

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

CASE NO. 2015-DB-0037D

R. SCOTT MURPHY, DDS, MD,

Respondent.

FINAL ORDER FOLLOWING HEARING

This matter came for consideration before the West Virginia Board of Dentistry (hereinafter referred to as "the Board") at its regularly scheduled board meeting on the 21st day of July, 2016, following a hearing conducted before the Board's duly appointed hearing examiner on March 28, 2016. Since that time, the Board has received a full transcript of the hearing and the Hearing Examiner's "Recommended Decision" submitted on July 11, 2016, which includes the Hearing Examiner's findings of fact, conclusions of law and recommendations for disciplinary action.

In consideration of these materials, the Board **MODIFIES** the discipline recommended by the Hearing Examiner only as to when the period of suspension imposed is to begin. The Hearing Examiner recommended that the period of suspension to be imposed "...shall begin *upon entry of the Board's decision.*" (emphasis added). The Board recognizes the need for the Respondent to prepare his office and staff on the status of his practice during the suspension period, and for him to secure another dental professional to treat his patients, especially in cases of emergencies, during that time. Accordingly, the Board hereby **STRIKES** "...upon entry of the Board's decision" and in lieu thereof **ADOPTS** "at 12:01 a.m., on the third day following service

of the Board's decision upon the Respondent." For example, should the Respondent be served with this Final Order on a Friday, his period of suspension shall begin at one minute after midnight on the following Sunday night. It is the intention of the Board to give the Respondent at least two full days to get his office in order and to find a backup dentist or oral surgeon to tend to his patients during his period of suspension.

The Board **ADOPTS** in its entirety the remaining findings of fact, conclusions of law and recommended decision issued by the Hearing Examiner and, as such, the Hearing Examiner's Recommended Decision is hereby incorporated into this Final Order.

The Board, having **ADOPTED** the Hearing Examiner's Recommended Decision except as modified above, hereby **ORDERS** the following:

1. The Respondent shall be reprimanded;
2. The Respondent's license to practice dentistry and administer anesthesia shall be suspended for a period of six (6) months, all of which shall be stayed except for a period of twenty working days, which period shall begin at 12:01 a.m., on the third day following service of the Board's decision upon the Respondent;
3. During the twenty working day suspension, the Respondent shall neither practice dentistry nor administer anesthesia in any manner or form. Should the Respondent violate the terms of the suspension by practicing dentistry and/or administering anesthesia in any form or degree during the twenty working day suspension, the Board may take action to immediately lift the stay and impose the full six-month suspension;
4. As soon as possible and prior to the expiration of the twenty working day suspension referenced above, the Respondent shall undergo a mental health evaluation by a licensed professional selected and/or approved by the Board, to determine his fitness and

competency to practice dentistry. W. Va. Code § 30-4-17(c). Should the mental evaluation take longer to complete than the expiration of the twenty working day suspension, the period of suspension shall continue beyond the twenty working days until such time as the mental evaluation has been completed and a decision has been rendered;

5. Should the mental health evaluation result in the determination that the Respondent is competent to practice dentistry, the Respondent's license and anesthesia permit shall be reinstated at the end of the suspension period and, thereafter, the Respondent shall be placed on probation for a period of one year beginning on the day following the expiration of any period of suspension, subject to terms and conditions to be imposed by the Board including, but not limited to, refraining from verbal, written and physical abuse of patients directly or indirectly, or through communications with the Board;

6. Should the Respondent violate the terms of his one-year probationary period, the Board may take action to further suspend or to revoke his license;

7. Should the mental evaluation result in the determination that the Respondent is not competent to practice dentistry, the Board shall take immediate and appropriate action to fully suspend and/or revoke the Respondent's license and anesthesia permit and to provide the Respondent with due process regarding the same;

8. The Respondent shall undergo six (6) hours of continuing education in the area of anger management and patient relations, over and above the continuing education requirements necessary to retain his license, which shall be completed during the first year of his probation;

9. The Respondent shall pay a fine of one thousand dollars (\$1,000.00); and

10. The Respondent shall reimburse the Board its costs in prosecuting this matter.

It is further ORDERED that the Respondent shall notify the Board, forthwith and no later than the first day of his suspension period, of the name(s) and contact information of any dentist and/or oral surgeon who has agreed to see the Respondent's patients while he is on suspension. The Respondent's failure or unwillingness to provide this information by the deadline imposed shall be deemed a violation of this Final Order and/or the terms of his suspension and may subject the Respondent to further disciplinary action.

NOTICE OF RIGHT TO APPEAL

If you are adversely affected by this Final Order, you have a right to appeal it to the Circuit Court of the County in which you reside within thirty (30) days from the date you receive this Final Order. The petition for review must name the WEST VIRGINIA BOARD OF DENTISTRY as the respondent. Before presenting your petition to the court, you must mail copies of your petition to the President and to the Executive Secretary of the West Virginia Board of Dentistry at 1319 Robert C. Byrd Drive, Crab Orchard, West Virginia, 25827.

The filing of an appeal as described above does not stay or supersede the Board's Final Order, therefore, you must comply with the terms of the Board's Final Order until such time as your appeal is decided.

Reference may be made to W. Va. Code § 30-1-9, for a more complete description of the appeals process.

DATE ENTERED: _____

7/28/2016

WEST VIRGINIA BOARD OF DENTISTRY

By: _____

STAN W. KACZKOWSKI, DDS
President

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

CASE NO. 2015-DB-0037D

R. SCOTT MURPHY, M.D., DDS,

Respondent.

RECOMMENDED DECISION

This matter was heard on March 28, 2016, by the West Virginia Board of Dentistry's ("Board") designated Hearing Examiner, Jeffrey G. Blydes, Esquire. The hearing convened at the Attorney General's Office, 812 Quarrier Street, 6th Floor, Charleston, West Virginia, pursuant to notice timely issued by the West Virginia Board of Dentistry regarding a complaint filed against R. Scott Murphy, DDS, MD.

The West Virginia Board of Dentistry was represented by Assistant Attorney General Betty A. Pullin. R. Scott Murphy, DDS, MD, appeared *pro se*. Based on a thorough review of the entire record, the undersigned makes the following recommended Findings of Fact, Analysis, and Conclusions of Law.

