

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

CASE NO. 2015-DB-0054D

GLENN A. GREENE, DDS,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dentistry (hereinafter "the Board") and Glenn A. Greene, DDS, by counsel, Kevin A. Nelson, Esquire (hereinafter "the Respondent"), for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

WHEREAS, the Respondent acknowledges that the Board has served the Respondent with a Statement of Charges against his license, alleging that he has violated certain acts of W. Va. Code §§ 30-4-1, *et seq.*, and W. Va. Code R. §§ 5-5-1, *et seq.*, which acts, if proven to be true, would constitute professional negligence and a departure from, and failure to conform to, the standards of acceptable and prevailing dental practice and the ethics of the dental profession, which would be grounds for disciplinary action.

WHEREAS, the parties mutually desire to settle the issues without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by the Respondent.

It is hereby STIPULATED and AGREED between the undersigned parties that this matter be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matter in controversy. The Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT:

1. The Board is a state entity created by West Virginia Code §§ 30-4-1, *et seq.* (Dental Practice Act), and is empowered to regulate the practice of dentistry in the State of West Virginia.

2. At all times relevant to this investigation, the Respondent was a licensee of the Board with a specialty license in oral surgery, holding License No. 3691 and a Class 3A anesthesia permit. As a result, the Respondent is subject to the Board's licensing requirements and rules. The Respondent's license is set to expire on February 1, 2017.

3. At all times relevant to this investigation, the Respondent was subject to the terms and conditions of a prior disciplinary Consent Decree and Order entered into with the Board and which became effective on July 16, 2015, i.e., *West Virginia Board of Dentistry v. Glenn A. Greene, DDS*, Case No. 2014-DB-0056D. This prior disciplinary action involved the resolution of charges alleging that the Respondent extracted the wrong teeth on two teenaged patients and failed to report the same to the Board on his license renewal application.

4. Through the course of investigating the allegations in 2014-DB-0056D, the Board discovered that the Respondent had also allegedly extracted the wrong teeth on two other patients, a husband and wife, and that in all four instances, the Respondent either provided or attempted to provide free dental work to correct the mistakes and to prevent his dental practice partner and the Board from discovering them.

5. Nevertheless, the Board and the Respondent entered into the Consent Decree and Order in 2014-DB-0056D to resolve the allegations after the Respondent demonstrated to the satisfaction of the Board, in an informal conference, that appropriate remedial measures had been instituted in his practice that would significantly decrease or eliminate the potential for recurrence of the events in question. The Respondent received a reprimand, was placed on two years' probation, was required to complete a three-hour course in ethics preapproved by the Board, was fined \$1,000 and was required to reimburse the Board its costs totaling \$5,000. The Respondent agreed to obey all federal, state and local laws and to comply with the Dental Practice Act and its rules and regulations.

6. On or about October 16, 2015, the Board initiated a new investigation into the Respondent's dental practices and conduct based on a complaint filed with the Board by the Respondent's former dental practice partner (hereinafter referred to as "LG"). The Board also had become aware of a sexual harassment lawsuit recently filed against the Respondent in Nicholas County, West Virginia, by a former employee. The Board's discovery and investigation of these new allegations occurred after its approval of the Consent Decree and Order in Case No. 2014-DB-0056D.

7. The Board alleges that its current investigation has revealed that in April 2015, and during a time when the Respondent was negotiating the resolution of the disciplinary complaint in Case No. 2014-DB-0056D, the Respondent once again allegedly extracted the wrong tooth on an adult female patient (hereinafter referred to as "MS"). The Respondent failed to report this incident to the Board during the course of negotiating a resolution of the previous charges and the Board did not become aware of this incident until the Respondent's practice partner filed a complaint with the Board in October 2015 regarding the incident.

8. The Respondent admits that he extracted the wrong tooth (i.e., a retained root) with regard to MS and attempted to resolve the matter with her by extracting the diseased tooth, placing two implants where the two teeth were removed, performing incidental dental work free of charge, and having MS sign a consent that authorized him to do all the dental work including the extraction of the healthy tooth.

