

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

CASE NO. 2014-DB-0022D

BENNETT ALEXANDER HIGH, DDS,

Respondent.

ORDER OF CONDITIONAL REINSTATEMENT

On this day came the West Virginia Board of Dentistry (hereinafter "the Board"), pursuant to a request by the Respondent, through his counsel, that his license be reinstated. The Board, in consideration of the Respondent's request, is of the opinion that reinstatement is justified and the Board shall conditionally grant said request, subject to the terms and conditions set forth in this Order.

WHEREAS, pursuant to a Settlement Agreement between the Board and the Respondent dated October 24, 2014, to resolve a complaint filed with the Board against the Respondent alleging substance abuse which the Respondent denied, the Respondent was to undergo medical treatment from a physician of his choice and at his expense until such time as he was released or discharged from medical care. During the time of such treatment, the Respondent was to authorize his physician to submit a letter to the Board on a quarterly basis, certifying the Respondent's compliance with the treatment and that he was not impaired. The Respondent was to forthwith notify the Board of any future occurrences that rendered him incapable of functioning professionally. Up until August 26, 2015, the date on which the Board was notified of the circumstances giving rise to this Order, the Board had not received any status updates on the Respondent's condition or compliance with his treatment plans, nor had the Respondent

notified the Board of any occurrences that might have rendered the Respondent incapable of functioning professionally.

WHEREAS, on August 26, 2015, the Board was notified in writing by a Wheeling dentist (hereinafter referred to a "N.N.") that the Respondent may be suffering from substance abuse problems based on a recent encounter the dentist had with one of the Respondent's patients. The patient informed N.N. that the Respondent was working without an assistant and without protective eyewear, the Respondent had constricted pupils and was sweating, and during the course of the exam the Respondent dropped an instrument on the patient's face and then fell on top of the patient while attempting to place a band around her tooth. The patient responded by pushing him off and asking if he was okay, to which the Respondent replied yes. The Respondent then placed a filling in the tooth without a band and stated that he thought the tooth now needed a crown. N.N. examined the patient's mouth and found several deficiencies in the work performed by the Respondent. The patient actually went to another dentist to have the tooth evaluated and pulled and for further dental work. However, before the patient left, she told N.N. that she thought the Respondent was on something. In a later conversation between N.N. and the Respondent's patient, the patient made statements to N.N. indicating that the Respondent had a substance abuse problem and needed help. While the Respondent denies the allegations made by this patient regarding the day in question and his working without an assistant or protective eyewear, the Respondent did agree to seek help for a substance abuse issue.

WHEREAS, based on the information presented to the Board by N.N., which was confirmed by the Board investigator, it appeared to the Board that the Respondent was in violation of the Settlement Agreement previously entered into on or about October 24, 2014, and that the events described further led the Board to believe that the Respondent's continuation in

the practice of dentistry in this State may pose an immediate danger to the public. Accordingly, on September 3, 2015, at 8:30 a.m., the Board conducted an emergency meeting by telephone, with a quorum present, during which evidence was presented by certain Board members and the Board investigator, regarding the events leading up to the Settlement Agreement in October 2014, and the recent alleged violations. Based on this evidence, the Board made findings that the Respondent's continuation in the practice of dentistry in this State, in his current condition, posed an immediate danger to the public and voted to summarily suspend the Respondent's license to practice dentistry in this State.

WHEREAS, the Respondent has since undergone in-patient treatment at Glenbeigh which he successfully completed and was released from that program on or about September 28, 2015.

WHEREAS, upon his release from Glenbeigh, Respondent underwent an evaluation by the West Virginia Dental Recovery Network who has established and recommended a proposed treatment plan for the Respondent. The Respondent shall submit himself to the treatment plan established and recommended by the WVDRN for its duration and shall abide by all terms and conditions of such plan until his successful completion of it, as determined by the appropriate personnel with the WVDRN.