FINDINGS OF FACT

1. At all times material hereto, Dr. Murphy was an oral surgeon licensed by the West Virginia Board of Dentistry, License No. 3284. (Tr. 87) Dr. Murphy also has a Class 3B anesthesia permit which allows him to administer (intravenous) sedation but not general anesthesia. (Tr. 87, 107-108, 132) His practice is located in Huntington, West Virginia. (Tr. 47, 111) Dr. Murphy has

been licensed by the Board since approximately 1995.¹ (Tr. 112)

2. In June 2015, Melissa Flowers was a 23-year-old married mother of a newborn baby who was experiencing pain and swelling from her wisdom teeth. (Tr. 14-15, 45, 63-64) Ms. Flowers resides in Saint Albans, West Virginia. (Tr. 14, 63)

3. In approximately May 2015, Ms. Flowers went to the emergency room of Thomas Memorial Hospital (“TMH”) for assistance with her wisdom teeth. (Tr. 15) Due to a lack of insurance, Ms. Flowers was referred by TMH to West Virginia Health Right in Charleston, West Virginia (hereinafter “Health Right”).² (Tr. 15, 18, 46)

4. Ms. Flowers obtained a Medicaid card that would pay for any extractions of her teeth. (Tr. 16)

5. Of primary concern to Ms. Flowers in selecting someone to remove her wisdom teeth was the type of anesthesia used. According to Ms. Flowers, she had undergone a traumatic caesarean section in February 2015, during which she was not fully numb during the procedure. (Tr. 17-18, 59-60, 76-77) Accordingly, she sought to find an oral surgeon who would put her to sleep during the procedure to remove her wisdom teeth. (Tr. 17-18, 59-64)

6. Ms. Flowers had an appointment with Health Right in May 2015 regarding her wisdom teeth and was advised that they needed to come out. (Tr. 15-16, 46, 61) However, Health Right was not able to schedule her extraction until August 2015. Moreover, Health Right would only extract two teeth at a time. (Tr. 16, 46) Additionally, Health Right only provided local numbing

¹Dr. Murphy has never before been disciplined by the Board. (Tr. 112)

²Health Right is a facility in Charleston that will perform free health care (including dental surgery) for people with low income or no health insurance. (Tr. 61-62)

which was not the type of sedation that Ms. Flowers sought. (Tr. 16, 46, 59). Therefore, Ms. Flowers searched the internet for oral surgeons who could do the extractions sooner; who would take Medicaid; and who would put her to sleep during the procedure. (Tr. 16-17, 59)

7. Ms. Flowers found Dr. Murphy's practice on the internet; contacted it; and learned that they took Medicaid.³ (Tr. 16-18) She testified that she also asked whether "they just numb you or do they put you to sleep." (Tr. 18) Ms. Flowers indicated that she was told by Dr. Murphy's staff that they offered "local numbing or IV sedation." (Tr. 18, 41-42)

8. Ms. Flowers understood IV sedation to mean that she would be "sedated" so she made an appointment. (Tr. 18, 41-41) Her appointment was within two to three weeks. (Tr. 18-19)

9. On June 30, 2015, Ms. Flowers, accompanied by her mother Penny Hill, went to Dr. Murphy's office for her appointment. (Tr. 19, 47)

10. Ms. Flowers was given "the usual paperwork" that is filled out at a dental office. (Tr. 19) She completed it and returned it to the front desk. (Tr. 19, 47)

11. Ms. Flowers completed an "Informed Consent" form. (Tr. 130-131, 136-138; Murphy Ex. 1) The Informed Consent form signed by Ms. Flowers authorized Dr. Murphy to administer local anesthesia or IV conscious sedation, which was described in the document as "basically a 'twilight' sleep and that Dr. Murphy and his assistant will be conversing with her throughout the procedure and may need her cooperation during the procedure for it to be a success." (Tr. 131; Murphy Ex. 1, pp. 1-2)

12. As a routine practice, neither Dr. Murphy nor his staff review the Informed Consent

³Dr. Murphy testified that he found it noteworthy that Ms. Flowers resides in Saint Albans, but located a practice in Huntington - - about forty-two miles away - - and "jumped over" other practitioners to see him. (Tr. 129-130)

form with a patient unless the patient has a cognitive deficit, a vision deficit, or something else preventing them from being able to read it themselves. (Tr. 150-151, 198-199) The patient is given the form, told to read both front and back, sign it, and ask questions if needed. (Tr. 151)

13. After Ms. Flowers completed the paperwork, she and her mother were taken to an exam room. (Tr. 19, 47)

14. Prior to the procedure, Ms. Flowers told the staff, including Dr. Murphy, that she wanted to be put to sleep during the procedure. Apparently, no one associated with Dr. Murphy's practice indicated that she would not be put to sleep. However, and as noted, the Informed Consent form indicated that the IV sedation would be a "twilight" sleep during which the patient could converse with the doctor and his staff. (Tr. 20, 42)

15. The employee who escorted her to the room for the procedure asked Ms. Flowers whether she wanted local numbing or anesthesia. (Tr. 19, 42, 47, 60-61) Ms. Flowers testified that the employee specifically said "anesthesia" instead of IV sedation, and Ms. Flowers responded "anesthesia." (Tr. 19, 42, 57, 60-61) Ms. Flowers told the employee she wanted to be put to sleep; the employee did not offer any information to the contrary. (Tr. 20, 42, 48, 57, 60-61)

16. Thereafter, Dr. Murphy came into the room and initially asked Ms. Flowers what she needed from him that day, to which she responded that she needed her wisdom teeth to be taken out. (Tr. 20-21, 48)

17. Ms. Flowers described Dr. Murphy's demeanor as hurried and unpleasant. (Tr. 21)

18. Dr. Murphy examined her mouth and x-rays were taken. (Tr. 21, 48)

19. Dr. Murphy found that Ms. Flowers had a partial bony impaction on the bottom and obvious caries, or decay and crumbling of a tooth or bone, on the upper, and determined that her

wisdom teeth needed to be extracted. (Tr. 120, 146-150)

20. In response to his question about the type of numbing or anesthesia she wanted, Ms. Flowers told him she wanted anesthesia. (Tr. 21, 60-61)

21. Approximately twenty minutes later, Ms. Flowers was taken to the surgery room. (Tr. 21-22) Her mother returned to the waiting room. (Tr. 22, 49)

22. Ms. Flowers sat in a reclining dentist chair. (Tr.22) Dr. Murphy's assistant placed a heavy apron on Ms. Flowers, "like the heavy lead apron that you would use if you were getting an x-ray." (Tr. 22) The assistant proceeded to lay utensils on the top of the apron that was on Ms. Flowers' chest. (Tr. 22) The assistant placed an oxygen mask around Ms. Flowers' nose and Dr. Murphy started an IV. (Tr. 22-23) Ms. Flowers vaguely recalled hearing Dr. Murphy say something about fentanyl. She became groggy. (Tr. 23)