9. The Respondent further admits that he notated MS's patient file in such a manner as to prevent anyone from detecting that he pulled the wrong tooth by indicating in her file, *inter alia*, that MS actually wanted the healthy tooth removed and by obtaining her consent to that effect through the offer of free substantial dental services.

10. The Respondent further admits that he did not report the wrongful extraction involving MS to the Board at any time, including during the ongoing negotiations with the Board to resolve two disciplinary complaints of the same nature in Case No. 2014-DB-0056D. As a result, the Respondent likely obtained a more favorable resolution from the Board of the two complaints in that proceeding.

11. The acts described in paragraphs 6 through 10 above, if true, demonstrate that the Respondent violated the West Virginia Dental Practice Act and its legislative rules, as follows:

(a) By engaging in conduct, practices or acts while in a professional capacity which constitute professional negligence or a willful departure from accepted standards of professional conduct, i.e., the wrongful extraction of MS's healthy tooth, in violation of W. Va. Code § 30-4-19(g)(3) and W. Va. Code. R. § 5-5-4;

(b) By committing fraud in connection with the practice of dentistry, i.e., documenting and/or altering the patient file of MS in such a manner as to conceal the wrongful tooth extraction, in violation of W. Va. Code § 30-4-19(g)(9);

(c) By obtaining Board authorization by fraud, misrepresentation or concealment of material facts, from failing to notify the Board, during negotiations to resolve a prior disciplinary action, that another similar incident had occurred and was pending, in violation of W. Va. Code § 30-4-19(g)(1);

(d) By violating the terms and conditions of an existing Consent Decree and Order, Case No. 2014-DB-0056D, in violation of W. Va. Code § 30-4-19(g)(20); and

(e) By violating the *Principles of Ethics and Code of Professional Conduct of the American Dental Association* (hereinafter the *ADA Code*), specifically:

(1) Committing fraud or deception, W. Va. Code § 30-4-19(g)(12)(A); and

(2) *ADA Code* §§ 2A and 2B, requiring dentists to keep knowledge and skills current or to consult with or make referrals to appropriate professionals having special skills, knowledge and experience for the patient's condition.

CONCLUSIONS OF LAW:

1. The Board has jurisdiction to take disciplinary action against the Respondent who is a licensee of the Board and a Class 3A anesthesia permit holder. W. Va. Code § 30-4-5.

2. Pursuant to West Virginia Code §§ 30-4-1, *et seq.*, the Board may deny or refuse to renew, suspend, restrict or revoke the license, certificate or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee, certificate holder or permittee for violations of the Dental Practice Act including violations of the *ADA Code*. W. Va. Code § 30-4-19(g).

3. Disciplinary action may include (1) reprimand; (2) probation; (3) restrictions; (4) suspension; (5) revocation; (6) administrative fine, not to exceed \$1,000 per day per violation; (7) mandatory attendance at continuing education seminars or other training; (8) practicing under

supervision or other restrictions; or (9) requiring the licensee or permittee to report to the Board for periodic interviews for a specified period of time. W. Va. Code § 30-4-19(h).

4. In addition to any other sanction imposed, the Board may require a licensee or permittee to pay the costs of the proceeding. W. Va. Code § 30-4-19(i).

5. The Board has found probable cause exists to charge the Respondent with multiple violations of the Dental Practice Act as well as the *ADA Code*.

6. Although the Respondent disputes certain of the Board's allegations, the Respondent does not contest that the Board has probable cause to charge him with such violations.

7. As a means of compromise, the Board and the Respondent have hereby agreed to resolve this matter through a voluntary agreement and consent to disciplinary action, as more fully described under the terms and conditions set forth in this Order entitled "Consent of Licensee," with consideration given to appropriate safeguards for protection of the public.

