

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

COMPLAINANT,

v.

CASE NO. 2020-DB-0020D

**R. SCOTT MURPHY, DDS, MD,
LICENSE NO. 3284,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Dentistry (“Board”) and R. Scott Murphy, DDS, MD (“Respondent”) for the purpose of agreeing to resolution and dismissal of this action. 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 has filed 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 may proceed to a hearing and seek disciplinary action in this matter.

WHEREAS, the Board acknowledges Respondent filed a denial to the charges and it may proceed to a hearing.

WHEREAS, the parties mutually desire to settle this matter without further prosecution and a formal hearing so as to end ongoing litigation costs and expenses.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by Respondent and agrees that the existence of this Agreement is not evidence of any liability or wrongdoing 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. 3284, and at all times relevant, practiced dentistry in Huntington, West Virginia.

2. On or about July 29, 2020, the Board received a written complaint and supporting documentation from an individual identified herein as "I.M." regarding the dental care that she received from Respondent, specifically the extraction of her wisdom teeth on March 6, 2020. I.M. reports that, following the procedure, she "felt a shard of tooth that I could not seem to loosen or dislodge in the bottom right area. I called [Respondent] multiple times, and he called me back only once, to tell me that I needed to give the numbness more time to recover, and prescribed the mouth rinse at this time." I.M. further reports, "[w]hen I went to my regular dentist for my six-month cleaning in June [2020], an X-ray of my teeth was done, and showed that $\frac{3}{4}$ of my bottom right wisdom tooth was still in my mouth." I.M. provided X-rays taken before and after the wisdom tooth extraction and informed the Board that she was scheduled to have another dentist remove the remaining wisdom tooth on July 7, 2020.

3. By letter dated August 3, 2020, the Board transmitted a copy of I.M.'s complaint to Respondent and requested that he provide a written response, as well as I.M.'s patient records, within thirty (30) days.

4. On or about October 5, 2020, after granting an extension of time, the Board received a written response from Respondent, but no patient records were included. In his response, Respondent acknowledged that I.M. reported "having some issues and felt a tooth was still in her mouth where the wisdom teeth had been," but denied having committed any professional negligence or a willful departure from accepted standards of professional conduct.

5. The Board then requested and received from Respondent a copy of I.M.'s patient records. The Board also obtained records from I.M.'s subsequent treating providers, including the dentist who ultimately extracted the remaining wisdom tooth.

6. The Board's Complaint Committee reviewed I.M.'s complaint, Respondent's response thereto, and the medical records and other documents submitted therewith and obtained during the investigation.

7. Upon recommendation of the complaint committee, the Board, by majority vote at its meeting on January 23, 2023 found probable cause to believe that Respondent failed to notify I.M. of the procedure's complications, failed to keep adequate patient records, failed to take a post-operative X-ray, and failed to meet the applicable standard of care in treating I.M., in violation of W. Va. Code §§ 30-1-8(a), 30-4-19(g)(3), (12), 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. 3284, 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, while denying the merit of the claims, 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, would 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, if proven, is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, R. Scott Murphy, DDS, MD, by signing this *Consent Agreement and Order*, acknowledges the following:

1. After having had the opportunity to consult with an attorney of my choice, I am signing 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, R. Scott Murphy, DDS, MD, 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 ninety (90) days from the date of entry of this Order, Respondent shall pay a fine to the Board, made payable by check, in the amount of One Thousand Dollars (\$1,000.00).
3. Within ninety (90) days from the date of entry of this Order, Respondent shall reimburse the Board, made payable by check, the costs of this proceeding in the amount of Three Thousand Seven Hundred Twenty-Five Dollars (\$3,725.00).
4. Within ninety (90) days from the date of entry of this Order, Respondent shall reimburse I.M., made payable by check addressed to I.M. in her full name and sent to the Board,

the out-of-pocket costs of her subsequent treatment to have the remainder of her wisdom tooth extracted in the amount of Two Hundred Seventy-Five Dollars (\$275.00).

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 its terms have been completed.

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: 12-1-2023
Date

REVIEWED AND AGREED TO BY:

, MD, DDS
R. Scott Murphy, DDS, MD
Respondent

11/16/23
Date

This day personally appeared before me, R. Scott Murphy, DDS, MD, 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 November, 2023.

My Commission expires: Aug 20, 2024


Notary Public