23. The next thing Ms. Flowers recalled was Dr. Murphy working in her mouth and becoming uncomfortable. (Tr. 23) Ms. Flowers realized she was conscious during the procedure and became confused because she thought she was going to be sedated. (Tr. 23) She then became upset. (Tr. 24)

24. Ms. Flowers tried to voice that she was not okay but she had "things" in her mouth and was unable to speak. (Tr. 24) She also had the heavy apron laying across her chest and a blood pressure monitor on her finger so it was difficult for her to raise her hand to get Dr. Murphy's attention. (Tr. 24)

25. As a result, Ms. Flowers cried out to let Dr. Murphy know that she was not okay. (Tr. 24)

26. Dr. Murphy testified that Ms. Flowers had moved her head up and was screaming and

“way out of control.” (Tr. 153)

27. In response, Dr. Murphy jerked the oxygen mask off her face; got within close range of her face (6 to 8 inches); and yelled at her to “stop it.”⁴ (Tr. 24-25)

28. Ms. Flowers began crying hysterically. (Tr. 25-26)

29. Ms. Flowers had difficulty talking because she was groggy and upset. She tried to explain to Dr. Murphy her experience with her caesarean section and asked why she was not asleep. Dr. Murphy responded, “we don’t do that here.” (Tr. 26) That was the first time Ms. Flowers learned that she was not going to be under the type of sedation she wanted. (Tr. 26)

30. Dr. Murphy believed, based on his many years of experience, that Ms. Flowers’ reaction was fake, i.e., a “put-on.” (Tr. 133-134) He further testified that he had given Ms. Flowers a strong dose of fentanyl and that it should have been sufficient for the procedure. (Tr. 143-145)

31. At this point, Ms. Flowers’s mother Penny Hill, who was in the waiting room, heard the exchange between her daughter and Dr. Murphy. Specifically, she testified that she heard someone crying and Dr. Murphy yelling to “stop it.” (Tr. 49-50)

32. Mrs. Hill recognized the crying person to be her daughter, Melissa. (Tr. 50). She asked the receptionist what was going on. (Tr. 50) The receptionist checked on Ms. Flowers and reported to her mother that Ms. Flowers was very upset. (Tr. 50)

33. Mrs. Hill questioned why her daughter was awake during the procedure since they understood she was to be asleep. The receptionist told her that they did not put patients to sleep. (Tr.

⁴During his testimony, Dr. Murphy denied jerking the mask off Ms. Flowers’s face, but admitted to pulling the mask back away from her face, getting pretty close to her and telling her to “stop it.” (Tr. 153-155) He admitted to being very firm but denied being frustrated. (Tr. 155) Dr. Murphy admitted that he did “get into her face” but was not “unprofessional.” He asserted that his action was “needed.” (Tr. 134)

50) This was the first time that Mrs. Hill was advised that Dr. Murphy's office did not put patients to sleep during wisdom teeth extractions. (Tr. 50) Mrs. Hill wanted to see her daughter but was not permitted to see her until the procedure was complete. (Tr. 50-51)

34. Meanwhile, Dr. Murphy stopped the procedure to allow Ms. Flowers to calm down. (Tr. 27, 135-136, 171)

35. Ms. Flowers thought Dr. Murphy left the room; however, Dr. Murphy was sitting behind her on a stool. (Tr. 27, 135-136, 171)

36. Dr. Murphy eventually asked Ms. Flowers if she wanted to continue the procedure. (Tr. 28) Ms. Flowers described his demeanor as frustrated and angry. (Tr. 28) Dr. Murphy denied being angry or frustrated at the time, testifying that he was just "very firm." (Tr. 155)

37. Ms. Flowers did not ask to leave the office or abandon the procedure. Ms. Flowers consented to continue the procedure and permitted Dr. Murphy to finish. (Tr. 28, 136)

38. Dr. Murphy successfully completed the extraction of her four wisdom teeth. (Tr. 29)

39. According to Dr. Murphy, the extraction of Ms. Flowers' wisdom teeth went "picture perfect smooth." (Tr. 134) By all accounts, the extraction of Ms. Flowers' wisdom teeth was successful and without complications.

40. Ms. Flowers first realized the procedure was over when her mother entered the room. (Tr. 30, 51)

41. Mrs. Hill testified that no one explained what occurred during the procedure. (Tr. 52-53) Mrs. Hill was given a sheet of paper with post-operation instructions on it, gauze and prescriptions for her daughter. (Tr. 30, 42-43, 52-53, 57)

42. Dr. Murphy prescribed Norco, a hydrocodone pain medication, to address any pain

Ms. Flowers might experience. (Tr. 43, 124-125) Dr. Murphy indicated that this was the most popular prescription drug among "drug seekers." He indicated that he thought it would be "cold" to not provide it to her. (Tr. 125)

43. After Ms. Flowers left Dr. Murphy's office, she did not hear from his office, and only returned to his office once to obtain copies of her patient file. (Tr. 30-31)

44. As they were leaving Dr. Murphy's office to walk to the car, Mrs. Hill had her arm around her daughter and her daughter burst into tears. (Tr. 53-54) Ms. Flowers was crying so hard she could barely walk. (Tr. 53-54) Ms. Flowers told her mother "I was awake. He screamed at me and ripped the mask off of me." (Tr. 54)

45. Mrs. Hill called Ms. Flowers' husband and told him what happened. (Tr. 55-56, 65-66) Mr. Flowers then called Dr. Murphy, and he and Dr. Murphy got into a heated discussion. (Tr. 66-73; 136-137, 155-156)

46. On July 2, 2015, Ms. Flowers filed a complaint with the Board against Dr. Murphy. (Tr. 87-88; Bd. Ex. A.

47. On August 12, 2015, Dr. Murphy filed his response with the Board to Ms. Flowers' complaint. (Tr. 90; Bd. Ex. C) His response to her complaint included the following pertinent comments:

(a) "The most important information from the surgery is that Ms. Flowers was given 300 micrograms of fentanyl and 5 milligrams of midazolam PRIOR to any local anesthetic injections which is considerably higher than the 100 microgram (200 micrograms is a heavy dose) standard dose of fentanyl for this very STANDARD and MINOR OUTPATIENT OFFICE procedure." (Bd. Ex. C, p. 2) (emphasis in text);