CONSENT OF LICENSEE

The Respondent, by affixing his signature hereto, acknowledges the following:

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

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

3. The Respondent hereby consents to voluntarily surrender his license to practice dentistry in the State of West Virginia and his Class 3A anesthesia permit. The Respondent further consents to the imposition of a fine in the amount of Three Thousand Dollars (\$3,000.00)

and to reimburse the Board its costs for this proceeding totaling Five Thousand Dollars (\$5,000.00).

4. In consideration thereof, the Board agrees not to further prosecute any of the violations alleged in the Statement of Charges in this matter.

5. The 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.

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

7. The Respondent acknowledges that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B, *et seq.*, of the West Virginia Code, Freedom of Information Act, and may be reported to other governmental agencies, professional Boards or other organizations.

8. The Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed, as they may apply to the Board action that is the subject of this Consent Decree and Order.

9. The 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.

10. The Respondent consents to the entry of the following Order affecting his license in the State of West Virginia.

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

ORDER

The Board agrees to forego further prosecution of the complaint pursuant to this Consent Decree between the Board and the Respondent, and hereby ORDERS as follows:

1. The Respondent presently holds a license to practice dentistry in the State of West Virginia, that is, license number 3691, and also holds a Class 3A anesthesia permit.

2. Inasmuch as the Respondent has voluntarily surrendered his license to practice dentistry in the State of West Virginia and his Class 3A anesthesia permit, the Respondent's license and permit are hereby NULL and VOID.

3. The Respondent shall not practice nor engage in the profession of dentistry in the State of West Virginia.

4. Should the Respondent desire to practice dentistry in the State of West Virginia, he shall submit an application for licensure and/or reinstatement and comply with all licensure requirements of W. Va. Code §§ 30-4-1, *et seq.*, and any applicable legislative rules promulgated thereunder.

5. Further, in the event that the Respondent applies for licensure and/or reinstatement, the Board reserves the right to review, consider and use any and all materials relating to his qualifications for practice including, but not limited to, all documents, statements and complaints currently contained within any of the Board's files on the Respondent. The Board specifically reserves the right to consider the facts, statements and allegations relating to the above-styled complaint number, including the entry of this Consent Decree, in any future determination of the Respondent's fitness for practice.

6. The Respondent shall pay a fine of Three Thousand Dollars (\$3,000.00) to the Board as a penalty for the violations described herein.

7. The Respondent shall reimburse the Board the sum of Five Thousand Dollars (\$5,000.00) for the costs incurred by the Board associated with the investigation and prosecution of this matter.

8. The fine and costs of investigation shall be paid to the Board in full within thirty (30) days of the date of entry of this Order; and

9. Should the Respondent fail to comply with any part of this Consent Decree and Order, the Board may issue a Statement of Charges against the Respondent and take such further action as may be deemed necessary to effect disciplinary proceedings against the Respondent including, but not limited to, vacating this Consent Decree and Respondent's voluntary surrender of his license.

10. The Statement of Charges also alleges a violation of W. Va. Code § 30-4-19(g) and *ADA Code* § 3F (disruptive behavior in the workplace), based on a sexual harassment lawsuit pending in the Circuit Court of Nicholas County, West Virginia, styled *Kristin B. Perry v. Lewis D. Gilbert, DDS, Ltd., d/b/a Southern West Virginia Oral & Maxillofacial Surgeons, Ltd., and Glenn A. Greene, DDS*, Civil Action No. 15-C-66. That matter is pending litigation and the Respondent has denied the allegations of the complaint. Under the terms of this Consent Decree and Order, the Board hereby dismisses this charge.

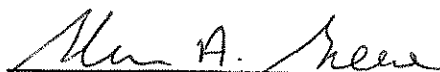
ENTERED this 21 day of July, 2016.

By:

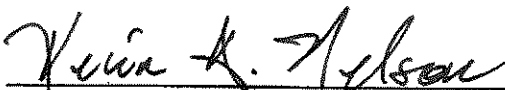


**STAN KACZKOWSKI, DDS, President
WEST VIRGINIA BOARD OF DENTISTRY**

REVIEWED AND APPROVED BY:



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