

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

David H. Moore, D.D.S.
(License No. 5518)

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CONSENT ORDER

THIS MATTER is before the North Carolina State Board of Dental Examiners (the "Board") as authorized by G.S. § 90-41 for consideration of a Consent Order in lieu of a formal administrative hearing. Kenneth L. Jones represents Respondent, Dr. David H. Moore. Douglas J. Bocker and Crystal S. Carlisle represent the Investigative Panel of the Board. 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 Board 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 Board.
2. Respondent was licensed to practice dentistry in North Carolina on June 2, 1986 and holds dental license number 5518.
3. Respondent's license has remained active since June 2, 1986 with the exception of two periods of active suspension. Respondent's license was suspended on January 13, 2006 for 180 days and on July 17, 2009 for 90 days.
4. Respondent is subject to the Dental Practice Act and the rules promulgated thereunder.

5. Except during the periods of active suspension listed in paragraph 3 above, Respondent has worked as a pediatric dentist in Charlotte, North Carolina at all times relevant hereto.

6. On January 13, 2006, Respondent entered into a Consent Order with the Board ("2006 Consent Order") based on violations of N.C. Gen. Stat. § 90-41(a)(2), (6), (11), (12), (17), (21) and (26).

7. The 2006 Consent Order suspended Respondent's dental license for three (3) years but conditionally restored the license after 180 days provided Respondent comply with numerous conditions throughout the time he holds a license to practice dentistry. These conditions include those set forth in 2006 Consent Order section (2)(a)-(n).

8. On July 17, 2009, Respondent entered into another consent order with the Board ("2009 Consent Order") based on violations of N.C. Gen. Stat. § 90-41(a)(12) and (17).

9. The 2009 Consent Order suspended Respondent's dental license for five (5) years but conditionally restored the license after 90 days provided Respondent complied with the conditions set forth in the Consent Order for fifty-seven (57) months.

10. On November 15, 2017, the Board received a complaint ("the Complaint") from another dentist at Respondent's office alleging Respondent violated the terms of the 2006 Consent Order on at least two occasions.

11. In November 2017, Respondent admitted himself to Pavillon for inpatient treatment. He was discharged in February 2018 and, with the advocacy of the Caring Dental Professionals program ("CDP") was permitted to return to the practice of dentistry on March 5, 2018.

12. The Board's Investigative Panel requested and reviewed the treatment records of the two patients referenced in the Complaint and a random selection of additional treatment records and discovered the following:

- a. On one or more occasions, Respondent treated recall patients who did not have an established history of cooperation;
- b. On one or more occasions, Respondent treated patient(s) at initial appointments where the patient(s) required more than radiographs, prophylaxis and examinations; and
- c. On one or more occasions, Respondent treated noncooperative patients using nitrous oxide without a CRNA present.

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 N.C. State Board of Dental Examiners has jurisdiction over the subject matter of this action and over the person of Respondent.
2. Respondent was properly notified of this matter and has agreed to the entry of this Consent Order.
3. Grounds for discipline exist against Respondent pursuant to 21 NCAC 16V .0101(4) and N.C. Gen. Stat. § 90-41(a)(6) and (a)(26).
4. With the consent of the parties, the 2006 Consent Order should be modified and clarified as set out below, and to resolve the Complaint and the contentions made by the Investigative Panel following its review of the additional patient records.

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's license is indefinitely suspended but the suspension is stayed upon entry of this Order, provided he complies with all the following probationary conditions:
 - a. Respondent shall sign an indefinite contract with Caring Dental Professionals ("CDP") and abide by all terms of that contract. Respondent shall sign a release with CDP permitting them to submit monthly reports to the Board. CDP may recommend to the Board in the future that Respondent no longer needs to be under a Participant Agreement and this condition may be removed.
 - b. Respondent shall limit his pediatric dental practice to an average of thirty hours per week in any given month and subject to the following additional limitations:
 - i. Respondent shall not provide dental treatment to any Uncooperative Pediatric Patient, with the following limited exception. Respondent may only treat Uncooperative Pediatric Patients if placed under sedation or anesthesia, with the consent of the parent or guardian, by another dentist with an appropriate pediatric sedation or general anesthesia permit or in a hospital or ambulatory surgical center setting monitored by a staff anesthesiologist. Respondent cannot treat Uncooperative Pediatric Patients by administering nitrous oxide or anxiolysis.

- ii. Respondent does not have a current sedation permit and so he shall not administer sedation or supervise the administration of sedation by a CRNA.
- iii. Respondent must see all Cooperative Pediatric Patients in an unrestricted area with at least one dental assistant present in the operatory with him throughout any treatment. Parents or legal guardians of any Cooperative Pediatric Patient shall be invited to be present during all appointments, unless their presence poses a physical or emotional threat to the patient or to the parent(s)/legal guardian(s).
- iv. For initial appointments, Respondent may only supervise those tasks which, pursuant to the Dental Practice Act, are delegable to, and performed by, a licensed dental hygienist, including, but not limited to, radiographs, prophylaxis, and the application of fluoride or silver diamine fluoride, and conduct an examination with the dental hygienist present in the operatory throughout the examination and shall not perform or provide any other treatment or dental service on that visit. For purposes of this provision, if additional treatment needs are diagnosed during the initial appointment and the patient is a Cooperative Pediatric Patient and the patient's parent/legal guardian consents, Respondent shall not be deemed in violation of this provision by providing such additional treatment on the same day as the initial examination.

- c. Respondent shall violate no provision of the Dental Practice Act or the Board Rules.
- d. Respondent shall neither direct nor permit any of his employees to violate any provision of the Dental Practice Act or the Board Rules.
- e. Respondent shall allow the Board or its authorized agent to inspect and observe his office, conduct random patient chart review, and interview his employees and coworkers at any time during regular office hours.

2. For purposes of this Consent Order, Cooperative Pediatric Patient shall mean a patient under the age of 18 who has not been rated or assessed a Frankl Scale score of 2 or less during treatment in Respondent's office, or contained in records at Respondent's office, either within the last one year or during the last four appointments, whichever is longer. Uncooperative Pediatric Patient shall mean any patient under the age of 18 who has been rated or assessed a Frankl Scale score of 2 or less during treatment in Respondent's office, or contained in records at Respondent's office, either within the last one year or during last four appointments, whichever is longer.

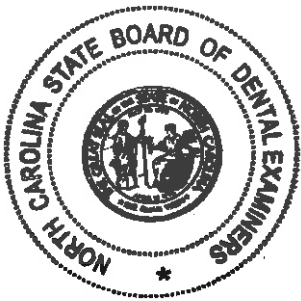
3. If Respondent fails to comply with any provision of this Order or breaches any term or condition thereof, the Board may promptly schedule a Show Cause Hearing to permit Respondent to show cause why his dental license should not be suspended. If, as a result of the Show Cause Hearing, the Board is satisfied that Respondent failed to comply with or breached any term or condition of this Order, Respondent's license shall be suspended, and Respondent shall immediately surrender his dental license and current renewal certificate to the Board. 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 13th day of APRIL, 2019.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By: _____



STATEMENT OF CONSENT

I, David H. Moore, 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 admit that there is 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 Dental Board, including if future disciplinary proceedings or action is warranted in this matter. I knowingly waive any right to appeal or otherwise later challenge this Consent Order once entered. 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 had the opportunity to consult with an attorney prior to signing this Consent Order.

This the 5th day of March, 2019.



David H. Moore, D.D.S.