



3. At all times relevant hereto, the Petitioner engaged in the general practice of dentistry in Sylva, North Carolina.

4. On April 18, 1988, the Petitioner signed a Consent Order (hereafter, 1988 CO), which found that Petitioner had touched a number of female patients in an inappropriate and offensive manner, including rubbing their stomachs and thighs and touching their breasts while the patients were receiving treatment at Petitioner's dental office. The Board found that the Petitioner's conduct violated G.S. § 90-41(a)(26).

5. Pursuant to the 1988 CO, the Board suspended the Petitioner's dental license for five years, but stayed all but 15 days of the suspension.

6. On September 14, 1990, following a formal hearing, the Dental Board issued a Final Agency Decision (hereafter, 1990 FAD), that found that the Petitioner had administered nitrous oxide to a female patient on December 30, 1979 while he and the patient were alone together in his dental office. The Board found that the Petitioner's conduct constituted negligence in violation of G.S. § 90-41(a)(12).

7. The Petitioner filed a petition for judicial review of the 1990 FAD, and his appeal was heard by Judge J. Marlene Hyatt in Jackson County Superior Court on December 27, 1990.

8. Judge Hyatt confirmed the Dental Board's findings and remanded the case for imposition of appropriate sanctions.

9. On August 27, 1991, the Dental Board entered a Final Agency Decision on Remand (1991 FAD on Remand), which suspended the Petitioner's dental license for five years, but stayed all but 90 days of the suspension.

10. Thereafter, the Dental Board received additional complaints about the Petitioner.

11. On January 29, 1998, following a formal hearing at which the Petitioner was represented by counsel, the Dental Board issued a Final Agency Decision (1998 FAD) that found that the Petitioner had inappropriately touched three female patients' breasts and/or stomachs while they were receiving dental treatment in his office in 1996.

12. The Dental Board found that the Petitioner's conduct violated the 1991 FAD on Remand and the Dental Practice Act and revoked the Petitioner's dental license.

13. Meanwhile, in 1988, as required by the 1988 CO, the Petitioner underwent a psychological assessment at Highland Hospital. The Petitioner was diagnosed with a mixed personality disorder with narcissistic, anti-social and obsessive compulsive features.

14. Dr. Judith Hoffman, who was involved in the 1988 assessment, noted that the test results indicated that Petitioner suffered from "considerable cognitive distortion and difficulties with reality testing and seeing the world conventionally."

15. Between 1989 and 1991, the Petitioner received psychological counseling from Dr. Robert D. McDonald.

16. Dr. McDonald reported that the Petitioner was resistant to treatment and that the Petitioner denied that he had any issues that required therapy.

17. In May 1991, Dr. McDonald suggested that the Petitioner undergo a trial of the prescription drug lithium under the supervision of a psychiatrist "for what clearly appeared to be hypomania," but the Petitioner refused to consent to the treatment.

18. In 1991, the Board granted the Petitioner's request to transfer his treatment to Dr. Robert Jolley, a psychiatrist employed at Biltmore Associates in Asheville.

19. Dr. Jolley counseled the Petitioner until approximately August 1992, when Dr. Jolley concluded that the Petitioner no longer needed treatment.

20. In the present proceeding the Board did not have access to detailed records from Dr. Jolley. The Petitioner did not call Dr. Jolley to testify or present evidence during the hearing of this matter concerning the basis for Dr. Jolley's 1992 conclusion that at that time that Petitioner did not require additional psychiatric treatment.

21. The Petitioner engaged in nonconsensual, offensive touching of young female patients in 1996, four years after he was released from treatment by Dr. Jolley.

22. The Petitioner has not had a psychiatric evaluation or counseling for more than 20 years, and Petitioner presented no evidence during his hearing from any psychiatric professional about his current mental status concerning the psychiatric problems that led to the revocation of his license.

23. At the hearing of this matter, the Petitioner denied that he had ever touched any female patients inappropriately, and in his deposition testimony, which was introduced during the hearing, he castigated the patients who testified against him as "criminals" and/or mentally unstable. The Board finds that such behavior fails to demonstrate any understanding or remorse for his past misconduct.

