

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

MARGARET DANIELLE FUNNY, D.D.S.  
(License No. 8696; Permit No. 0632)

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**CONSENT ORDER**

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THIS MATTER is before the North Carolina State Board of Dental Examiners [the "Board"] as authorized by N.C. Gen. Stat. § 90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. Kenneth L. Jones represented Respondent Margaret Danielle Funny, D.D.S. ["Respondent"]. Douglas J. Brocker represented the Investigative Panel [the "IP"]. Respondent acknowledges that the Board has sufficient evidence to prove and establish the Findings of Fact and Conclusions of Law and to warrant the Order of Discipline set out in this Consent Order.

Based upon the consent of the parties hereto, the Board enters the following:

**FINDINGS OF FACT**

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding pursuant to the authority granted to it in Chapter 90 of the North Carolina General Statutes, including the Dental Practice Act and the rules and regulations of the Board.

2. Respondent was licensed to practice dentistry in North Carolina on September 16, 2008, and holds license number 8696.

3. On November 10, 2009, Respondent was issued pediatric moderate conscious sedation permit number 0632, and has held the permit at all times relevant to this Consent Order.

4. At all times relevant to this Consent Order, Respondent was subject to the Dental Practice Act and the Board's rules and regulations.

5. On July 12, 2023, a Board Investigator [the "Investigator"] communicated with Respondent's office to arrange for an inspection of Respondent's sedation facility to take place on August 1, 2023.

6. As part of his July 12 communication, the Investigator provided Respondent's office with the inspection checklist that he would use to conduct the inspection and examples of forms that he would request during the inspection.

7. On August 1, 2023, the Investigator arrived at Respondent's office to conduct the scheduled sedation facility inspection.

8. During the inspection, the Investigator identified deficiencies with respect to Respondent's compliance with the applicable rules and regulations concerning the sedation facility. The facility:

- a. was not equipped with any advanced airway devices or tonsillar suction devices;
- b. did not contain any injectable antihistamine;
- c. had no sedation log;
- d. contained no documentation of any sedation emergency or other medical emergency drills for the past 5 years; and
- e. did not display Respondent's original sedation permit.

9. In addition to the deficiencies with the sedation facility found during the scheduled inspection, Respondent failed to complete any of the required six (6) hours of sedation continuing education ["CE"] courses in 2022, and completed only three (3) hours of sedation CEs in 2021.

10. Respondent's staff did not complete any of the required three (3) hours of sedation CEs in 2022.

11. Respondent renewed her sedation permits for 2022 and 2023 and continued performing sedations, despite not having satisfied the sedation CE requirements.

12. Before leaving Respondent's office, the Investigator showed Respondent the completed inspection checklist listing the aforementioned deficiencies.

13. Respondent signed the inspection checklist acknowledging that she had been informed of the deficiencies and understood the Board may take further action to protect the public.

14. By letter dated August 7, 2023, Respondent agreed to cease administering any level of sedation to patients that would require a permit, effective immediately, pending the outcome of the Board's investigation.

15. On August 24, 2023, in response to the Board's request, Respondent provided to the Board information regarding all patients for whom she performed sedation procedures from 2021 to the present. Respondent's records reflect that she performed only two (2) sedation procedures in 2022 and only two (2) sedation procedures in 2023.

16. Respondent's records showed that she administered moderate conscious sedation to a pediatric patient as recently as July 27, 2023.

17. Respondent's most recent sedation occurred two weeks after the Investigator provided a copy of the inspection checklist, and just a few days prior to the scheduled sedation facility inspection, at a time when Respondent should have known that she and her sedation facility were not in compliance with the Board's rules.

18. During the investigation, the IP discovered no evidence that Respondent violated any statute or Board rule concerning her dental treatment of patients, and this Consent Order does not restrict her license nor her dental treatment of patients unrelated to administering sedation.

19. Respondent has no desire to administer sedation in the future and desires to enter into this Consent Order for the purpose of resolving the foregoing issues identified by the IP.

20. No patient has filed a complaint against Respondent. Moreover, there is no evidence that any patient has been harmed by Respondent's dental treatment, including her administration of sedation.

Based upon the foregoing Findings of Fact and with the consent of the parties hereto, the Hearing Panel enters the following:

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over the subject matter of this action and over Respondent.

2. Respondent was properly notified of this matter and has consented to the entry of this Consent Order.

3. Respondent violated N.C. Gen. Stat. § 90-41(a)(6) and (26), and the Board's rules as follows:

- a. 21 NCAC 16Q .0404 concerning displaying a permit and its current renewal;
- b. 21 NCAC 16Q .0405 concerning maintaining all required equipment and medications;
- c. 21 NCAC 16Q .0407 concerning, as conditions of permit renewal, completing sedation CEs and documenting that the permit holder and all auxiliaries have practiced responding to clinical emergencies at least once every six months; and
- d. 21 NCAC 16V .0101(28) concerning not keeping a sedation drug log as required for controlled substances pursuant to the regulations of the U.S. Drug Enforcement Administration.

