

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF

DENTISTRY, Complainant,

v.

CASE NO. 2014-DB-0020D

JOHN E. BROCK, DDS,

Respondent.

CONSENT DECREE AND ORDER

The West Virginia Board of Dentistry (hereinafter the Board) commenced an investigation involving John E. Brock, DDS (hereinafter the Respondent) following its receipt of a Medical Malpractice Payment Report from the National Practitioner's Data Bank regarding Respondent's settlement of a malpractice lawsuit in Cabell Circuit Court. As a result of the Board's investigation which included an independent Expert Review Assessment of the matter, the Board served the Respondent with a Statement of Charges against his license and Notice of Hearing. The Statement of Charges alleged that the Respondent had violated certain provisions of W. Va. Code §§ 30-1-8(a), 30-4-1 *et seq.*, and W. Va. Code R. § 5-5-4, which conduct, practices and acts, if proven to be true, would constitute professional negligence and a willful departure from accepted standards of professional conduct, and would be grounds for disciplinary action.

The Board and the Respondent mutually desire to settle the issues in this matter without further prosecution and a formal hearing. The parties have reached an agreement as to an appropriate disposition of the complaint, with consideration to appropriate safeguards for

protection of the public.

The parties agree that this agreement shall not constitute an admission by either party as to the substance and/or merit, or lack thereof, of any of the allegations contained within the Statement of Charges.

As a result, the Board does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. The Board is the State entity created by West Virginia Code §§ 30-4-1, *et seq.*, and is empowered to regulate the practice of dentistry in West Virginia.
2. The Respondent, Dr. John E. Brock, is a licensee of the Board with License No. 3308, and is subject to the jurisdiction of the Board.
3. The Board alleges that the Respondent engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct by failing to properly diagnose, treat and document various dental conditions of Patient EW including, but not limited to, obstructive sleep apnea, in violation of W. Va. Code §§ 30-4-19(0)(3), 30-4-19(g)(12).
4. In response to the allegations made in the Complaint, the Respondent neither admits nor denies that his treatment of the patient was negligent or unprofessional.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to take disciplinary action against the Respondent.
2. Pursuant to W. Va. Code §§ 30-4-1, *et seq.*, the Board may revoke or suspend a license, reprimand a licensee or take other disciplinary action for violation of the rules and regulations of the Board.
3. The Respondent is a licensee of the West Virginia Board of Dentistry and is

subject to licensing requirements of the Board.

4. Based on the investigation conducted, the Complaint Committee of the Board believes that there is probable cause to demonstrate that the Respondent has violated the Dental Practice Act, W. Va. Code §§ 30-4-1, *et seq.*, and the rules promulgated thereunder.

CONSENT OF LICENSEE

By affixing his signature hereto, the Respondent acknowledges the following:

1. Respondent has been given the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without compulsion or duress, and mindful that it has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to enter this Consent Decree and Order other than as set forth herein.

3. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

4. Respondent acknowledges that the entire agreement is contained in this Consent Decree and Order and that no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Decree and Order.

5. Respondent acknowledges that he is aware that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public pursuant to the West Virginia Freedom of Information Act, W. Va. Code §§ 2913-1-1, *et seq.*, and may be reported to other governmental agencies, professional boards or other organizations.

6. Respondent acknowledges that this Consent Decree and Order will be presented to the Board as soon as practical, but no later than the next scheduled meeting of the Board, with

a recommendation for approval from the Complaint Committee.

7. Respondent consents to the entry of this Order affecting his license in the State of West Virginia.

8. Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions:

ORDER

That the Board agrees to forego further prosecution of the Complaint pursuant to the Consent Decree between the Board and Respondent, John D. Brock, DDS, as follows:

1. The Respondent shall receive a reprimand.
2. The Respondent represents to the Board that he is no longer practicing, *i.e.*, diagnosing and treating, any and all degrees and/or forms of sleep apnea and has no intention of practicing in that area in the future.
3. In the event the Respondent wishes to resume the practice of diagnosing and treating sleep apnea of any form or degree, the Respondent shall enroll in and successfully complete no less than sixteen (16) hours of continuing education in the diagnosis and treatment of obstructive sleep apnea prior to commencing such practice. The courses comprising these continuing education hours must be preapproved by the Board and shall be over and above the regular continuing education hours required by the rules and regulations of the Board. Until such time that the Respondent successfully completes this additional continuing education requirement, the Respondent shall not practice in the area of diagnosing and treating sleep apnea of any form or degree.
4. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a three (3) hour course in ethics preapproved by the Board. The

Respondent shall submit to the Board written verification of his enrollment and proof of having successfully completed the course. Completion of these course hours shall be over and above the regular continuing education hours required by the rules and regulations of the Board.

5. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a minimum of six (6) hours of course work in record keeping preapproved by the Board. The Respondent shall submit to the Board written verification of his enrollment and proof of having successfully completed the course work. Completion of these course hours shall be over and above the regular continuing education hours required by the rules and regulations of the Board.

6. The Respondent shall reimburse the Board its costs associated with this case in the amount of Five Thousand Dollars (\$5,000.00). Said payment shall be paid to the Board within ninety (90) days of the date of entry of this Order.

7. The Respondent shall pay a fine in the amount of Ten thousand dollars Dollars (\$ 10,000.00), to be paid in full within ninety (90) days of the date of entry of this Order.

8. The Respondent shall at all times cooperate with the Board and any of its agents or employees.

9. The Respondent's failure to fully comply with the terms and conditions of this Consent Order hereby imposed shall be deemed a violation of this Consent Order, and that if the Respondent violates any of the terms of this Consent Order, the Board may immediately suspend the Respondent's license without prior notice.

10. The Respondent shall obey all laws of the United States, the State of West Virginia and its political subdivisions. The Respondent shall comply with the West Virginia

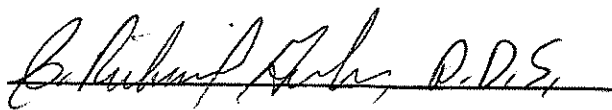
Dental Practice Act and its rules and regulations.

ENTERED this 22 day of January, 2016.

WEST VIRGINIA BOARD OF DENTISTRY

By:

C. RICHARD GERBER, DDS
President



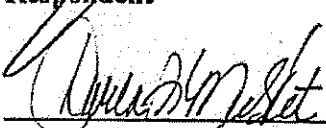
ORDER PREPARED BY:

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INSPECTED AND AGREED TO BY:



John E. Brock, DDS
Respondent



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