(b) "As verified by my office staff, Ms. Flowers SCREAMED at the top of her lungs several times upon MINIMAL provocation (the local anesthetic injections) even though the injections were performed very carefully and slowly." (Bd. Ex. C, p.2) (emphasis in text);

(c) "At this point it was very NECESSARY to FIRMLY tell Ms. Flowers to STOP screaming, and that this was very UNNECESSARY and COMPLETELY INAPPROPRIATE given the social situation (. . .)." (Bd. Ex. C, pp. 2-3) (emphasis in text);⁵

(d) "She quickly began talking about a traumatic experience she had getting a C-section and CLEARLY STATED that she was not in my office getting her wisdom teeth removed "just to get pain pills." (Bd. Ex. C, p. 3) (emphasis in text);

(e) "As to Ms. Flowers' assertion of the statement 'We don't do that here,' I informed her that we do NOT provide general anesthesia in my office. That information ... is provided at multiple points during any visit to my office for surgery. It is also CLEARLY stated in the informed consent." (Bd. Ex. C, p. 3) (emphasis in text);

(f) "Whatever 'nicks and cuts' Ms. Flowers is referring to are normal. She had SURGERY. Cuts are made to PERFORM surgery. This is VERY NORMAL." (Bd. Ex. C, p. 3) (emphasis in text);

(g) "...Melissa's husband DID call in to speak with me for which I gave the above account over the phone. ... There was NO profanity from ME at any time and the husband was very INAPPROPRIATE and RUDE to the point I nearly had to put the phone down." (Bd. Ex. C, p. 3) (emphasis in text); and

48. Dr. Murphy's response also includes the following statement:

To my overall response to this complaint, BOTH Melissa AND her husband are two of the most LOW CLASS people I have EVER met. They should have far more RESPECTFUL and APPRECIATIVE attitudes for any service ANYONE would EVER provide to them based on their atrociously BAD/DIRTY/INEXCUSABLE and obvious back-stabbing behavior and conduct. Furthermore, with the understanding that Ms. Flowers is CLEARLY a DELUSIONAL, BACK-STABBING LIAR as can be seen from her written, FABRICATED complaint, if her and her husband really want to see how well a blatantly OBVIOUS, TANDEM, PREMEDITATED

⁵The "enclosure" referenced in paragraph (c) above appears to be a page from an office manual from Dr. Murphy's practice, with an asterisk next to section 1.81 titled "Unmanageable, Uncooperative or Complaining Patient" which contains the following text:

In the event that a patient is rude, unmanageable, or overly complaining in the office, on the telephone, or in the operatory, stop what you are doing. Excuse yourself and gain assistance from others in the office. The situation must be brought under control to have a proper atmosphere and environment. (Bd. Ex. C, p. 5; see also, Tr. 139-140)

TERRORIST ATTACK disguised as a “drug run” is received, they should try to do so in their OWN NEIGHBORHOOD! This complaint is NOT about the absolute INSULT to a VERY WELL EXPERIENCED AND WELL EDUCATED SURGEON’S INTELLIGENCE by the allegation of any perceived inability to notice and/or understand a patient’s pain perception, but the JUDGMENT and TREATMENT of an OBVIOUSLY PHONY, co-conspired, and contrived DRUG SCAM by two LOW-LIFE co-conspirators to run down to Huntington from SAINT ALBANS to get their drugs because of a probable bad reputation where they live. A fair percentage of the general public, as evidenced by the Flowers’ actions, seems to have the belief that the “louder you scream the more/better drugs you will get.” This OBVIOUSLY FLAWED THINKING and inexcusably BAD behavior and ATTITUDE is NOT welcome at this office and will be met by the SAME judgment AND treatment by THIS surgeon every time. Oral surgery is a legitimate industry which provides legitimate services for the population served. It needs to be RESPECTED as such as most of us surgeons have trained for years to provide our services to the public. I view things based on what is PRESENTED and what is viewed during events that transpire in my office. Based on the concept that CLASS is the mode of conduct presented to others and NOT a person’s financial status, the presentation by the Flowers and the events which transpired while they were in my office and their conduct afterwards leaves me NO CHOICE but to view them as LOW CLASS TRASH!! If they wish any better treatment and judgment from others, then they need to SHOW MUCH BETTER RESPECT AND PRESENTATION to other people.” (Bd. Ex. C, pp. 3-4) (emphasis in text).

49. In accordance with West Virginia Code of State Rules § 5-5-5.9, the Board forwarded a copy of Dr. Murphy’s response to Ms. Flowers. (Tr. 90-191; Bd. Ex. C, p. 1)

50. On August 19, 2015, Ms. Flowers filed a reply to Dr. Murphy’s response in which she more fully described her experience with Dr. Murphy during her appointment and adamantly denied any history of drug abuse. (Bd. Ex. D, p. 2) She also questioned Dr. Murphy’s attitude toward Medicaid patients by his referring to them as “low class trash” - including her husband, whom at that time Dr. Murphy had never met. (Bd. Ex. D, pp. 2-3)

51. At the hearing in this case, Dr. Murphy testified regarding his response that he still believed that the Flowers were extremely “low class” and that they were “disrespectful.” (Tr. 159, 163, 181)

52. Dr. Murphy indicated that 80% to 90% of his practice consists of Medicaid patients.
(Tr. 163)

53. Dr. Murphy testified that although he had suspicions that Ms. Flowers was exhibiting drug seeking behavior, he did not contact the West Virginia Board of Dentistry Controlled Substance Monitoring Program as it related to Ms. Flowers. Nor did he contact law enforcement. (Tr. 166-169)

54. Dr. Murphy suspected that Ms. Flowers was seeking drugs because she resided in Saint Albans and other oral surgeons were closer to her home, because of the amount of fentanyl that was required to sedate her, and because of her behavior during and after the procedure. (Tr. 160, 169)

55. Dr. Murphy indicated that he could have refused service to Ms. Flowers if he thought she was not there for a legitimate medical reason. (Tr. 170) Nonetheless, he elected to perform the procedure and continued it after she behaved as he described. (Tr. 170-173)

56. After prescribing hydrocodone to Ms. Flowers, she did not ask for additional prescriptions. (Tr. 173)

57. In his testimony at the hearing on March 28, 2016, Dr. Murphy made the following statements:

(a) Dr. Murphy admitted that he believed Ms. Flowers was faking her pain and he is not as compassionate towards patients whom he believes are faking their pain. (Tr. 175-176);

