

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

**WEST VIRGINIA BOARD OF
DENTISTRY,**

COMPLAINANT,

v.

CASE NO. 2021-DB-0043D

**KEITH A. MILHOAN, DDS,
LICENSE NO. 3407,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Dentistry (“Board”) and Keith A. Milhoan, 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.

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. 3407, and at all times relevant, practiced dentistry in Sistersville, West Virginia.

2. On November 9, 2021, the Board received a written complaint from an individual identified herein as “B.D.” regarding the dental care that her son received from Respondent in June and October, 2021. “B.D.” alleged that when her son saw Respondent for the chief complaint of bilateral tooth pain in June, 2021, Respondent failed to take an x-ray of her son’s mouth and merely examined him briefly before telling “B.D.” that it was “growing pains” and nothing could be done. “B.D.” reported that Respondent later saw her son on October 13, 2021, for a routine cleaning at which time “B.D.” again expressed concern about her son’s tooth pain and about a filling that had come out of one of the teeth about which her son had complained. “B.D.” maintained that Respondent again failed to take an x-ray, and told “B.D.” that her son’s teeth “looked fine” and that she could schedule an appointment at a later date to get the filling repaired.

3. The complaint further stated that “B.D.” sought and received subsequent treatment for her son at another dentist’s office on October 14, 2021. “B.D.” asserted that the subsequent treater performed x-rays of her son’s mouth and discovered that her son had two abscessed teeth in the area about which he had complained in June, 2021, as well as two cavities in his rear molars. “B.D.” stated that her son was immediately prescribed antibiotics, was

scheduled to have the abscessed teeth extracted, and was scheduled to have the cavities in his molars filled.

4. By letters to Respondent dated November 9, 2021, and April 25, 2022, the Board transmitted a copy of “B.D.’s” complaint and requested that Respondent file a written response thereto within thirty (30) days.

5. The Board received a copy of the patient treatment notes on December 30, 2021, and a written response from Respondent dated May 12, 2022. The response stated that the patient was seen in Respondent’s office for a child prophylaxis and exam on October 13, 2021. Respondent maintained that at the time of the exam, he detected two caries on #L-DO and #S-DO, but that no signs of infection or any other pathology were detected, nor were any symptoms of infection or any other pathology noted. Respondent stated that the patient was scheduled to return for restorations, but that Respondent’s office did not hear anything further from “B.D.”.

6. On July 26, 2022, the Board sent a letter to Respondent dated July 26, 2022 inquiring if radiographs were taken on October 13, 2021. The Board requested that Respondent submit diagnostic quality copies to the Board if radiographs were taken, and if radiographs were not taken, Respondent explain why they weren’t. The Board requested that Respondent respond to the letter within fifteen (15) days of receipt.

7. On August 10, 2022, the Board received a response from Respondent in which he stated “[a]s per our office policy, until 6 year old molars are displayed, we do not routinely take bite-wings. Therefore we have no x-rays. I would think that the dentist that extracted said tooth (teeth) would have x-rays.”

8. The Board also requested and received records, including treatment notes and x-rays, from the dental professional who treated “B.D.’s” son subsequent to his care with

Respondent.

9. The Board's Complaint Committee reviewed "B.D."s complaint, Respondent's response thereto, and the medical records and other documents submitted therewith and obtained during investigation.

10. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on October 21, 2022, found probable cause to believe that Respondent failed to meet the applicable standard of care by not taking the appropriate x-rays and failing to diagnose an abscess in #s L and S, in violation of W. Va. Code § 30-4-19(g)(3),(12), W. Va. Code R. § 5-5-4, and *American Dental Association Principles of Ethics & Code of Professional Conduct* § 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. 3407, 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, Keith A. Milhoan, 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, Keith A. Milhoan, 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. Within sixty (60) days from the date of entry of this Order, Respondent shall pay a fine in the amount of One Thousand Dollars (\$1,000.00).
3. 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.
4. 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 pediatric dental treatment 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.
5. Respondent shall at all times cooperate with the Board and any of its agents or employees.
6. 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.
7. This Consent Agreement and Order shall remain in effect until all of its terms have been completed and the professional education obligations set forth herein have been fulfilled.
8. 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.

9. 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.

10. 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: 
John E. Bogers, DDS, President

Entered: 7-26-2023
Date

REVIEWED AND AGREED TO BY:


Keith A. Milhoan, DDS
Respondent

June 15, 2023
Date

This day personally appeared before me, Keith A. Milhoan, 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 15 day of June, 2023.

My Commission expires: 2/10/24


Notary Public

