

BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

WEST VIRGINIA BOARD
OF DENTAL EXAMINERS,

Complainant,

CASE #: 2005-DB-0049D

V.

DR. JAMES E. KIRKPATRICK, III

Respondent.

ORDER

By "Complaint and Notice of Hearing," Dr. James E. Kirkpatrick, III, (hereinafter "Respondent"), a dentist licensed to do business within the State of West Virginia, was informed of allegations that he may be in violation of the disciplinary rules and criteria for licensed dentists. The Respondent was also informed that a hearing had been set on the matter for January 6, 2006, before the Board.

On January 6, 2006, this matter came on for an administrative hearing before the Board. The Respondent appeared in person pro se. Complainant Board was represented by Darlene Ratliff-Thomas, Assistant Attorney General. The record reflects the facts as follows:

FINDINGS OF FACT

1. James E. Kirkpatrick, III, DDS, is a licensee of the West Virginia Board of Dental Examiners and is subject to license requirements of the Board.

2. That approximately October 2005, Susan Combs, Office Manager for the Complainant Board, received an inquiry from the West Virginia Legislative Auditor's Office regarding a complaint filed in the State of Ohio against the Respondent.

3. On November 3, 2005, the Board requested a certified copy of the Order of Revocation issued by the State of Ohio concerning the Respondent, Dr. James E. Kirkpatrick, III.

4. On or about November 16, 2005, Lili C. Reitz, Esq., Executive Director of the Ohio State Dental Board, forwarded a certified copy of the Adjudication Order concerning the Respondent to the Board.

5. The Adjudication Order entered November 4, 2005, by the Ohio State Dental Board ordered "[T]he license of JAMES E. KIRKPATRICK, DDS, to practice dentistry in the state of Ohio is REVOKED."

6. Pursuant to West Virginia Code §30-4-20 (a), The board may refuse to issue, refuse to renew, suspend, revoke or limit any license or practice privilege of a licensee and may take disciplinary action against a licensee who, after hearing, has been adjudged by the board as unqualified for any of the following reasons:...(2) "suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state."

7. On or about December 1, 2005, the Complainant Board filed a Complaint and Notice of Hearing against the Respondent advising him that a hearing for disciplinary action was scheduled to determine whether any action should be taken against his license.

8. The Notice of Hearing scheduling this matter for hearing on January 6, 2006, and the Return Receipt signed by P. Cochran on December 5, 2005, were marked and received into evidence.

CONCLUSIONS OF LAW

1. Pursuant to W. Va. Code §30-4-1 et seq., The West Virginia Board of Dental Examiners has jurisdiction over this matter.

2. The Respondent, Dr. James E. Kirkpatrick, III, is a licensee of the West Virginia Board of Dental Examiners and is subject to license requirement of the Board.

3. The Ohio State Dental Board has revoked the Respondent's license to practice dentistry in the State of Ohio.

4. The Board may suspend, revoke or limit the license privilege of the Respondent and take disciplinary action against the Respondent on the grounds that his license has been revoked in the State of Ohio.

WHEREFORE, for the reasons stated above, it is hereby **ADJUDGED, ORDERED AND DECREED** as follows:

1. The license of Dr. James E. Kirkpatrick, III, (Respondent) to practice dentistry in the State of West Virginia is hereby **SUSPENDED** for a period of two (2) years. Said Suspension shall be lifted, and the remainder of that two (2) years shall be stayed upon the Board Office's receipt of documented proof of completion of a Pediatric Advanced Life Support (PALS) certification, and the Respondent shall maintain certification thereafter.

2. The Respondent's license shall be on probation for a period of two (2) years from the time of the lifted suspension.

3. The Respondent's license shall be restricted from administration of local anesthesia, nitrous oxide, or any form of sedation for patients age five (5) and younger.

4. The Respondent will be subject to unannounced site visits for case evaluations and chart auditing by a member(s) of the Board or designee(s) of the Board during the two-year probation period.

5. The Respondent shall immediately report to the Board any instances of morbidity or mortality associated with the administration of local anesthetic or nitrous oxide.

6. The Respondent may re-apply to the Board for an unrestricted license after his two-year probation period ends.

7. The Respondent is fined the amount of One Thousand Dollars (\$1,000).

8. The Respondent shall reimburse the Board for all costs related to this matter to date and future costs of unannounced site visits.

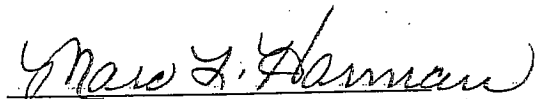
Failure to comply with this **ORDER** or further violations of W. Va. Code §30-4-1 et seq. shall result in further disciplinary actions by the Board.

This **ORDER** becomes effective ten (10) days from the date of entry.

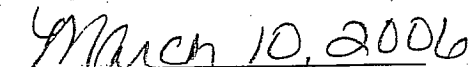
ENTER:



RICHARD D. SMITH, DDS
President



MARC L. HARMAN
Executive Secretary


DATE