(b) During his testimony at the hearing, Dr. Murphy repeatedly referred to the "bunch of stuff" that the Flowers allegedly did that caused him to write the response to the Board in the manner in which he wrote it, including, what he called, "the two biggies." (1) the husband

talked disrespectfully to him over the phone (Tr. 182); and (2) the Flowers family went behind his back and filed a complaint against him with the Board, after he believed he had calmed down a situation in a professional manner. (Tr. 182);

58. Dr. Murphy believed that Ms. Flowers should have talked to him before filing the complaint with the Board. Because of the filing of the complaint, he referred to them as “atrociously dirty” and “obviously back-stabbing.” (Tr. 182)

59. Dr. Murphy’s testimony attempted to depict Ms. Flowers as a drug-seeker, in an apparent effort to justify his treatment of her during her appointment and in his response to her complaint with the Board. Specifically:

(a) Dr. Murphy first came to the conclusion that Ms. Flowers was a drug-abuser because he had to give her 300 micrograms of fentanyl to sedate her:

“If you’re having to give somebody an outrageous amount of especially narcotic, and they are reacting like that, no. Something’s going on.... they’ve already got a chronic problem and they’re not telling you and they have a very high tolerance for everything.” (Tr. 144-145, 171);

(b) Dr. Murphy testified that he knows all the oral surgeons within a fifty to one-hundred mile radius of his office and if a patient bypasses those oral surgeons to come to him, that raises a red flag to him. (Tr. 129-130, 143-144). However, Dr. Murphy later admits that someone coming from Saint Albans to Huntington for treatment was not enough of a red flag for him to deny treating her. (Tr. 170);

(c) While Dr. Murphy could have reversed the anesthesia and asked her to leave if he believed Ms. Flowers was a drug abuser, he “backed away” after the incident in his office, allowing Ms. Flowers to decide if she wanted to proceed. (Tr. 171-173);

(d) Dr. Murphy compared Ms. Flowers to one of his other patients, Stephanie S., whom he identified as having a long history of chronic drug abuse, was on Suboxon, and needed a full-mouth extraction due to the effects drug abuse had on her teeth. (Tr. 127, 142). According to Dr. Murphy, even after having been given high levels of fentanyl and midazolam, Stephanie S. still screamed at the top of her lungs. (Tr. 127-128);

(e) However, Dr. Murphy admitted that Ms. Flowers' teeth were not like the teeth of Stephanie S. (Tr. 142). The x-ray taken of Ms. Flowers' teeth indicated she had a partial bony impaction and that there was a legitimate medical reason for the extraction of her wisdom teeth. (Tr. 148-150; Murphy Ex. 2). Dr. Murphy acknowledged that the condition of the teeth of Ms. Flowers as compared to Stephanie S. were not even close. (Tr. 143);

60. Dr. Murphy admitted that he had never met Larry Flowers, Ms. Flowers' husband, in person until the hearing on March 28, 2016, and had only talked to him on the phone the one time. (Tr. 169)

61. At the time Dr. Murphy wrote his response to the Board, Dr. Murphy admitted that he had no idea whether Larry Flowers was a drug abuser or not. (Tr. 169)

62. Dr. Murphy's only witness at the hearing, other than himself, was Roxanne Vaughn, a licensed practical nurse, who has worked for him for approximately 7 ½ years. (Tr. 185-186)

63. Ms. Vaughn assists Dr. Murphy in surgery but had no recollection of Ms. Flowers as a patient. (Tr. 186, 192-193, 198)

64. Ms. Vaughn testified generally that on occasions when a patient is not tolerating anesthesia well, Dr. Murphy and his staff will take steps to calm the patient, such as turning down the lights and waiting for the patient to calm down. (Tr. 188-189)

65. Ms. Vaughn further testified that generally if a patient is not tolerating anesthesia well and screams out, she has observed Dr. Murphy raise his voice and ask them not to scream. (Tr. 196-197)

66. Ms. Vaughn further testified that while she had never before seen him get down in the patient's face when he tells them not to scream, he is usually standing next to the patient giving them shots and the patient is screaming in his face. (Tr. 197)

67. Ms. Vaughn also occasionally answers the phone when a pharmacist may call in to report that a patient for whom Dr. Murphy has prescribed pain medication is already on pain medication from another doctor. (Tr. 191) However, Ms. Vaughn had no knowledge if the office ever received any such call regarding Ms. Flowers. (Tr. 191)

68. Ms. Flowers is now very distrustful of physicians and dentists. (Tr. 39) Ms. Flowers denies ever abusing prescription pain medication and went to Dr. Murphy's office for the sole purpose of having her wisdom teeth extracted. (Tr. 39-40).

ANALYSIS

The facts in this case are, for the most part, not in dispute. Ms. Flowers had a caesarean section in February of 2015 and the administration of anesthesia in that case did not fully numb her, causing her to have a "traumatic" procedure. When she discovered in May and June of 2015 that she would have to have her wisdom teeth extracted, Ms. Flowers wanted to insure that the provision of anesthesia would put her to sleep so that she was completely unaware of the extraction.

In May of 2015, Ms. Flowers went to the emergency room at Thomas Memorial Hospital because of pain from her wisdom teeth. Because she did not have insurance, Ms. Flowers was

referred to West Virginia Health Right in Charleston, West Virginia. Ms. Flowers obtained a Medicaid card that would pay for the extraction of her teeth. At Health Right, Ms. Flowers was informed that her wisdom teeth needed to be removed; that they could not remove her teeth until August of 2015, or an approximate three month wait; and that Health Right would only remove two teeth at a time. Finally, Health Right indicated that it only performed local numbing which was not the type of sedation Ms. Flowers sought.

As a consequence, Ms. Flowers searched for an oral surgeon who could perform the extractions sooner and all four wisdom teeth at once; who would take Medicaid; and who would put her to sleep during the procedure. Ms. Flowers located Dr. Murphy's practice on the internet and contacted him. Ms. Flowers – who resides in Saint Albans which is some forty miles from Dr. Murphy's office – learned that Dr. Murphy took Medicaid payments and that she could have the teeth extracted within two to three weeks. Importantly, she also learned that she could receive "IV sedation" and believed that this meant that she would be sedated during the procedure.

Upon arriving for her appointment on June 30, 2015, Ms. Flowers completed an "Informed Consent" form that indicated, in part, that Dr. Murphy would administer local anesthesia or IV conscious sedation which, as described by the document, was a "twilight" sleep, and that Dr. Murphy and his assistant would converse with her during the procedure.

