

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

CASE NO. 2015-DB-0048H

CHRISTY DAWN WHEELER, RDH,

Respondent.

CONSENT DECREE AND ORDER

The West Virginia Board of Dentistry (“the Board”) commenced an investigation involving Christy Dawn Wheeler, RDH (“Respondent”) following the receipt of a complaint alleging that Respondent’s conduct, practices and acts may have failed to meet professional standards and, therefore, were in violation of the West Virginia Dental Practice Act, W. Va. Code §§ 30-4-1, *et seq.* The parties have reached an agreement as to the appropriate disposition of this matter, with consideration given to necessary safeguards for protection of the public, as follows:

WHEREAS, on November 19, 2015, the Board served the Respondent with a Statement of Charges against her license and Notice of Hearing, alleging that the Respondent had violated certain provisions 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 a willful departure from accepted standards of professional conduct, 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 parties further 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.

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

FINDINGS OF FACT:

1. The West Virginia Board of Dentistry is the state entity created by W. Va. Code §§ 30-4-1, *et seq.*, that is empowered to regulate the practice of dentistry in West Virginia.
2. The Respondent, at all times relevant to this matter, was a licensee of the Board, possessing License No. 2239 as a Registered Dental Hygienist, and is subject to the licensing requirements of the Board.
3. The Board alleges that it received a telephonic complaint from an individual identifying himself as JW, alleging to be the Respondent's ex-husband and father of their children. JW reported the Respondent to be a dental hygienist with a drug addiction. JW informed the Board that the Respondent had been arrested twice and failed two drug tests since January 2015.
4. The Board conducted an independent investigation and confirmed that the Respondent had been arrested at least twice since January 2015. The Board obtained records of the arrests and drug test results from the respective law enforcement agencies, the county circuit court clerk's office and the county magistrate clerk's offices. The records confirmed the

circumstances surrounding the Respondent's arrests and failed drug tests, as more fully described and alleged in the Statement of Charges.

5. Additionally, on August 12, 2015, and subsequent to the Respondent's arrests and failed drug tests, the Respondent submitted her license renewal application to the Board for 2015. On her application, the Respondent falsely answered "no" to questions asking, since she last renewed her license, whether she had been arrested, charged or pled guilty to any violation of any federal, state or local law, and whether she had developed any disease or condition that might interfere with her ability to competently and safely perform the essential functions of her practice.

6. The complaint received from JW, the related court and law enforcement records, and the Respondent's false renewal application were referred to one of the Board's Complaint Committees for review.

7. Based upon the foregoing, the Complaint Committee found that probable cause exists to establish that the Respondent may have an incapacity that prevents her from engaging in the practice of dental hygiene, with reasonable skill, competence and safety to the public; that the Respondent's abuse of alcohol and/or drugs constitutes a violation of the American Dental Association principles of ethics and code of professional conduct; and that the Respondent's failure to provide information legally requested by the Board violated the West Virginia Dental Practice Act, in violation of W. Va. Code §§ 30-4-19(g)(8); 30-4-19(g)(12)(C); and 30-4-19(g)(16).

8. The Respondent has informed the Board that she has undergone substance abuse treatment on her own initiative and alleges that she has been drug free for approximately six months.

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 a license, suspend a license, restrict a license, reprimand a licensee or take other disciplinary action for violation of applicable laws, rules, and regulations.
3. The Respondent is a licensee of the Board and is subject to its licensing requirements.
4. The Respondent does not contest that the Board has probable cause to issue a Complaint and/or Statement of Charges against her for one or more violations of the West Virginia Dental Practice Act, W. Va. Code §§ 30-4-1, *et seq.*, and any regulations promulgated thereunder, with regard to the complaint at issue in this matter.

CONSENT OF LICENSEE:

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

1. Respondent has been given the opportunity to consult with counsel and executes this negotiated 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 negotiated Consent Decree and Order other than as set forth herein.
3. Respondent acknowledges that she is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and is aware of her 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 by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code §§ 29B-1-1, *et seq.*), and may be reported to other governmental agencies, professional boards or other organizations.

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

7. 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.

8. Respondent consents to the entry of this Order affecting her license in the State of West Virginia.

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

ACCEPTANCE BY THE BOARD:

This Consent Decree and Order will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Consent Decree shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

ORDER

The Board agrees to forego further prosecution of the complaint pursuant to the Consent Decree entered between the Board and Respondent, Christy Dawn Wheeler, RDH, and hereby ORDERS as follows:

1. The Respondent shall submit herself to the West Virginia Dental Recovery Network (WVDRN)¹ for an initial evaluation no later than ten (10) days from the date of entry of this Order. Should the WVDRN determine that the Respondent needs further substance abuse treatment, the Respondent shall further submit herself to whatever treatment plan is established and recommended by the WVDRN for its duration and shall abide by all terms and conditions of the recommended treatment plan established by the WVDRN.

2. In consideration of the foregoing, the Board will forego the imposition of any fine or costs or other disciplinary action against the Respondent. However, the Respondent's failure to comply with the terms and conditions of this Consent Decree and Order hereby imposed shall be deemed a violation of this Consent Decree and Order. Should the Respondent fail to submit herself to the WVDRN and follow and successfully complete any treatment recommendations made by the WVDRN, the Board may immediately pursue any appropriate disciplinary action against the Respondent, as set forth in W. Va. Code § 30-4-19, for the charges contained in the Statement of Charges and for any additional conduct committed by the Respondent that violates the West Virginia Dental Practice Act, its rules and regulations promulgated thereunder, and the principles of ethics and code of professional conduct of the American Dental Association including, but not limited to, suspending or revoking the Respondent's license and imposing a fine and costs.

¹The West Virginia Dental Recovery Network was created in 2014 by Legislative Rule to provide a substance abuse treatment program for dentists and dental hygienists. W. Va. Code R. §§ 5-15-1, *et seq.*

3. 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.

4. This Consent Decree and Order shall remain in effect until the Respondent has been evaluated by the WVDRN and successfully completed any recommended treatment plan.

Entered this 22 of January, 2016.

WEST VIRGINIA BOARD OF DENTISTRY:

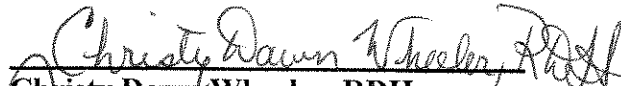
By:



E. RICHARD GERBER, President

ORDER PREPARED BY:

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INSPECTED AND AGREED TO BY:


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Respondent


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