

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

NORMAN J. SYKES, Jr., D.M.D.
(License No. 5881)

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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. The Respondent, Dr. Norman J. Sykes, was represented by William Sitton. Carolin Bakewell represented the Investigative Panel of the North Carolina State Board of Dental Examiners.

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 August 2, 1989 and has held license number 5881 at all times relevant hereto.
3. Respondent is subject to the Dental Practice Act and the rules promulgated thereunder.
4. At all times relevant hereto, Respondent worked as an oral surgeon in Mecklenburg County, North Carolina.

5. Schedule II, III and IV controlled substances present a high potential for abuse and a high risk for physical and psychological dependence.

6. At all relevant times, the standard of care for dentists licensed to practice dentistry in North Carolina required dentists to maintain adequate records of treatment for all patients, including the name, strength and quantity of all drugs prescribed.

7. At all relevant times, the standard of care for dentists licensed to practice dentistry in North Carolina required dentists to document in the treatment record why any controlled substances were prescribed and note the, clinical diagnosis substantiating the appropriateness of medications prescribed.

8. At all relevant times, the standard of care for dentists licensed to practice dentistry in North Carolina required that a dentist maintain complete dental records that accurately and adequately reflect the treatment rendered. This treatment record must include a diagnosis of the patient's presenting condition.

9. At all relevant times, the standard of care for dentists licensed to practice dentistry in North Carolina required that a dentist prescribe controlled substances in an amount and frequency as necessary for treatment of a dental condition for which a patient is being treated.

10. At all relevant times, the standard of care for dentists licensed to practice dentistry in North Carolina required that a dentist determine an appropriate dosage for controlled substances prescribed.

11. On a number of occasions in 2013 – 2014, the Respondent prescribed Meperidine for his wife, who was struggling with pain following several surgeries for non-dental related issues. Mrs.

Sykes had previously been prescribed Meperidine by her physician. When the physician switched Mrs. Sykes to another medication, Respondent began prescribing the drug for his wife himself.

12. The Respondent wrote prescriptions for Meperidine in the names of third parties, including a friend, an employee and his son-in-law, and then diverted the drugs for his wife's use.

13. Respondent's prescriptions for his wife were not for purposes within the scope of his professional practice as a dentist.

14. Respondent's prescriptions for his wife were not issued in the usual course of professional treatment or in the course of legitimate and authorized research.

15. Respondent has regularly prescribed substantial amounts of Percocet, a Schedule II controlled substance, to patient SB since 1999.

16. Respondent's treatment records for SB do not support the need for the quantity of controlled substances prescribed.

17. Respondent's actions in prescribing controlled substances to SB in the amount and with the frequency listed, was not indicated as necessary for treatment of any dental condition for which she was being treated by Respondent and did not comply with the standard of care applicable to dentists practicing dentistry in North Carolina at that time.

18. The Board reviewed other patient records of Respondent and concluded that Respondent had not complied with the standard of care in two other instances by: (a) prescribing a drug for a patient that was not for purposes within the scope of his professional practice as a dentist; and (b) prescribing a Schedule II controlled substance to a patient who was a recovering drug addict without first attempting other alternatives or consulting with the patient's treating addictionologist.

19. Respondent contends that with regard to the first referenced patient in paragraph 18(a) above, he has no recollection of prescribing the drug in question, as the order was placed by telephone and there is no record of it in the patient's chart. Nonetheless, Respondent contends that he has complied with the standards of care and practice in both instances and has provided evidence to contest the Board's findings and conclusions regarding these two patients, as well as patient SB, a TMJ patient with chronic pain, as diagnosed by Respondent.

20. Respondent failed to keep accurate records regarding the name of all drugs prescribed, the amount and strength of the drugs prescribed, the reason for prescribing narcotics, and the date of the prescriptions.

21. Respondent failed to maintain complete dental records that accurately and adequately reflect the treatment rendered.

22. 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 the Respondent.

2. By issuing prescriptions in the name of third parties and diverting the medications to his wife, the Respondent distributed narcotics for other than a lawful purpose in violation of G.S. § 90-41(a)(25).

3. By prescribing narcotics to patients for non-dental related conditions, the Respondent distributed drugs for other than a lawful purpose, in violation of G.S. § 90-41(a)(25).