Ms. Flowers testified that she told staff – on numerous occasions and up to the time that anesthesia was administered – that she wanted to be put to sleep during the procedure. There is no evidence that anyone from Dr. Murphy's office (including Dr. Murphy) explained to Ms. Flowers that she would not, in fact, be asleep, but would instead be in a twilight sleep during which she would be able to communicate.

Once the procedure began, Ms. Flowers became uncomfortable and, undoubtedly, aware that she was in the midst of the extraction procedure. She began to cry out in an attempt to voice her concerns. As Ms. Flowers became upset, Dr. Murphy pulled the mask off of her face in a manner that shocked Ms. Flowers. He then got very close to her face and either yelled or forcefully directed her to “stop it.” Dr. Murphy explained that such actions were “needed.”

There is *no* evidence of record that Dr. Murphy acted compassionately or patiently with Ms. Flowers. To the contrary, Dr. Murphy’s *first* interaction with her, after Ms. Flowers cried out, was to, in essence, reprimand her by telling her to “stop it.” As Ms. Flowers attempted to explain that she had thought she was going to be put to sleep, she was told by Dr. Murphy – for the first time and after the procedure had begun – that “we don’t do that here.”

Although she remained upset until after the procedure was completed, Ms. Flowers permitted Dr. Murphy to complete the procedure.

Following the procedure, Ms. Flowers’ husband called Dr. Murphy and had a heated exchange with him. Dr. Murphy admitted to Mr. Flowers that he had jerked the mask off of Ms. Flowers’ face and that he had told her to “stop it.” Mr. Flowers further indicated that Dr. Murphy accused him and his wife of being “drug seekers” and belittled them because he allegedly believed they were drug addicts. Indeed, Mr. Flowers testified, without contradiction, that Dr. Murphy referred to him as a “drug addict” – even though they had never met in person. Mr. Flowers also believed that it was possible that both men used profanity during the conversation.

Thereafter, Ms. Flowers filed the underlying complaint with the Board and Dr. Murphy responded. In pertinent part, Dr. Murphy responded to Ms. Flowers’ complaint as follows:

(1) Ms. Flowers and her husband “are two of the most low class people I have ever met.”

(2) Their behavior is “atrociously bad/dirty/inexcusable and obvious back-stabbing.”

(3) Ms. Flowers is “clearly a delusional, back stabbing liar.”

(4) Mr. and Ms. Flowers have engaged in a “blatantly obvious, tandem, premeditated terrorist attack disguised as a drug run.”

(5) The Flowers must be viewed as “low class trash.”

At the hearing in this matter and in his post-hearing submissions, Dr. Murphy has reiterated that Ms. Flowers was a drug-seeking patient; that Ms. Flowers suffered from mental illness; and that the Informed Consent form provided to Ms. Flowers explained the type of anesthesia she would receive.

As a threshold matter, the issues in this case arise from the exchange that occurred between Dr. Murphy and Ms. Flowers when she became aware that she was not completely asleep and was conscious of the extraction procedure. It is uncontraverted that Ms. Flowers became upset and cried out during the procedure. Moreover, the Board established by a preponderance of the evidence that Dr. Murphy forcefully removed Ms. Flowers’s mask and told her to “stop it.” Indeed, there is no evidence that Dr. Murphy patiently addressed his patient’s concerns; discussed the matter with her; or exhibited any type of compassionate bedside manner that one should expect under such circumstances. Instead, Dr. Murphy was quickly angered by Ms. Flowers; resorted to physically removing her mask in a forceful way; and reprimanded her by forcibly telling her to “stop it.” Indeed, it must be emphasized that Dr. Murphy’s harsh reaction was in response to a *single* outburst by Ms. Flowers.

Dr. Murphy explained at the hearing that Ms. Flowers “needed it.” He then testified and stated in his written response that he believed that Ms. Flowers was simply chasing drugs and that was the purpose for her visit to his office. In support of his theory, Dr. Murphy indicated that the fact that Ms. Flowers traveled from Saint Albans to Cabell County for the procedure and that 300 micrograms of Fentanyl was sufficient to sedate Ms. Flowers, supported his theory that she was a drug seeker. The undersigned is unpersuaded by Dr. Murphy’s argument. Indeed, Dr. Murphy’s theory that Ms. Flowers was a drug seeker is undermined by the uncontraverted facts of this case and Dr. Murphy’s own actions.

First, the record establishes that Ms. Flowers traveled to Cabell County for the procedure because she did not have private insurance to cover the procedure; that she sought assistance through Medicaid; that a local provider in Charleston did not have an opening for her for months and would only extract two teeth at a time; and that Ms. Flowers located Murphy’s dental practice on-line. In fact, Dr. Murphy readily admitted that he accepts Medicaid patients like Ms. Flowers and that approximately 80% of his practice is made up of Medicaid recipients. Ms. Flowers traveled a moderate distance of about forty miles to a practitioner who would accept Medicaid; extract all four teeth; and fully (so she believed) sedate her.

Second, Ms. Flowers complained that she became aware of the procedure while it was occurring and that she was uncomfortable as a result. Moreover, the evidence indicates that the Fentanyl did have some impact on her. She testified that she was confused during the procedure and that she only became aware of the procedure part way through it. Ms. Flowers did not indicate that she was in severe pain, but only that she was uncomfortable with her awareness of the procedure.

Third, had Dr. Murphy believed from the outset that Ms. Flowers was a drug seeking patient, one would imagine that he would not have prescribed hydrocodone to her. Nor would he have failed to inquire about Ms. Flowers with the West Virginia Board of Pharmacy's Controlled Substance Monitoring Program. Instead, he did in fact prescribe hydrocodone and did not contact the monitoring program. Notably, Ms. Flowers received the prescription for hydrocodone and did not seek any refills for it from Dr. Murphy.

Based upon the preponderance of the evidence, the undersigned finds that Ms. Flowers did not seek care from Dr. Murphy as a way to get drugs. Instead, she sought a professional oral surgeon to relieve her pain and discomfort by removing her wisdom teeth.

Dr. Murphy further asserted at the hearing in this matter that he believed that Ms. Flowers suffered from a mental health issue that he characterized as "factitious disorder." He testified that he believed that those who have factitious disorder act as though they have medical issues – when, in fact, they do not – in order to gain attention or sympathy. Dr. Murphy admitted that he was unaware as to whether Ms. Flowers was even diagnosed by a mental health professional as having "factitious disorder." Dr. Murphy is not a psychiatrist or psychologist. Importantly, he readily conceded that Ms. Flowers was in need of a wisdom teeth extraction and that he did in fact perform the procedure. Based upon the evidence of record, the undersigned finds that there is no evidence to support Dr. Murphy's theory that Ms. Flowers has "factitious disorder."