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of the parties hereto, it is ORDERED as follows:

#### **ORDER OF DISCIPLINE**

1. Respondent surrenders Permit 0632 issued to her for the administration of pediatric moderate conscious sedation ("Sedation Permit"). As a result of Respondent's surrender of her Sedation Permit, Respondent shall not administer any level of sedation to patients, except in full compliance with the conditions set forth in this paragraph. Notwithstanding her surrender of Permit 0632, Respondent:

- a. may administer to patients, if clinically appropriate to do so: (i) local anesthetic; (ii) nitrous oxide; and (iii) anxiolysis but only in strict compliance with 21 NCAC 16Q .0101(3) and the interpretive statements attached to this Consent Order;
- b. may utilize a permittee with a mobile/itinerant permit issued by the Board to administer sedation or general anesthesia to her patients; and
- c. shall keep records demonstrating her use of a mobile/itinerant permit holder for each patient to whom sedation or general anesthesia is administered, and shall provide such records to the Board upon request.

2. If Respondent in the future applies for any level of sedation permit in North Carolina, she shall meet all applicable requirements in effect at the time of her application and provide satisfactory evidence that she has satisfied the following additional requirements:

- a. Prior to submitting her application for any sedation permit, Respondent shall complete the following continuing education courses especially designed for her by the University of North Carolina School of Dentistry in conjunction with and approved in advance by the IP, including a comprehensive remedial course covering: (i) administering pediatric moderate conscious sedation, or other sedation level for which she applies, including procedures, protocols, medications, doses, and titration with respect to individual patients for oral, IV, and other routes of administration; and (ii) emergency drugs, protocols, equipment, and staff training, including proper treatment of the clinical emergencies set

forth in the Board's rules. This requirement shall be in addition to the continuing education required by the Board for renewal of Respondent's dental license. Respondent shall submit to the Board's Director of Investigations written proof of satisfactory completion of these courses before they will be accepted in satisfaction of this requirement. It is Respondent's responsibility to make all arrangements for and bear the costs of these courses within the specified time; and

- b. As part of the application process, Respondent must successfully complete an inspection and evaluation by the Board consistent with the requirements in the Board's rules in effect at the time concerning the issuance of a new sedation permit.

3. If Respondent subsequently obtains any level of sedation permit in the future, as a condition of obtaining such a permit, for three years after its issuance, Respondent shall permit the Board or its agents to: inspect and observe her office on issues related to sedation, including for all required sedation equipment, medications, and documentation; conduct a random review of records for patients to whom she administered sedation; and interview employers, employees, and coworkers at any time during normal office hours related to these issues.

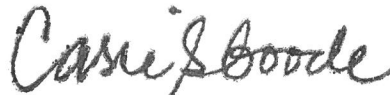
4. Respondent recognizes that the conditions, limitations, or requirements set forth in this Consent Order may present her with certain practical difficulties. The Board concludes that each one is necessary to ensure public protection and it does not intend to modify or eliminate any of the conditions, limitations, or requirements set forth herein based on such potential difficulties.

5. This Consent Order and the provisions contained herein, including the surrender of Permit 0632, shall be effective upon the Board's entry of this Consent Order.

6. The Board shall retain jurisdiction of this matter and Respondent to enforce the provisions herein or enter orders as necessary in the future.

This the 20<sup>th</sup> day of November 2023.

THE NORTH CAROLINA STATE  
BOARD OF DENTAL EXAMINERS

A handwritten signature in cursive script that reads "Casie S. Goode". The signature is written in dark ink and is positioned above a horizontal line.

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Casie S. Goode  
Director of Investigations



## STATEMENT OF CONSENT

I, Margaret Danielle Funny, D.D.S., do hereby certify that I have read the foregoing Consent Order in its entirety. I assent to its terms and conditions set out herein. I freely and voluntarily acknowledge that there is sufficient evidence to form a factual basis for the findings of fact herein, that the findings of fact support the conclusions of law, that I will not contest the findings of fact, the conclusions of law, or the order in any future proceedings before or involving the Board, including if future disciplinary proceedings or action is warranted in this matter. I knowingly waive any right to seek judicial review, appeal, or otherwise later challenge this Consent Order once entered. I agree to service of the Consent Order to the email or mailing address of record with the Board and waive service by any other method. I understand that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order will become part of the Board's permanent public record. I further acknowledge that this required reporting may have adverse consequences in other contexts and any potential effects will not be the basis for a reconsideration of this Consent Order. I have consulted with my attorney prior to signing this Consent Order.

This the 24<sup>th</sup> day of October 2023.

  
Margaret Danielle Funny, D.D.S.

### Waiver of Limited Ex Parte Communication

I understand that the proposed Consent Order that I have signed is subject to review and approval and is not effective until approved by the Hearing Panel. **I agree and consent that the Hearing Panel members may be provided the proposed Consent Order for review and consideration.**

**I further agree and consent that the Board staff, the Investigative Panel (IP), and its counsel may discuss the proposed Consent Order and related information and documentation with Hearing Panel members for the purpose of advocating approval of the proposed Consent Order without me or my counsel being present.**

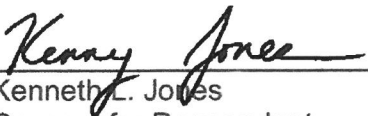
**If the proposed Consent Order is not approved, I agree and consent that neither I nor anyone on my behalf will assert that these limited ex parte communications, including review of the documents, will disqualify any Hearing Panel members from considering and deciding this matter after a contested case hearing.**

I also agree that I am not entitled to obtain or discover the above-referenced limited communications or the substance of these communications between the Hearing Panel members and the Board staff, the IP, and its counsel, regardless of whether the proposed Consent Order is approved.

I have consulted with counsel before signing and agreeing to this waiver of limited ex parte communication.

  
Margaret Danielle Funny, D.D.S

10/24/23  
Date

  
Kenneth L. Jones  
Counsel for Respondent

10/24/2023  
Date