

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

SHAILESH PATEL, D.D.S.  
(License No. 7091)

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**CONSENT ORDER**

THIS MATTER is before the North Carolina State Board of Dental Examiners ("Board" or "Dental Board), as authorized by G.S. § 90-41 for consideration of a Consent Order for Dr. Shailesh Patel ("Dr. Patel" or "Respondent"), in lieu of a formal administrative hearing. Whitney S. Waldenberg and Douglas J. Brocker represented the Investigative Panel of the Board ("IP"). Respondent represented himself and acknowledges that the Board has evidence to prove the Findings of Fact and Conclusions of Law and to warrant the Order of Discipline. Based upon the consent of the parties hereto, the Board hereby enters the following:

**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 in January of 2000 and holds license number 7091.
3. Respondent worked as a general dentist in Cary, North Carolina, in his own dental practice through part of 2017.

Patient Jennifer G.

4. In November of 2016, Respondent began treating Jennifer G. for placement of two crowns on her teeth numbers 2 and 3.

5. After preparing Jennifer G.'s tooth numbers 2 and 3 for placement of crowns in December 2016, Respondent missed or cancelled appointments with Jennifer G. multiple times.

6. On the occasions where Respondent kept his appointments with Jennifer G., and placed temporary crowns, the temporary crowns fell out.

7. Jennifer G. was left with incomplete treatment for an extended period, as Respondent continually cancelled scheduled appointments after the teeth were prepped for crowns.

8. Jennifer G. was unable to eat, chew or drink liquid on the right side of her mouth, waiting for Respondent to complete the treatment.

9. Jennifer G. paid Respondent for work that Respondent began but never completed.

10. Jennifer G. eventually sought help from another provider in June 2017. The new treatment provider noted that the teeth were prepped for crowns but did not have temporary crowns on them.

11. In August 2017, Respondent issued Jennifer G. a purported refund check for the services for which Respondent had been paid but he had not rendered.

12. Respondent's check to Jennifer G. was dishonored for insufficient funds.

13. Jennifer G. sought restitution in small claims court.

14. Respondent eventually presented her with a cashier's check with a refund prior to the civil hearing.

15. The standard of care applicable to dentists licensed in North Carolina requires the dentist to respond to patient concerns and complete the treatment plan agreed upon by the patient and undertaken by the dentist.

16. Respondent violated the applicable standard of care in his treatment of patient Jennifer G., as set forth in paragraphs 4-14.

Patient Catherine H.

17. In March of 2016, Respondent proposed a treatment plan to patient Catherine H. that included crowns on eleven of her maxillary teeth for a total amount exceeding ten thousand dollars (\$10,000).

18. Respondent told Catherine H. that treatment for the maxillary teeth would be completed in three appointments, and that one-third of the total cost for this treatment would be charged at each visit.

19. Respondent's office enrolled Catherine H. for Care Credit and drafted the entire amount of the treatment plan for her maxillary teeth, totaling \$10,615.00, two days after the treatment plan was discussed.

20. Respondent then charged her Care Credit account again in April 2016 for an additional \$7,200 for crowns on her mandibular teeth.

21. Respondent's records do not reflect a treatment plan for Catherine H.'s mandibular teeth. The treatment plan for her maxillary teeth was provided to the Board by Catherine H., but was also not reflected in Respondent's records. Respondent's

records also did not document all the specific treatment provided to Catherine H, as required by the Board's rules.

22. Respondent placed some crowns on Catherine H's teeth. However, several of the crowns failed either the same day they were placed or a few days thereafter.

23. Catherine H. experienced swollen, abscessed gums.

24. Catherine H. also began experiencing difficulty contacting Respondent during the course of 2016 and 2017. Respondent repeatedly promised Catherine H. appointments and then cancelled them, often times on short notice.

25. In August 2017, Respondent told Catherine H. to seek treatment from another provider, indicating that he would no longer be operating his dental office.

26. Several of Catherine H.'s teeth were extracted as a result of Respondent's inadequate crownwork. A number of the crowns placed by Respondent on Catherine H.'s remaining teeth have open margins.

27. In November 2017, Catherine H. asked Respondent for records and for a refund. Respondent did not provide Catherine H. with her records as she requested.

28. To date, Respondent has not personally provided a refund to Catherine H of any of the funds she paid his office.

29. The standard of care applicable to dentists licensed in North Carolina requires the dentist to place crowns with acceptable clinical parameters and of adequate technical quality.

30. Respondent violated the applicable standard of care in his treatment of patient Catherine H., as set forth in paragraphs 17-28.