In assessing the evidence in this case, the undersigned notes that the actual dental procedure at issue in this case – the removal of four wisdom teeth – had a good outcome. Ms. Flowers's wisdom teeth were removed and she has not required any follow-up care.

Dr. Murphy's conduct during and after the procedure, however, is cause for concern. As a threshold matter, Dr. Murphy's treatment of Ms. Flowers during the procedure – when she realized that she was not asleep and was aware of the extraction procedure – lacked compassion, understanding and patience and was, ultimately, unprofessional. Indeed, his first reaction was to aggressively remove the patient's mask, get in her face, and direct her to "stop it." One would expect dentists throughout the State to routinely encounter patients who are fearful of drills, shots, and other sources of pain or fear during a dental procedure. That is a part of the profession and must be an area that a practitioner deftly handles with professional care, compassion, thoughtfulness and in the best interest of the patient. In this instance, Dr. Murphy missed the mark. His response to Ms. Flower's discomfort was disproportionate and, ultimately, unprofessional.

Furthermore, his after-the-fact explanation – that he believed Ms. Flowers to be a drug seeker – does not justify his actions in this regard. Any concerns regarding alleged drug-seeking behavior could have been addressed through the monitoring program; in the manner in which he prescribed medications; or by simply stopping the procedure if he did not believe that it was necessary. Dr. Murphy chose none of these actions.

Moreover, in assessing the facts of this case, it is clear that Dr. Murphy has, at least in this case, a distorted view by Dr. Murphy of Medicaid patients. Although he asserts that he takes many Medicaid patients, he testified that a lot of folks on Medicaid have "psycho social issues, economical issues, economical strife . . . anxiety problems, a lot of behavioral difficulties." (Tr. 123) While this may or may not be true in a given case, it is clear that a dentist or oral surgeon owes all patients – regardless of ability to pay or source of the same – compassionate professional care. In this case, Dr. Murphy failed to meet this standard.

The undersigned also notes that there was clearly an expectation by Ms. Flowers that she would be fully sedated - i.e., put to sleep for the procedure. She testified – without contradiction – that she said this repeatedly to Dr. Murphy and his staff. There is *no* evidence of record that anyone verbally disabused her of this notion until she became aware that she was in a twilight sedation during the procedure. Clearly, Dr. Murphy and his staff had a duty to address this with her and to clear up any misapprehension that she may have had. A thorough review of the Informed Consent form by the staff would have helped in this regard. By failing to clarify this important issue, Dr. Murphy's office allowed confusion and a clear and genuine misunderstanding by a patient to fester. Had Ms. Flowers been informed that she would be in a twilight sedation – rather than completely asleep – *before* the procedure, she could have elected to forego the procedure or elected to go forward fully informed. One can imagine that this episode might have been avoided had this occurred.

Finally, the undersigned must address Dr. Murphy's responses to the complaints and pleadings in this case. The undersigned is mindful that Dr. Murphy appeared *pro se* and prepared his own responses and pleadings. Moreover, Dr. Murphy has the right to respond as he sees fit. Nonetheless, in thoroughly reviewing his responses in light of the entire record of this case, the undersigned finds additional support for the conclusions reached above. In particular, Dr. Murphy's written submission – including his response to the complaint and the post-hearing submissions – provide additional examples of Dr. Murphy's distorted views on patients who receive Medicaid. Moreover, the written responses of Dr. Murphy demonstrate a lack of professional balance in assessing the matters at issue herein and an insensitivity to the needs of patients and his responsibility thereto. As noted *supra*, in his reply Dr. Murphy includes the following statements:

(1) Ms. Flowers and her husband "are two of the most low class people I have ever met."

(2) Their behavior is "atrociously bad/dirty/inexcusable and obvious back-stabbing."

(3) Ms. Flowers is "clearly a delusional, back stabbing liar."

(4) Mr. and Ms. Flowers have engaged in a "blatantly obvious, tandem, premeditated terrorist attack disguised as a drug run."

(5) The Flowers must be viewed as "low class trash."

Additionally, in his post-hearing reply to the submission of the Board, he, *inter alia*, refers:

(1) to counsel for the Board as "a pathological liar";

(2) to counsel for the Board as a "manipulation artist";

(3) to a call he made to another practitioner's office to "reprimand" the receptionist who referred patients to him;

(4) to counsel for the Board as a "completely sick and twisted person to even commend any type of deviant behavior as personal amusement."

Clearly, Dr. Murphy's behavior during and after the procedure in this case lacked professionalism. Moreover, both his verbal interaction with the Flowers and subsequent written statements exhibited not only unprofessional behavior, but insulting, intimidating and degrading statements regarding the parties in this case. It goes without saying that such behavior is anathema to the practice of dentistry in West Virginia and cannot be condoned or permitted.

In light of the foregoing, the undersigned recommends as follows:

(I) That Dr. Murphy be suspended for a period of six months all of which shall be stayed except for a period of twenty working days which period shall begin upon from the date of entry of the Board's decision;

(II) That this suspension will prohibit Dr. Murphy from practicing dentistry or administering anesthesia in any manner or form. Should Dr. Murphy violate the terms of this suspension in any manner, the Board may immediately impose the six-month suspension;

(III) That as soon as possible and prior to the expiration of the twenty working day suspension referenced above, Dr. Murphy shall undergo a mental health evaluation by a licensed professional selected and/or approved by the Board, to determine his fitness and competency to practice dentistry. W. Va. Code § 30-4-17(c). Should the mental evaluation take longer to complete than the expiration of the twenty working day suspension, the period of suspension shall continue beyond the twenty days until such time as the mental evaluation has been completed and a decision has been rendered;

(IV) Should the mental health evaluation result in the determination that Dr. Murphy is competent to practice dentistry, Dr. Murphy's license and anesthesia permit shall be reinstated at the end of the suspension period and, thereafter, Dr. Murphy shall be placed on probation for a period of one year beginning on the day following the expiration of any period of suspension, subject to terms and conditions to be imposed by the Board including, but not limited to, refraining from verbal, written and physical abuse of patients directly or indirectly, or through communications with the Board;

(V) Should Dr. Murphy violate the terms of his one-year probationary period, the Board may take action to further suspend or to revoke his license;

(VI) Should the mental evaluation result in the determination that Dr. Murphy is not competent to practice dentistry, the Board shall take immediate and appropriate action to fully

suspend and/or revoke Dr. Murphy's license and anesthesia permit and to provide Dr. Murphy with due process regarding the same.