WHEREAS, the Board met at its regularly scheduled quarterly board meeting in October 2015, and voted to reinstate the Respondent's license, but further voted that even though the Respondent's license is reinstated, he shall not resume the practice of dentistry in this State unless and until such time as the WVDRN has determined and certified to the Board that the Respondent is competent and capable of resuming the practice of dentistry without posing a risk of immediate danger to the public. The Board has been informed by Mike Brown of the

WVDRN that the Respondent appears to have successfully completed his inpatient treatment program at Glenbeigh and further appears to be in a position to resume employment on a part-time basis. The Board defers to the opinion and expertise of Mike Brown of the WVDRN as to the date on which the Respondent may resume working, which could be as soon as the Monday following the Board's execution of this Consent Order if Mike Brown of the WVDRN determines that day to be an appropriate day for him to resume work.

ACCORDINGLY, based on the foregoing, the Board ORDERS that the dental license of Bennett Alexander High, DDS, be reinstated with the following conditions:

1. Respondent shall continue to abide by all the conditions and terms of the Settlement Agreement dated October 24, 2014, except as modified herein.

2. Respondent shall abide by all the conditions and terms of any Contract and Compliance Agreement into which he enters with the West Virginia Dental Recovery Network.

3. Respondent shall not engage in the practice of dentistry unless and until Michael Brown of the West Virginia Dental Recovery Network, or his successor, or any of his authorized designees, shall certify to the Board that the Respondent is competent and capable of resuming the practice of dentistry without posing a risk of immediate danger to the public.

4. Respondent's return to work, his schedule including the number of days and hours he can work, the number of patients he can see and his ability to resume writing any prescriptions, are all subject to the supervision and discretion of the WVDRN, and any modifications thereto shall be at the discretion of the WVDRN.

5. While the Respondent is participating in treatment by the WVDRN and authorized to practice, the WVDRN shall have supervisory authority and discretion over the Respondent's practice which may include but not be limited to (1) requiring the Respondent to

be supervised by a dentist in good standing, for a period of time and for the supervisory dentist to submit regular reports of the Respondent's progress and competency to the WVDRN and to the Board; (2) conducting unannounced site inspections of the Respondent's office at any time the WVDRN, in its discretion, deems necessary; and (3) requiring the Respondent to maintain a separate log of all controlled substances prescribed by him, which log may contain the name of the medication prescribed, the quantity of the medication prescribed and an explanation for the prescribing of the medication, and to send that log to the WVDRN and the Board on a regular basis, as determined by the WVDRN.

6. The Respondent shall be responsible for any expenses associated with any unannounced site inspections of his practice as well any expenses associated with written reports, records or verifications of actions that may be required by the WVDRN or the Board.

7. The Respondent's failure to fully comply with the terms and conditions of this Order, and with any Contract and Compliance Agreement with the WVDRN, shall constitute a violation of this Order and the Board may seek disciplinary action as deemed necessary, including but not limited to licensure revocation, for such failure to comply. Likewise, the Board may seek such disciplinary action for any further violation of the West Virginia Dental Practice Act.

8. The parties agree that the Respondent violated the terms of the Settlement Agreement entered into on October 24, 2014, and the West Virginia Dental Practice Act, by engaging in substance abuse to such an extent as to render the Respondent an immediate danger to the public. Accordingly, the Respondent shall pay a fine in the amount of Five Thousand Dollars (\$5,000.00) for the violation and shall reimburse the Board its costs in the amount of


Five Thousand Dollars (\$5,000.00). Said payments shall be made within 30 days of the Board's entry of this Order.

9. The Respondent having provided the Board with necessary reports from Glenbeigh and the WVDRN to establish his successful completion of inpatient treatment and his readiness to return to practice, the Board has agreed that the Respondent is not required to appear in person at its October Board Meeting. The Respondent may return to work upon the execution of this Order by the President and upon approval of Mike Brown of the WVDRN.

ENTERED in the records of the Board this 13th day of October, 2015.

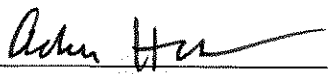
WEST VIRGINIA BOARD OF DENTISTRY

By:


RICHARD GERBER, DDS
President

SEEN AND AGREED TO BY:


BENNETT ALEXANDER HIGH, DDS
Respondent


ADAM M. HANASKY, Esquire (WV Bar No. 11017)
Robinson Law Offices
1140 Main Street, 3rd Floor
Wheeling, West Virginia 26003-2704
(304) 233-5200
Counsel for Respondent