

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

DAVID T. MARSHBURN, D.D.S.
(License No. 3143)

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CONSENT ORDER

THIS MATTER is before the North Carolina State Board of Dental Examiners (Board), as authorized by G.S. § 90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. The parties hereby consent to the Findings of Fact and Conclusions of Law set out herein and to the entry of the Order of Discipline.

FINDINGS OF FACT

1. The Dental 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 North Carolina State Board of Dental Examiners.

2. Respondent was licensed to practice dentistry in North Carolina on June 27, 1966 and holds license number 3143.

3. At all times relevant hereto, the Respondent was subject to the Dental Practice Act and the Board's rules and regulations promulgated thereunder.

4. On January 17, 2014, the Respondent was charged with driving while impaired in Martin County. His blood alcohol content was .12 at the time of arrest.

4. On April 7, 2014, the Respondent was charged with driving while impaired in Pender County. His blood alcohol content was .19 at the time of arrest.

5. On July 13, 2014, the Respondent was charged with driving while impaired in Martin County. His blood alcohol content was .12 at the time of arrest.

6. On September 26, 2014, the Respondent was convicted of the Pender County DWI charge.

7. On September 1, 2014, the Respondent presented for a 96-hour evaluation at Fellowship Hall in Winston-Salem.

8. Following the evaluation, the staff at Fellowship Hall determined that the Respondent has alcohol abuse disorder and suffers significant cognitive impairment. The staff recommended that the Respondent complete a 90-day treatment program, undergo neurodiagnostic testing and complete a skills test before returning to the practice of dentistry.

9. Despite being told that he was not safe to practice dentistry, the Respondent resumed practice the week after his discharge from Fellowship Hall.

10. On September 11, 2014, the Dental Board found that the Respondent constitutes a threat to the public health, safety and welfare and summarily suspended his dental license.

11. On September 9, 2014, the Respondent signed an agreement with the North Carolina Caring Dental Professionals (CDP) to undergo an evaluation at the Farley Center in Williamsburg, Virginia.

12. On September 15, 2014, the Respondent presented to the Farley Center.

13. Shortly after Respondent arrived at the Farley Center, its medical director advised the Respondent that he would have to immediately stop taking Xanax, which

had been prescribed for him by a physician. Respondent then left the facility and returned to North Carolina.

14. Respondent was admitted to Cornerstone of Recovery in Tennessee on September 18, 2014 for chemical dependency treatment, but was given a therapeutic discharge on September 28, 2014 after he became ill.

15. On October 13, 2014 Respondent was readmitted to Cornerstone, where he received treatment for chemical dependence until November 11, 2014.

16. In its discharge summary, Cornerstone diagnosed the Respondent with severe alcohol use disorder and recommended that he undergo intensive outpatient treatment at another facility.

17. On November 18, 2014, Respondent was admitted at Cumberland Heights Treatment Center for additional treatment for chemical dependence.

18. The Respondent was discharged from Cumberland Heights on November 28, 2014 after making inappropriate remarks to a female staff member.

19. Between December 30, 2014 and February 26, 2015, the Respondent underwent additional treatment for chemical dependence at Cornerstone of Recovery.

20. Cornerstone diagnosed Respondent with severe alcohol use disorder and concluded that he was not fit to return to the practice of dentistry.

21. Cornerstone concluded that before Respondent could safely practice dentistry, he must complete a thorough neurophysical examination with Dr. George Demakis in Charlotte, N.C. and pass the traditional ADEX Dental Examination.

22. On March 17 and 18, 2015, the Respondent presented to Dr. George Demakis for an evaluation. Dr. Demakis noted "moderate to severe deficits in a range

of areas necessary for successful dental practice” and stated that he did not expect to see cognitive improvement. Dr. Demakis also indicated that he agreed with earlier diagnoses of Alcohol Use Disorder and Depressive Disorder NOS.

23. The Respondent has not taken the ADEX dental examination.

24. On March 4, 2015, the Respondent signed a monitoring contract with the North Carolina Caring Dental Professionals Program. Among other things, the contract required the Respondent to abstain from alcohol and to participate in the CDP's random alcohol screening program.

25. Respondent has not participated in the CDP random screening program since April 16, 2014.

26. The Respondent has consumed alcohol in violation of his CDP agreement.

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 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 had proper notice of this matter and is properly before the Hearing Panel of the North Carolina State Board of Dental Examiners.

3. By violating the terms of his evaluation agreement and contract with CDP, the Respondent has engaged in unprofessional conduct as defined by 21 NCAC 16V .0101(13) and thereby violated G.S. § 90-41(a)(26).

4. The Respondent is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice dentistry, in violation of G.S. § 90-41(a)(2).

5. The Respondent is mentally, emotionally or physically unfit to practice dentistry, in violation of G.S. § 90-41(a)(7).

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

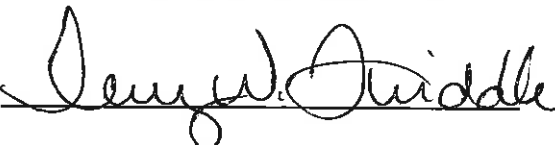
ORDER OF DISCIPLINE

1. License Number 3143 issued to the Respondent for the practice of dentistry is hereby indefinitely suspended.

2. Respondent may not apply for reinstatement of his dental license until he obtains advocacy of the CDP and presents written evidence that he does not suffer from any mental or physical condition that would prevent him from safely and competently practicing dentistry.

This the 24th day of June, 2015.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

BY: 

Terry W. Friddle
Deputy Operations Officer

STATEMENT OF CONSENT

I, DAVID T. MARSHBURN, 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 to 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 22nd day of MAY, 2015.



DAVID T. MARSHBURN, D.D.S.