

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

**WEST VIRGINIA BOARD OF
DENTISTRY,**

COMPLAINANT,

V.

CASE NO. 2023-DB-0004D

**G. BRIAN EVES, DDS,
LICENSE NO. 3218,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Dentistry (“Board”) and G. Brian Eves, DDS (“Respondent”) for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matter. As a means of compromise, the Board and Respondent hereby agree to resolve this matter by and through a voluntary agreement and consent to disciplinary action, with consideration given to appropriate safeguards for protection of the public.

WHEREAS, Respondent acknowledges that the Board may file a Statement of Charges alleging that he has violated certain provisions of W. Va. Code §§ 30-4-1 et seq. and W. Va. Code R. §§ 5-1-1 et seq., and proceed to a hearing and seek disciplinary action in this matter.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle this matter without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by Respondent.

WHEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that this matter be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matter in controversy, and the Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, holding License No. 3218, and at all times relevant, practiced dentistry in Lavalette, West Virginia.

2. On or about January 6, 2022, the Board received information from a member of the community that Respondent had been arrested for second offense DUI and fleeing in vehicle. Upon investigation, the Board confirmed that on or about January 5, 2022, Respondent was arrested for the aforementioned offenses.

3. On or about January 18, 2022, Respondent submitted his annual license renewal application to the Board. On the "Personal History" section of the application, Respondent answered "no" to Question 3, which read "Since you last renewed your license, have you been arrested, charged or convicted, pled guilty or pled nolo contendere for any violation of federal, state, or local law other than a minor traffic violation? (DUIs are not minor traffic violations. Although a conviction may have been expunged from the records by order of the court, it nevertheless must be disclosed in your answer). You must attach the court disposition."

4. By letter to Respondent dated January 26, 2022, the Board informed Respondent that it was aware "that [Respondent] may have incorrectly answered question #3 on the personal history section of the renewal form." The Board further informed Respondent that it was "giving [Respondent] an opportunity to correct the answer to this question."

5. By email dated January 26, 2022, Respondent responded to the Board's letter and stated that his staff submitted his application and was not aware of his arrest. Respondent also admitted to a previous DUI conviction in February of 2017, which was not reported to the Board on any renewal thereafter.

6. On or about January 27, 2022, the Board requested Lia M. Palmer, Chief Investigator for the West Virginia Attorney General's Office, obtain information concerning Respondent's first DUI conviction.

7. On or about January 28, 2022, Investigator Palmer forwarded to the Board a copy of Respondent's 2017 DUI conviction.

8. On or about December 16, 2022, Respondent called the Board office to report he had plead no contest to the DUI charges. Respondent requested the number for Mike Brown at the Dental Recovery Network.

9. Also on or about December 16, 2022, the Executive Director of the Board requested all records available to the Board produced after August 1, 2022, from the Wayne County Magistrate Clerk's Office.

10. On December 16, 2022, the Wayne County Magistrate Clerk's Office returned to the Board office, via facsimile documents including a copy of the Criminal Judgment Order showing a plea agreement to DUI dated December 15, 2022.

11. The Board's Complaint Committee reviewed the records obtained during this investigation.

12. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on January 13, 2023, found probable cause to believe that Respondent obtained a board authorization by fraud, misrepresentation, or concealment of material facts when

Respondent failed to disclose his DUI convictions, and that Respondent failed to report to the board any driving under the influence and/or driving while intoxicated, in violation of W. Va. Code §§ 30-4-19(g)(1), (12), and (21), and W. Va. Code R. § 5-5-4. Accordingly, the Board determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 3218, and is therefore subject to the license requirements and disciplinary rules of the Board.

2. The Board is a state entity created and governed by W. Va. Code §§ 30-4-1 *et seq.*, and is empowered to regulate the practice of dentistry in the State of West Virginia.

3. In order to carry out its regulatory duties, the Board may suspend, revoke, or otherwise discipline an individual's license to practice dentistry under the authority granted to it by W. Va. Code §§ 30-4-5 and 30-4-19 and W. Va. Code R. §§ 5-1-4, 5-4-1 *et seq.*, and 5-5-1 *et seq.*

4. Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board's governing statutes and rules based upon its investigation and findings in this matter.

5. The conduct described in the above *Findings of Fact* would, if proven, constitute violations of W. Va. Code § 30-4-19, W. Va. Code R. § 5-5-4, and the *American Dental Association Principles of Ethics & Code of Professional Conduct*. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, G. Brian Eves, DDS, by signing this *Consent Agreement and Order*, acknowledge the following:

1. After having had the opportunity to consult with an attorney of my choice, I sign this Consent Agreement and Order voluntarily, freely, without compulsion or duress, and understand that my signature has legal consequences.

2. The entire agreement is contained in this Consent Agreement and Order, and no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth in this document.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. I am aware of my legal rights regarding this matter, but I have chosen to waive those rights intelligently, knowingly, and voluntarily.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

The Respondent, G. Brian Eves, DDS, by affixing his signature hereto, agrees to the following Order:

ORDER

Based on the foregoing, and in lieu of further prosecution of this matter, the Board does hereby ORDER and DECREE as follows:

1. Respondent is hereby REPRIMANDED for his actions in this matter.

2. The Respondent shall report to the West Virginia Dental Recovery Network or similar program, within 30 days from the date of entry of this Consent Order for an evaluation (if he has not already done so). The Respondent agrees to abide by and fulfill any recommendations made for him by such program.

3. Within sixty (60) days from the date of entry of this Order, Respondent shall pay a fine in the amount of Two Thousand Dollars (\$2,000.00).

4. Within sixty (60) days from the date of entry of this Order, Respondent shall reimburse the Board the costs of this proceeding, including, but not limited to, the administrative and legal expenses incurred by the Board in the investigation and disposition of this case.

5. The fine and costs of investigation shall be paid to the Board in full within sixty (60) days of the date of entry of this Order, by two separate cashier's checks, each made payable to the West Virginia Board of Dentistry.

6. Respondent shall at all times cooperate with the Board and any of its agents or employees.

7. Respondent shall comply with the West Virginia Dental Practice Act, W. Va. Code §§ 30-4-1 *et seq.*, and the rules and regulations promulgated thereunder.

8. This Consent Agreement and Order shall remain in effect until all of its terms have been completed.

9. Any failure to comply with all provisions in this Consent Agreement and Order may result in additional disciplinary action, up to and including the suspension or revocation of Respondent's license to practice dentistry in the State of West Virginia.

10. This document is a public record available for inspection by the public in accordance with the provisions of 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.

11. This Consent Agreement and Order constitutes the entire agreement between the parties.

[REST OF PAGE INTENTIONALLY LEFT BLANK]



In recognition of this Consent Agreement and Order, we hereby affix our signatures.

WEST VIRGINIA BOARD OF DENTISTRY

By: 

John E. Bogers, DDS, President

Entered: 7-20-2023
Date

REVIEWED AND AGREED TO BY:



G. Brian Eves, DDS
Respondent

04/12/2023
Date

This day personally appeared before me, G. Brian Eves, DDS, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true and correct, to the best of his knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 12TH day of April, 2023.

My Commission expires: September 16, 2023


Notary Public