#### Complaints to Board

31. The Board received Jennifer G.'s Complaint regarding Respondent on August 28, 2017.

32. On August 31, 2017, the Investigative Panel sent Respondent a copy of the complaint and asked Respondent to provide a response to the complaint within fifteen (15) days of receipt of the letter and to also provide the original treatment records for Jennifer G. The complaint was sent to his address of record that Respondent had provided to the Board.

33. Respondent did not provide a written response to the August 31, 2017 letter.

34. Respondent appeared at the Board office on September 19, 2017 and told Board staff that he did not receive notice of the Complaint against him and that his address had changed.

35. The Investigative Panel sent two additional letters to Respondent along with a copy of the Complaint on September 19, 2017 and on November 16, 2017, providing Respondent two additional opportunities to respond to the Complaint and provide Jennifer G.'s treatment record.

36. Respondent failed to provide a written response to Jennifer G.'s Complaint and did not provide the treatment records within the requested time frames.

37. On December 28, 2017, the Board issued a subpoena to Respondent, directing him to produce the treatment records for Jennifer G.

38. Respondent provided Jennifer G.'s treatment records on January 9, 2018.

39. The Board received Catherine H.'s Complaint regarding Respondent on December 18, 2017.

40. On January 2, 2018, the Investigative Panel sent Respondent a copy of the complaint and asked Respondent to provide a response to the complaint within fifteen (15) days of receipt of the letter, as well as the original treatment records for Catherine H. The complaint was sent to his address of record that Respondent had provided to the Board.

41. The Investigative Panel repeatedly asked for responses to the complaints, and Respondent made several verbal promises to the Investigative Panel that he would provide a response to each.

42. On or about March 8, 2018, Respondent asserted to the Investigative Panel that he submitted written responses to both Complaints, but the Investigative Panel notified him that it had not received any written responses. He stated that he would bring copies of the written responses to the Board office on March 9, 2018. Respondent did not deliver any written responses to the Complaints on March 9, 2018.

43. Respondent did not provide the treatment records for Catherine H. within the requested time frame. Respondent eventually delivered the records in March of 2018.

44. The Investigative Panel made numerous attempts to interview Respondent about his treatment of Jennifer G. and Catherine H before the Notice of Hearing was issued. However, Respondent cancelled meetings with the Board's investigators and, on at least one occasion, simply did not appear for a scheduled meeting without any explanation for his absence.

45. On August 10, 2018, Respondent appeared at the Board office for an agreed-upon settlement conference, but then left before the conference began.

46. The Board entered an Order summarily suspending Respondent's North Carolina dental license on the same date. Respondent's license remains suspended as of the date of this Consent Order.

47. Respondent appeared for his deposition and for a prehearing conference in this matter.

Additional Factual Findings Related to Appropriate Discipline

48. Respondent's license was previously suspended on August 12, 2013 based on evidence that Respondent's mental status prevented him from providing competent dental treatment to patients and evidence that he did not fully cooperate with the Board's investigation of complaints filed by patients.

49. Respondent entered into a Consent Order on June 18, 2014, agreeing to undergo a psychiatric assessment and to comply with all treatment recommendations.

50. Respondent completed the psychiatric assessment and Respondent's license was subsequently reinstated on September 15, 2014.

51. Following the Complaints filed by Jennifer G. and Catherine H., Respondent agreed to participate in a new psychiatric and substance abuse assessment on or before July 15, 2018.

52. However, Respondent did not complete the agreed-upon assessment on or before July 15, 2018.

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

**CONCLUSIONS OF LAW**

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

2. Respondent's conduct, as set forth in Findings of Fact 4-47, violated N.C. Gen. Stat. § 90-41(6), (12) and (26) and 21 NCAC 16V .0101(14), (15), (17), and (24).

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. License number 7091 issued to Respondent for the practice of dentistry in North Carolina is hereby indefinitely suspended.

2. Respondent may petition to lift the indefinite suspension of his North Carolina dental license by demonstrating that he has:

a. obtained an evaluation or assessment at a facility or by a provider approved by North Carolina Caring Dental Professionals (CDP);

b. followed all recommendations of CDP and the approved treatment facility or provider and completed any in-patient or out-patient treatment and follow any after-care treatment plan that may be recommended by the approved treatment facility or provider.

c. entered into a Participation Agreement with CDP and signed a release permitting CDP to submit monthly reports to the Board regarding his progress in the program, if recommended by the assessment, which Agreement terms are at the discretion of CDP based on the assessment and any recommendations;



d. obtained the support and advocacy of CDP, if the assessment diagnoses Respondent with any mental health or substance abuse condition, including CDP advocating that Respondent is not impaired and can practice dentistry safely in the state of North Carolina; and

e. engaged a licensed North Carolina dentist to serve as a practice monitor related to any practice Respondent owns, which practice monitor Respondent shall submit for review and obtain approval by the Board's IP, at its discretion, prior to his license being provisionally reinstated.