24. The Petitioner presented evidence from his wife, his pastor and a number of other individuals who said that he is a caring and compassionate father, son and husband, and that he has been an active member of his church. However, the Board finds that the Petitioner did not show that his conduct relating to his wife and son and his church participation included any effort to reform his bad character relating to the offensive, non-consensual, inappropriate sexual conduct with some of his patients that formed the basis for revocation of his license.

25. None of the witnesses who testified in person for the Petitioner or submitted letters on his behalf had any first-hand information about the events and misconduct that led to the revocation of the Petitioner's dental license.

26. The Petitioner has not practiced dentistry since late January 1998, except for isolated instances in 2006 and 2007, when he worked briefly as a volunteer in a hospital in Thailand, while visiting his wife's family and friends.

27. The Petitioner did not present any evidence from witnesses who had first-hand knowledge of the quality of the dental work he may have performed in Thailand.

28. A number of other individuals, including the Petitioner's current dentist and his personal physician, submitted letters in support of his petition for reinstatement that related to the Petitioner's dental skills during the period before the revocation of his license in 1998. Several other individuals who wrote supporting letters were non-dentists with no first-hand knowledge of the Petitioner's professional abilities.

29. The Petitioner did not offer any evidence to demonstrate what, if anything, he has done to maintain his hand skills since his dental license was revoked in 1998. The Petitioner is currently unemployed and his former employment consisted of work in the construction industry and as a dealer in a casino – employment having little, if any, relevance to the skills and abilities necessary to practice dentistry.

30. Although the Petitioner testified that he had taken some continuing education courses since 1998, he did not present certificates or other evidence of completion of the courses during his hearing. Consequently, there is no evidence in the record from which the Board can determine what courses the Petitioner actually completed, whether such courses were didactic or clinical or the length of the courses completed.

31. The Petitioner has not taken CITA or any other clinical examination relating to practical dental practice skills; nor was any evidence presented that Petitioner has the requisite current CPR certification.

Based upon the foregoing Findings of Fact, the Hearing Panel enters the following

#### CONCLUSIONS OF LAW

1. The Hearing Panel has jurisdiction over the subject matter of this proceeding and over the person of the Petitioner.

2. The Petitioner received proper notice of the time, date and location of the hearing.

3. Petitioner's license to practice dentistry in North Carolina was revoked in 1998 based on evidence of offensive, non-consensual, inappropriate sexual conduct with some of his patients. This misconduct was strong evidence that the Petitioner did not possess sufficient good moral character to practice dentistry in this State.

4. The Petitioner now seeks reinstatement of his license. To obtain reinstatement the Petitioner has the burden of proving to the Board that he has reformed and currently possesses good moral character, pursuant to G.S. §§ 90-30 and 90-42.

5. Based on all of the competent evidence of record presented during the hearing, the Board concludes that the Petitioner has failed to carry his burden of proving that he has reformed and currently possesses good moral character relating to the misconduct that was the basis for revocation of his license – offensive, non-consensual, inappropriate sexual conduct toward his patients. Petitioner's general character evidence did not sufficiently address this aspect of his character. He continues to refuse to acknowledge any wrongdoing on his part and continues to blame others for the revocation of his license. The Board concludes that such behavior shows a fundamental lack of any understanding on the Petitioner's part of the wrongness of his misconduct and lack of any remorse for his past misconduct.

6. Based on all of the competent evidence of record presented during the hearing, the Board concludes that the Petitioner lacks sufficient professional dental skills to competently resume the practice of dentistry.

7. Based on all of the competent evidence of record presented during the hearing, the Board concludes that the Petitioner is not mentally and emotionally fit to practice dentistry in North Carolina.

WHEREFORE, based on the foregoing Findings of Fact, Conclusions of Law, and any mixed findings and conclusions however designated, the Hearing Panel hereby enters the following:

ORDER

The petition of Dr. John S. McCollough for reinstatement of his license to practice dentistry in North Carolina should be and hereby is DENIED.

This the 4<sup>th</sup> day of June, 2013.

Handwritten signature of David A. Howdy in black ink, with the initials 'DPS' written at the end.

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David A. Howdy, D.D.S.  
Hearing Panel Chair

The NORTH CAROLINA STATE BOARD  
OF DENTAL EXAMINERS