(VII) That Dr. Murphy be ordered to undergo six (6) hours of continuing education in the area of anger management and patient relations, over and above the continuing education requirements necessary to retain his license, which shall be completed during the first year of his probation;

(VIII) That Dr. Murphy be fined \$1,000.00; and

(IX) That Dr. Murphy shall reimburse the Board its costs in prosecuting this matter.

In support of the foregoing, the undersigned makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board is a state entity created by West Virginia Code §§ 30-4-1, *et seq.*, and is empowered to license and regulate the practice and conduct of dentists and dental hygienists in the State of West Virginia. The mission of the Board is to protect the public through the regulations of the practices of dentistry.

2. As a licensee of the Board, Dr. Murphy is subject to the authority of the Board. W. Va. Code §§ 30-4-2, 30-4-8.

3. The Board has the authority to institute charges against one of its licensees when probable cause exists for believing that the licensee may have engaged in conduct, practices or acts in such condition that his license should be suspended, revoked or otherwise disciplined for one or more of the grounds listed in W. Va. Code §§ 30-1-1, *et seq.*, 30-4-1, *et seq.*, 30-4A-1, *et seq.*, or the Board's legislative rules (hereinafter referred to as "the Dental Practice Act.") W. Va. Code R. § 5-4-6.4.

4. "Charges may be based upon information received by way of a written complaint filed with the Board and *any information* gathered by the Board in the process of investigating a complaint." W. Va. Code R. § 5-4-6.4 (emphasis added).

5. Pursuant to W. Va. Code § 30-4-5(5), the Board has the authority to deny, suspend or revoke any license to practice dentistry or dental hygiene issued under its authority or in accordance with the Dental Practice Act. More specifically, the Board may, after notice and opportunity for a hearing, deny, suspend, restrict or revoke a license, or impose probationary conditions upon or take disciplinary action against, any licensee for any reasons stated in W. Va. Code § 30-4-19(g) including, but not limited, to, acts which constitute unprofessional conduct that include "...harassing, abusing, intimidating, insulting, degrading or humiliating a patient physically, verbally, or through another form of communication." W. Va. Code § 30-4-19(g)(12)(F).

6. The record in this case establishes by a preponderance of the evidence that Dr. Murphy acted in an unprofessional manner, in violation of West Virginia Code § 30-4-19(g). Specifically, Dr. Murphy's conduct during the procedure as described herein was, at a minimum, insulting and degrading to a patient who was clearly upset, uncomfortable, scared and in pain. Moreover, Dr. Murphy's conduct after the event has been characterized by verbally abusive, harassing, insulting and intimidating language directed toward Ms. Flowers and others involved in this proceeding.

Based upon this holding, the undersigned recommends the following:

1. That Dr. Murphy be reprimanded;
2. That Dr. Murphy's license to practice dentistry and administer anesthesia be suspended for a period of six (6) months, all of which shall be stayed except for a period of twenty working days, which period shall begin upon entry of the Board's decision;

3. That during the twenty working day suspension, Dr. Murphy shall neither practice dentistry nor administer anesthesia in any manner or form. Should Dr. Murphy violate the terms of the suspension by practicing dentistry and/or administering anesthesia in any form or degree during the twenty working day suspension, the Board may take action to immediately lift the stay and impose the full six-month suspension;

4. That as soon as possible and prior to the expiration of the twenty working day suspension referenced above, Dr. Murphy shall undergo a mental health evaluation by a licensed professional selected and/or approved by the Board, to determine his fitness and competency to practice dentistry. W. Va. Code § 30-4-17(c). Should the mental evaluation take longer to complete than the expiration of the twenty working day suspension, the period of suspension shall continue beyond the twenty working days until such time as the mental evaluation has been completed and a decision has been rendered;

5. Should the mental health evaluation result in the determination that Dr. Murphy is competent to practice dentistry, Dr. Murphy's license and anesthesia permit shall be reinstated at the end of the suspension period and, thereafter, Dr. Murphy shall be placed on probation for a period of one year beginning on the day following the expiration of any period of suspension, subject to terms and conditions to be imposed by the Board including, but not limited to, refraining from verbal, written and physical abuse of patients directly or indirectly, or through communications with the Board;

6. Should Dr. Murphy violate the terms of his one-year probationary period, the Board may take action to further suspend or to revoke his license;

7. Should the mental evaluation result in the determination that Dr. Murphy is not competent to practice dentistry, the Board shall take immediate and appropriate action to fully suspend and/or revoke Dr. Murphy's license and anesthesia permit and to provide Dr. Murphy with due process regarding the same.

8. That Dr. Murphy be ordered to undergo six (6) hours of continuing education in the area of anger management and patient relations, over and above the continuing education requirements necessary to retain his license, which shall be completed during the first year of his probation;

9. That Dr. Murphy be fined \$1,000.00; and

10. That Dr. Murphy shall reimburse the Board its costs in prosecuting this matter.

CONCLUSION

WHEREFORE, it is the recommended decision of this Hearing Examiner that the West Virginia Board of Dentistry find that Dr. R. Scott Murphy engaged in the above-referenced violations of law, by a preponderance of the evidence, and that Dr. Murphy's license to practice the profession of dentistry be disciplined as described above.

Entered this 11th day of July, 2016.



JEFFREY G. BLAYDES
HEARING EXAMINER

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

v.

Case No. 2015-DB-0037D

R. SCOTT MURPHY, D.D.S., M.D.,

Respondent.

RETURN OF SERVICE

I, Walt Williams, Investigator for the West Virginia Board of Dentistry and being a person over 18 years of age, do hereby certify that I received a Certified Copy of the "Final Order Following Hearing" from the West Virginia Board of Dentistry, and that I served the certified copy on R. Scott Murphy, M.D., D.D.S., by hand delivering it him this 19th day of

July, 2016, at the following address: 2818 1st Ave, Ste 104 - 9:15am
Huntington, WV 25704

A copy of the Final Order Following Hearing is attached to this return of service.


WALT WILLIAMS

Sworn to and signed before me, a notary public for the State of West Virginia, this 29th day of July, 2016.

Mona M. Federoski
NOTARY PUBLIC

My commission expires on March 21, 2018

