

BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

**WEST VIRGINIA BOARD OF
DENTAL EXAMINERS,**

Complainant,

v.

Case No. 2010-DB-0003D

CLIFFORD M. LINKOUS, DDS,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dental Examiners (hereinafter referenced as the Board) and Clifford M. Linkous, DDS, (hereinafter referenced as the Respondent), for the purpose of resolving all matters relating to the pending matter between the Board and the Respondent.

As reflected in this Consent Decree, the parties have 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. That the Board is the State entity created by West Virginia Code § 30-4-1 *et seq.* (Dental Practice Act) and is empowered to regulate the practice of dentistry.

2. That the Respondent is a licensee of the Board, possessing license number 1937 and is subject to the license requirements of the Board.

3. That the Respondent and the Board desire to resolve all matters pending before the Board.

4. The Board alleges that the Respondent exceeded the scope of dental practice by prescribing scheduled controlled substances for various individuals from January 1, 2006 through February 2, 2009, and that the patient's records do not support the need for the quantity, amount and frequency of controlled substances prescribed.

CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.

2. That pursuant to W. Va. Code § 30-4-1 *et seq.*, the Board may revoke a license, 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 Dental Examiners and is subject to license requirements of the Board.

4. The Respondents' actions, if proven, would constitute a violation of W. Va. Code § 30-4-20(3) and (8), i.e., incompetence, professional negligence in the

performance of services, or a willful departure from accepted standards and professional conduct.

5. The parties have agreed to resolve this matter without further litigation.

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto 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 is 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 into 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 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.

5. 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.

6. Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed as a condition of this Consent Decree and Order.

7. Respondent acknowledges that this Consent Decree and Order 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.

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

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

ORDER

Based on the foregoing Findings of Facts and Conclusions of Law, it is hereby ORDERED as follows:

1. The Respondent shall not prescribe, dispense or administer any controlled (Scheduled) drugs for a period of two (2) years in the State of West Virginia. Provided,

however, Respondent may administer controlled (Scheduled) drugs during the said two (2) year period if he administers such drugs at the specific direction and under the supervision of a dentist or medical doctor licensed to practice in the State of West Virginia. Thereafter, and for a period of two (2) years, the Respondent shall maintain a separate log detailing all controlled substances prescribed, dispensed or administered to his patients in the State of West Virginia. Provided, however, Respondent shall not be required to maintain a log detailing controlled substances administered to patients at the specific direction and under the supervision of a dentist or medical doctor licensed to practice in the State of West Virginia. A copy of this log shall be sent to the Board office on a quarterly basis or made available for inspection upon request by the Board or its designee.

2. The Respondent shall not, in the State of West Virginia, prescribe, dispense or administer any medications to his family members, under any circumstance.

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

4. The Respondent shall comply with the West Virginia Dental Practice Act and its rules and regulations.

5. Therefore, this matter is hereby **DISMISSED** and **STRICKEN** from the open docket of the Board.


6. Further, the Board shall send copies of this Order to:

Timothy R. Linkous, Esquire
SHUMAN, MCCUSKEY & SLICER, PLLC
Attorneys at Law
1445 Stewartstown Road, Suite 200
Morgantown, West Virginia 26505

and

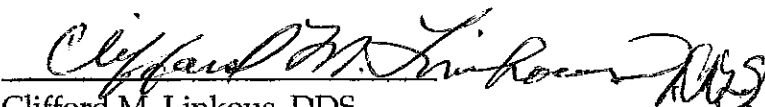
Darlene Ratliff-Thomas, Esquire
Office of the Attorney General
State Capitol, Room E-26
Charleston, West Virginia 25305

Entered this 19 day of MARCH 2010.

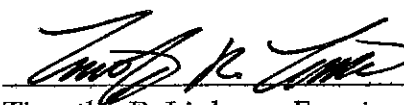


David G. Edwards, DDS
West Virginia Board of Dental Examiners

Inspected and Approved by:



Clifford M. Linkous, DDS
Respondent



Timothy R. Linkous, Esquire
Counsel for Respondent