

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

**WEST VIRGINIA BOARD OF
DENTISTRY,**

COMPLAINANT,

v.

CASE No. 2024-DB-0001D

**MELISSA J. KEATON, DDS,
LICENSE NO. 3553,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Dentistry (“Board”) and Melissa J. Keaton, 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 she 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.

THEREFORE, 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. 3553, and at all times relevant, practiced dentistry in Beckley, West Virginia.

2. On February 22, 2023, the Board received an email notification from the National Practitioner Data Bank of an electronic notification of a Data Bank report of Clinical Privilege Actions and Professional Society Membership Actions from the Beckley VA Medical Center. This report concerned the Actions by the VA Medical Center against the Respondent, the revocation of clinical privileges.

3. On February 27, 2023, the Board received a letter from the VA Medical Center. This letter stated in part “there is substantial evidence that Melissa Keaton, DDS, so significantly failed to meet generally accepted standards of clinical practice to raise reasonable concern for the safety of patients due to identified failures to document and diagnose appropriately in the medical record.” The letter further instructed the Board on how to request further information of the “SLB Reporting File”.

4. On February 27, 2023, the Board received a letter from the Beckley VA Medical Center concerning their report to the National Practitioner Data Bank along with a copy of the report.

5. On February 27, 2023, an Internal Reporting form was created by the Executive Director of the Board to inform a Complaint Committee of the Board and Board Counsel of the issue concerning the Respondent.

6. On February 27, 2023, the Board sent a letter to the VA Medical Center requesting relevant portions of the "SLB Reporting File for the Boards review."

7. On or around April 19, 2023, the Board received the "SLB Reporting File" from the Beckley VA Medical Center.

8. On July 20, 2023, the Complaint Committee of the Board recommended the case be turned over to the Board's Investigator for her review and report of findings.

9. On October 28, 2023, the Board received the Investigative Report wherein the Investigator stated "As indicated from all reviewers, the documentation in many of the charts was lacking. This is a true statement. There is evidence that supports the lack of documentation regarding the diagnosis, treatment planning and referrals."

10. On January 13, 2024, the Complaint Committee of the Board recommended a formal complaint be filed against the Respondent and request a response from her concerning this matter.

11. On February 15, 2024, a letter was issued to Respondent informing her that the Board had filed a complaint in this matter and requested a response within thirty days from the date of correspondence.

12. On March 18, 2024, the Board received a response from the Respondent. In this response the Respondent stated "The chart reviews are clear. I am certainly responsible for providing incomplete documentation, in certain instances."

13. The Board's Complaint Committee reviewed Respondent's response to the Board initiated complaint, the Investigative Report and documents from the VA Medical Center herewith and obtained during investigation.

14. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on April 6, 2024, found probable cause to believe that Respondent failed to meet the applicable standard of care by a lack of documentation in patient charting in violation of W. Va. Code § 30-4-19(g)(3), Being guilty of malpractice or neglect in the practice of dentistry or dental hygiene. 2. 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. 3553, 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. The Board acknowledges that Respondent's agreement to enter into this Consent Agreement is not an admission of guilt or liability and Respondent acknowledges the Findings of Fact set forth above, admits that there is probably cause to conclude that the violations set forth above, in the Conclusions of Law, may have occurred, and consents to the following Order.

5. While disputed by Respondent, the Board finds that 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, Melissa J. Keaton, 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, Melissa J. Keaton, DDS, by affixing her 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 her actions in this matter.
2. 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. The costs assessed are in the amount of three hundred ninety dollars (\$390.00).
3. Within six (6) months from the date of entry of this Order, Respondent shall complete six (6) hours of continuing education on the subject of record keeping and submit to the Board proof of successful completion. Such professional education shall not count towards the minimum number of hours required for licensure renewal.
4. Respondent shall, at all times, cooperate with the Board and any of its agents or employees.
5. 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.
6. This Consent Agreement and Order shall remain in effect until all of its terms have been completed and the obligations set forth herein have been fulfilled.
7. 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.
8. 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.

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

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

WEST VIRGINIA BOARD OF DENTISTRY

By:

William A. Klenk DDS
John E. Bogers, DDS, President
William A. Klenk, DDS, President

Entered:

7/9/2024
Date

REVIEWED AND AGREED TO BY:

Melissa J. Keaton

Melissa J. Keaton, DDS
Respondent

6/14/2024
Date

This day personally appeared before me, Melissa J. Keaton, 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 her knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 14 day of June 2024,
2024.

My Commission expires: 6/22/27

Elizabeth Prajapati
Notary Public

