Jamar and Jamal's teeth. Additionally, per the testimony at the hearing, Woo did not consistently use local anesthetic, but Kenney testified that using both topical and local anesthetic allows a dentist to remove all cavities. Additionally, both Malcolm and Kenney testified that they observed fewer restorations on some of Jamar's teeth than Woo had claimed to have done and billed for.

Although Woo explained his more conservative, longer-term approach and provided reasons for not consistently using anesthetic, the trier of fact credited Malcolm's and Kenney's testimony over that of Woo. It was for the Director to weigh the evidence from Malcolm's and Kenney's testimony against Woo's testimony, and we will not reevaluate the credibility of the witnesses or resolve conflicting evidence. See *id.* The testimony from Malcolm and Kenney provided a more than sufficient basis to find that Woo engaged in poor treatment planning and performed inadequate restorations, and moreover, that Woo engaged in unprofessional conduct of a character likely to deceive, defraud, or harm the public. The Director's finding was not clearly erroneous.

¶ 46 Next, Woo asserts that his discipline was excessive. Woo states that other risk-averse dentists would refuse to treat the three children and the teeth were nearly beyond treatment.

Woo additionally argues that the Director piled on discipline by suspending him, putting him on probation, and conditioning his treatment of children on being away from his practice for continuing education. According to Woo, the sanctions were inconsistent with an otherwise unblemished licensure history, but for one minor fine ten years ago. Woo contends that if he posed any danger to children, the Director would have summarily suspended him.

¶ 47 Again, Woo has not cited any authority in his argument that his discipline was excessive, which results in forfeiture. See *Northwestern Memorial Hospital v. Sharif*, 2014 IL App (1st) 133008, ¶ 20 (failure to cite to authority may result in forfeiture of the issue on appeal). Even if Woo's argument was not forfeited, we would not find that the discipline imposed was excessive.

¶ 48 We review the Director's disciplinary decision for an abuse of discretion. *Kafin v. Division of Professional Regulation of the Department of Financial & Professional Regulation*, 2012 IL App (1st) 111875, ¶ 42. An abuse of discretion occurs when the decision was either: (1) overly harsh in view of the mitigating circumstances, or (2) unrelated to the purpose of the statute. *Id.* We defer to the administrative agency's expertise and experience in determining what sanction is appropriate to protect the public interest. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 99 (1992).

¶ 49 We first examine whether the punishment was overly harsh, arbitrary, or unreasonable in light of the mitigating circumstances. *Kafin*, 2012 IL App (1st) 111875, ¶ 43. Ultimately, the Director suspended Woo's license for 30 days, imposed at least 2 years of probation, and required Woo to pay a \$9,000 fine, pass an examination, and complete continuing education in ethics and pediatric dental training. This punishment was not overly harsh. Woo failed to take all of the necessary x-rays and left behind decay in the children's mouths. As was noted in the ALJ's report that was adopted by the Board and Director, the children developed decay and infection as a result of Woo's incomplete work. As Kenney testified, a dental infection is serious and can develop into a life-threatening condition. Further, Woo's license had been previously reprimanded for seeking and receiving payment for treatment that was not actually rendered—among the same conduct at issue in this matter. Although Woo cooperated with the

investigation, based on the actual and potential consequences of Woo's actions on three patients, the sanctions imposed were not overly harsh, arbitrary, or unreasonable.

¶ 50 We next consider whether the punishment was unrelated to the purpose of the Act, which is to protect the public health and welfare from those not qualified to practice dentistry.

Danigeles, 2015 IL App (1st) 142622, ¶ 105. Here, Woo was found to have performed inadequate dental work on three children that, as discussed above, had serious consequences and jeopardized the children's dental health. Additionally, Woo was found to have billed the Illinois Medical Assistance Program for work he did not perform. Rather than excessively piling on punishment, as Woo contends, the discipline imposed serves to protect the public. The fine, suspension, and probation will deter future misconduct, while the continuing education courses will build his knowledge base and hopefully prevent future instances like these. The discipline was related to the purpose of the Act and was not an abuse of discretion.

¶ 51 Lastly, Woo contends that the charge of unprofessional conduct was not legislatively intended to apply to three patients or two incidents. Woo argues that the legislature did not intend for dentists to be disciplined for the questionable care of only three children. According to Woo, under *Chastek v. Anderson*, 83 Ill. 2d 502 (1981), repeated acts of negligence are required, but did not occur here.

¶ 52 Woo's argument is forfeited because he failed to raise it before the administrative agency below. See *Texaco-Cities Service Pipeline Co. v. McGaw*, 182 Ill. 2d 262, 278 (1998) ("In general, issues or defenses not placed before the administrative agency will not be considered for the first time on administrative review."); *SMRJ, Inc. v. Russell*, 378 Ill. App. 3d 563, 576 (2007) (argument not raised during administrative proceedings was forfeited on appeal). Even if it were not forfeited, his argument would be meritless. *Chastek*, a case involving unprofessional conduct

in the treatment of three patients, found that "repeated acts of negligence by a dental practitioner toward his patients are actions that endanger the health, safety[,] and welfare of the public, and therefore, constitute unprofessional conduct." *Chastek*, 83 Ill. 2d at 510. Although *Chastek* does not explicitly state a minimum number for "repeated acts of negligence," we are confident that the bar was met here. Woo provided inadequate treatment to three patients, each in multiple ways. The charge of unprofessional conduct applied to Woo's actions.

¶ 53 For the foregoing reasons, we affirm the circuit court's decision to uphold the Director's decision.

¶ 54 Affirmed.