4. By over prescribing narcotics to patients, the Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina and thereby engaged in negligence in violation of G.S. § 90-41(a)(12).

5. By prescribing a narcotic pain reliever to MH, a known recovering addict, the Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina and thereby engaged in negligence in violation of G.S. § 90-41(a)(12).

6. By failing to keep accurate records which include the names of all drugs prescribed, the amount and strength of drugs prescribed, the reason for prescribing narcotics and the date of the prescription, the Respondent violated 21 NCAC 16T .0101 and 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. License Number 5881 issued to the Respondent for the practice of dentistry in North Carolina is hereby suspended for a minimum of thirty (30) days. Respondent shall surrender his license and current renewal certificate to the Board at its offices on or before November 23, 2015.

2. Respondent shall immediately surrender his Drug Enforcement Administration (DEA) permit to the DEA and shall not seek a new permit or the return of his existing permit without prior written approval of the Board of Dental Examiners.

3. Within thirty (30) days of the date of this Order, Respondent shall reimburse the Board for the costs associated with its investigation of this matter in the amount of \$ 450.00.

4. Respondent may seek reinstatement by submitting a written petition for the reinstatement of his license on or after the thirty-first (31st) day following the surrender of his dental license, provided that for the next five (5) years following reinstatement Respondent adheres to the following probationary terms and conditions, which shall be mandatory conditions to reinstatement, regardless of how long Respondent's license has been suspended:

- (a) Respondent shall violate no provision of the Dental Practice Act or the Board's rules and regulations;
- (b) Respondent shall neither direct nor permit any of his employees to violate any provision of the Dental Practice Act or the Board's Rules;
- (c) Respondent shall submit to interviews by the Board or its authorized agent during regular office hours or at such other times as are mutually convenient. Respondent shall also permit the Board or its agents to interview his employees during regular office hours and conduct random patient chart reviews;
- (d) Within one (1) year of being reinstated, Respondent shall complete a continuing education course, of not less than twenty-four (24) hours, especially designed for him by the University of North Carolina School of Dentistry in conjunction with the North Carolina State Board of Dental Examiners directives. This will be a comprehensive, remedial course to include the following: (1) appropriate prescribing practices; (2) recordkeeping; and (3) ethics. Respondent shall submit to the Board's Deputy Operations Officer written proof of satisfactory completion of this course before it will be accepted in satisfaction of this requirement. This requirement shall be in addition


to the continuing education required by the Board for the renewal of Respondent's dental license;

- (e) Within thirty (30) days of being reinstated, Respondent shall submit himself to a chemical dependency program, approved by the North Carolina Caring Dental Professionals, for a substance abuse assessment. Respondent shall undergo and remain in any recommended treatment by the program until released by the facility. The Board shall be notified in writing prior to the discontinuation of treatment. Respondent shall direct the person(s) treating him to submit to the Board monthly reports of his treatment progress. These reports shall be submitted to the Board by the fifteenth (15th) day of each month. Respondent shall bear the expense of treatment and reporting; and
- (f) Any other condition(s) the Board deems necessary and appropriate at the time of Respondent's reinstatement.

5. 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 allow Respondent an opportunity to show cause as to why Respondent's license should not be immediately rescinded. If as a result of the Show Cause Hearing, the Board is satisfied that Respondent failed to comply or breached any term or condition of this Order, Respondent's license shall be rescinded and upon written demand, Respondent shall immediately surrender his 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 of the Board's Rules.

This the 23rd day of November, 2015.

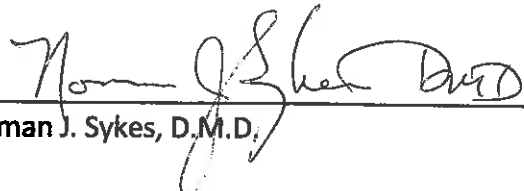
THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By: 
Terry W. Friddle
Deputy Operations Officer

STATEMENT OF CONSENT

I, Norman J. Sykes, Jr., D.M.D., 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 and that I will not contest the findings of fact, the conclusions of law, or the order of discipline if further disciplinary action is warranted in this matter. 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.

This the 18th day of November, 2015.



Norman J. Sykes, D.M.D.