3. If Respondent demonstrates compliance with the conditions in paragraph 2, his license shall be conditionally restored as long as he complies with all the following probationary terms and conditions for a period of five (5) years from the date his license is conditionally restored:

a. Respondent shall violate no provisions of the Dental Practice Act or the Board's Rules and Regulations;

b. Respondent shall neither permit nor direct any of his employees to violate any provision of the Dental Practice Act or the Board's Rules and Regulations;

c. Respondent shall permit the Board and its agents to inspect and observe his office and patient records and interview employers, employees, and co-workers at any time during normal office hours;

d. Respondent shall comply with all provisions of any CDP Participation Agreement that may be required by paragraph 2(c) herein.

d. Respondent shall, within one (1) year from the date of his license is conditionally restored, complete continuing education courses especially designed for him by the University of North Carolina School of Dentistry in conjunction with, and approved in advance by, the North Carolina State Board of Dental Examiners. These shall be comprehensive, remedial courses in: (i) diagnosis, treatment planning, and placement of crowns or bridges and presenting patients other restorative options; and (ii) recordkeeping, including documentation of all required elements of patient treatment records. 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. The Board's Director of Investigations may extend the time for Respondent to complete this continuing education for up to one additional year, at Respondent's request and for good cause. **It is the Respondent's responsibility to make all arrangements for and bear the costs of these courses within the specified time;**

e. Respondent shall not place any crowns for patients until he completes the continuing education courses especially designed for him by the University of North Carolina School of Dentistry set forth in paragraph 3(d) herein;

f. The practice monitor set forth in paragraph 2(e) herein shall meet with Respondent regularly and no less than quarterly and review example patient chart and billing records selected by the monitor, not by Respondent or employees at the office(s) where he practices. During these meetings, the monitor shall

examine example patient records to determine Respondent's compliance concerning: (i) diagnosis, treatment planning, and placement of crowns or bridges and presenting patients other restorative options; (ii) recordkeeping, including documentation of all required elements of patient treatment records; and (iii) and other issues identified by the monitor related to Respondent's compliance with the Dental Practice Act and the Board's rules and regulations. Respondent shall ensure that the monitor prepares and submits to the Board quarterly reports with the findings concerning those issues for the quarter, including identifying the specific patient treatment and billing records reviewed. The IP reserves the right to review the charts that the monitor selects for his/her report, which records Respondent shall provide to the IP upon its request. The reports shall be due no later than April 1, July 1, October 1, and January 1 for the previous quarter in each year. Respondent is responsible for any and all payment of costs associated with this monitoring. If the monitor reports information to the Board indicating that Respondent may be engaging in a violation of the Board's statutes or regulations, Respondent understands that such findings may result in further disciplinary action by the Board, including potential activation of his indefinite suspension, following notice to Respondent and an opportunity to be heard. If the monitor timely submits quarterly reports indicating that Respondent has been engaged in the practice of dentistry and has been in full compliance with the Board's statutes and regulations for two (2) consecutive years, Respondent may petition the Board Hearing Panel to reduce or eliminate this practice monitor requirement.

g. Respondent shall reimburse Patient Catherine H., within a year from the date his license is conditionally restored, \$7200, which is a portion of the total amount that she paid to his office.

4. The Board recognizes that the conditions, limitations, or requirements set forth in this Consent Order may present Respondent 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. If Respondent fails to comply with any provision of this Consent Order or breaches any term or condition thereof, including those in paragraph 3(a)-(g), the Board shall promptly schedule a public Show Cause Hearing to allow Respondent an opportunity to show cause as to why Respondent's indefinite suspension shall not be activated for violating a valid order of the Board. If after the Show Cause Hearing, the Board is satisfied that Respondent failed to comply or breached any term or condition of this Consent Order, the Board shall activate the indefinite suspension and also may enter such other discipline or conditions as the evidence warrants for proven violations of the Dental Practice Act or of the Board's Rules occurring after entry of this Consent Order.

This the 15<sup>th</sup> day of January 2019.



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Millard W. Wester, III, DDS  
Presiding Officer of the Hearing Panel



THE NORTH CAROLINA STATE  
BOARD OF DENTAL EXAMINERS

**STATEMENT OF CONSENT**

I, Shailesh Patel, 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 of discipline 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.

This the 4<sup>th</sup> day of January 2019,

  
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Shailesh Patel, D.D.S.