

**BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**IN THE MATTER OF EVE H. ZIRKLE  
LICENSE NO. 999**

**CASE NO. 2007-DB-0042H**

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**CONSENT DECREE AND ORDER**

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Come now Eve H. Zirkle and the West Virginia State Board of Dental Examiners (hereinafter Board), for the purpose of agreeing to what disciplinary action should be taken against Eve H. Zirkle by the Board pursuant to W. Va. Code §30-4-1 *et seq.* and W. Va. R. § 5-1-1 *et seq.* As reflected in this document, Ms. Zirkle and the Board have reached an agreement as to the proper disposition of this matter, and do hereby agree to the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. That the Board is the State entity created by W. Va. Code §30-4-1 *et seq.* and is empowered to regulate the practice of dentistry.
2. The Board issued Eve H. Zirkle a license to practice dental hygiene in the State of West Virginia on June 16, 1977.
3. Ms. Zirkle holds license No. 999 and is subject to license requirements of the Board.
4. Ms. Zirkle signed and submitted the "Dental Hygiene Continuing Education Record" for the period of February 1, 2004 through January 31, 2006 along with her renewal form for her 2006 dental hygiene license. The record indicated that she had completed 13.75 credit hours of continuing education during the reporting period and that at least four (4) of those hours were in Infection Control.
5. By letter dated August 6, 2007, the Board notified Ms. Zirkle that an audit was

being conducted of the continuing education records reported by her on her "Dental Hygiene Continuing Education Record." A response was requested from Ms. Zirkle within thirty (30) days of receipt of this letter.

6. Ms. Zirkle failed to respond to the August 6, 2006 notice.

7. On September 18, 2007, the Board again contacted Ms. Zirkle asking for the information requested in the audit. Again, Ms. Zirkle failed to respond.

8. On October 18, 2007, by certified mail, return receipt requested, the Board advised Ms. Zirkle that this matter would be presented to a complaint committee of the Board and gave her an additional thirty (30) days to comply.

9. Ms. Zirkle signed for the certified mail on November 2, 2007, but again failed to respond to the Board.

10. This matter was presented to a complaint committee of the Board at its January 4, 2008 board meeting. The Board voted to issue a cease and desist to Ms. Zirkle.

11. On January 14, 2008, Ms. Zirkle was issued a cease and desist from practicing as a dental hygienist.

12. On February 4, 2008, Ms. Zirkle provided the information necessary to complete the audit.

#### **CONCLUSIONS OF LAW**

1. Pursuant to W. Va. Code §30-4-1 *et seq.*, the Board is the duly constituted state entity empowered to regulate the practice of dentistry and dental hygiene in the state of West Virginia.

2. Pursuant to W. Va. Code R. §5-1-10(3)(d) the Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

3. That the Board has jurisdiction to take disciplinary action against the license of Eve H. Zirkle.

4. 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.

5. Eve H. Zirkle is a licensee of the West Virginia Board of Dental Examiners and is subject to license requirements of the Board.

### **CONSENT OF LICENSEE**

Eve H. Zirkle, by affixing her signature hereon, consents and agrees to the following terms and conditions:

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

2. That she expressly acknowledges that the entire agreement is contained herein and no representations, promises, or inducements have been made than as it appears in this Consent Decree and Order.

3. That she 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. That she acknowledges that the execution of this document constitutes disciplinary action by the Board. It is therefore considered to be 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 or professional Boards or organizations.

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

## **ACCEPTANCE BY THE BOARD**

1. It is hereby agreed between the parties that this Consent Decree and Order shall be presented as soon as practical to the West Virginia Board of Dental Examiners with a recommendation for approval from the Board's Legal Counsel.

2. Ms. Zirkle understands that the Board is free to accept or reject this Consent Decree and Order, and if rejected by the Board, a formal disciplinary hearing against the Respondent may be scheduled with notice under Chapter 29A et. seq., of the West Virginia Code. Ms. Zirkle hereby agrees to waive any right she might have to challenge the impartiality of the Board, based solely upon the presentation of this Consent Decree and Order, to hear the disciplinary matter if, after review by the Board, this Consent Decree and Order is not accepted.

3. If the Consent Decree and Order is not accepted by the Board, it shall be regarded as null and void. Admissions by Ms. Zirkle in this Consent Decree will not be regarded as evidence against her at any subsequent disciplinary hearing. Ms. Zirkle will be free to defend and no inferences against her will be made from her willingness to have entered into this Consent Decree and Order.

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

### **ORDER**

Based on the foregoing Findings of Facts and Conclusions of Law, It is hereby ORDERED:

1. Eve H. Zirkle shall be assessed a fine in the amount of One Hundred Dollars (\$100.00).

2. Eve H. Zirkle shall reimburse the Board in the amount of One Hundred Fifty Dollars (\$150.00) for costs incurred by the Board in the disposition of this case.

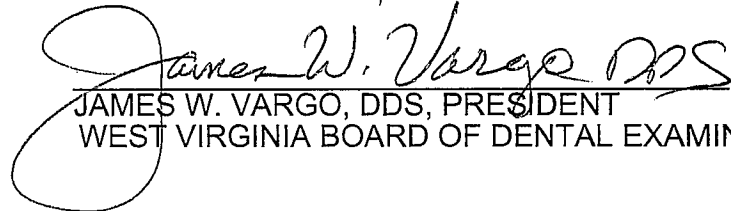
3. Eve H. Zirkle shall complete her 2008 licensure renewal and pay all renewal fees, renewal late fees, and late CE reporting fees in the amount totaling One Hundred Ninety-Five Dollars (\$195.00).

4. Eve H. Zirkle shall comply with the West Virginia Dental Practice Act and its rules and regulations.

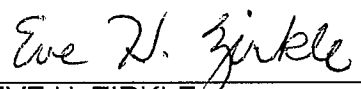
5. Eve H. Zirkle shall obey all laws of the United States, the State of West Virginia and its political subdivisions.

6. Eve H. Zirkle shall be reinstated to a licensee in good standing, provided that she has complied with all the foregoing requirements of the Consent Decree and Order.

Entered this 22nd day of February 2008.

  
JAMES W. VARGO, DDS, PRESIDENT  
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

Reviewed and Agreed to by:

  
EVE H. ZIRKLE  
License No.:999