



## FINDINGS OF FACT

1. The North Carolina State Board of Dental Examiners is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 90 of the North Carolina General Statutes (the Dental Practice Act) and the Rules and Regulations of the North Carolina State Board of Dental Examiners (Dental Board).

2. Respondent was licensed to practice dentistry in North Carolina on July 19, 1972 and is subject to the Dental Practice Act and the rules promulgated thereunder.

3. At all times relevant hereto, Respondent was engaged in the practice of oral surgery in Charlotte, North Carolina.

4. On August 8, 2010, Sherry Dade (Ms. Dade) and her daughter, Aeoria Dade (Aeoria), who was then 17 years old, presented to the Respondent's dental practice to discuss having Aeoria's impacted third molars extracted.

5. On September 9, 2010, the Respondent extracted Aeoria's teeth numbers 1, 16 and 32, but failed to extract tooth # 17.

6. Respondent did not realize that he had missed tooth # 17 and therefore did not note the omission in his treatment notes or disclose it to Ms. Dade.

7. On September 16, 2010, Aeoria returned to the Respondent's office for a routine post-operative visit. She appeared to be healing normally.

8. In early November 2011, Aeoria presented to the office of Dr. James Carroll (Dr. Carroll) for an exam and cleaning. She reported odor and occasional discomfort in her lower left quadrant.

9. Dr. Carroll took a radiograph, which showed that tooth # 17 was still present.

10. On November 15, 2011, Dr. Carroll extracted Aeoria's tooth # 17.

11. The standard of care for dentists licensed to practice dentistry in North Carolina at the time Respondent treated Aeoria Dade required that dentists take reasonable steps to insure that they do not overlook a tooth planned for surgical extraction.

12. The Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina by failing to take reasonable measures to ensure that he did not overlook extracting Aeoria's tooth # 17, as planned

13. The standard of care for dentists licensed to practice dentistry in North Carolina at the time Respondent treated Aeoria Dade required that dentists who perform surgical extractions include in their patient treatment records the name and amount of local anesthetic used, the type of incision utilized and the type of sutures placed.

14. Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina by failing to note in the treatment record the name and amount of local anesthetic used, the type of incision utilized and the type of sutures placed during Aeoria's September 9, 2010 surgery.

15. Following his treatment of Aeoria Dade, Respondent retired from the active practice of dentistry and placed his North Carolina dental license in "Retired" status. Retired status is defined as a dentist "who does not practice any dentistry."

Based upon the foregoing Findings of Fact and the consent of the parties hereto, the Dental Board enters the following:

### CONCLUSIONS OF LAW

1. The North Carolina State Board of Dental Examiners has jurisdiction over the subject matter of this action and over the person of the Respondent.

2. Respondent has stipulated that such allegations, if proven, are legally sufficient to support Findings and Conclusions that he has violated G.S. 90-41 as specified in the Findings of Fact. Furthermore, Respondent has stipulated that, solely for the purposes recited herein, Respondent will not contest the allegations set forth in this Order, which allegations are previously incorporated in this Order, as if fully set forth herein, as Findings of Fact.

3. Respondent's failure to comply with the applicable standard of care in his treatment of Aeoria Dade as set forth in the Findings of Fact constituted negligence in the practice of dentistry within the meaning of G.S. §90-41(a)(12).

4. Respondent's negligent acts constituted a violation of Article 2, Chapter 90, of the North Carolina General Statutes within the meaning of G.S. §90-41(a)(6).

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. Disciplinary action by the Board will be deferred indefinitely provided that Respondent adheres to the following terms and conditions:

- (a) Respondent shall not engage in the practice of dentistry in North Carolina or any other state, nor seek to transfer his North Carolina dental license back to active status.

2. If Respondent fails to comply with any provision of this Order or breaches any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing to permit Respondent to show cause why his dental license should not be reprimanded. If, as a result of the Show Cause hearing, the Board is satisfied that Respondent failed to comply with or breached any term or condition of this Order, Respondent shall be reprimanded. This sanction shall be in addition to and not in lieu of any sanction the Board may impose as a result of future violations of the Dental Practice Act or the Board's Rules.

This the 17 day of October 2013.

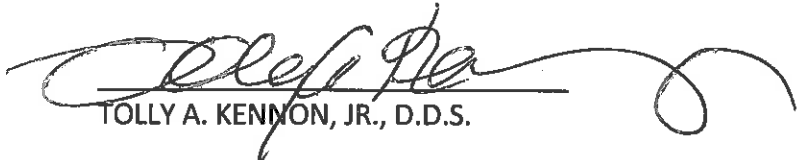
THE NORTH CAROLINA STATE  
BOARD OF DENTAL EXAMINERS

By:   
Terry W. Friddle  
Deputy Operations Officer

STATEMENT OF CONSENT

I, TOLLY A. KENNON, JR., D.D.S., do hereby certify that I have read the foregoing Consent Order in its entirety and that I do freely and voluntarily admit, exclusively for the purposes of this disciplinary proceeding and any other disciplinary or licensure proceedings before this Board or any other Dental Licensing Board, that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that I will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that I assent to the terms and conditions set forth therein. By signing this Statement of Consent I hereby express my understanding that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order shall become a part of the permanent public record of the Board.

This the 7<sup>th</sup> day of October, 2013.

  
TOLLY A. KENNON, JR., D.D.S.