

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD
OF DENTISTRY,

Complainant,

CASE No.: 2012-DB-0021D

v.

JOSEPH MAYO NELSON, DDS,

Respondent.

CONSENT DECREE AND ORDER

The West Virginia Board of Dentistry (Board) generated an internal report and commenced an investigation regarding possible scheduled controlled substance prescription writing and dispensing issues of Joseph Mayo Nelson, DDS, (Respondent). The Board and the Respondent have reached an agreement as to an appropriate disposition of the matter, with consideration to appropriate safeguards for protection of the public.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of the above referenced claims against the Respondent.

WHEREAS, the parties have reached an understanding concerning the proper disposition of the matter in controversy, the Board does hereby Find and Order as follows:

FINDINGS OF FACT

1. That the Board is the State entity created by West Virginia Code § 30-4-1 *et seq.* and is empowered to regulate the practice of dentistry.

2. That the Respondent is a licensee of the Board, possessing License No. 1790 and is subject to the license requirement of the Board.

3. That Board received information from the U. S. Department of Justice, Drug Enforcement Administration (DEA) of the Respondent's voluntary surrender of controlled substances privileges for writing outside the scope of practice. The Respondent's actions show that he engaged in conduct, practices or acts constituting professional negligence or a departure from accepted standards of professional conduct in the prescribing of controlled substances to his son for other than dental purposes.

CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.

2. That pursuant to West Virginia Code § 30-4-1 *et seq.*, the Board may revoke a license, suspend a license, reprimand a licensee or take other disciplinary action for violation of the rules and regulations of the Board.

3. The Respondent is a licensee of the West Virginia Board of Dentistry and is subject to license requirements of the Board.

4. Based on the investigation conducted, the Complaint Committee of the Board believes that there is substantial evidence to demonstrate that the Respondent has violated the Practice Act, West Virginia Code § 30-4-1 *et seq.*

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto, acknowledges the following:

1. Respondent has been given the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without compulsion or duress and is mindful that it has legal consequences.
2. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to enter into this Consent Decree and Order other than as set forth herein.
3. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.
4. Respondent expressly acknowledges that the entire agreement is contained in this Consent Decree and Order and no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Decree and Order.
5. Respondent acknowledges that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B *et seq.*, of the West Virginia Code, Freedom of Information Act, and may be reported to other governmental agencies, professional Boards or other organizations.

6. Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed as a condition of this Consent Decree and Order.

7. Respondent acknowledges that this Consent Decree and Order will be presented to the Board as soon as practical but no later than the next scheduled meeting of the Board, with a recommendation for approval from the Complaint Committee.

8. Respondent consents to the entry of the following Order affecting his license in the State of West Virginia.

9. Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions.

ORDER

That the Board agrees to forego further prosecution of the complaint pursuant to the Consent Decree between the Board and Respondent, Joseph Mayo Nelson, DDS as follows:

1. That the Respondent shall receive a reprimand.
2. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a course in pharmacology pre-approved by the Board. The course shall include proper prescribing of controlled substances and drug diversion. The Respondent shall submit written verification to the Board of his enrollment and proof of having successfully completed the course.

3. The Respondent shall be prohibited from prescribing, dispensing, or administering any scheduled controlled substances in West Virginia until he has successfully completed the pharmacology course as outlined in paragraph 2 above and has received written authorization from the Board to resume prescribing, dispensing, or administering any scheduled controlled substances and has received a valid registration to prescribe controlled substances from the DEA.

4. The Respondent shall maintain a separate log for a period of two (2) years detailing all controlled substances prescribed, administered and dispensed. The Respondent shall list the name of the medication prescribed, administered or dispensed and the quantity of said medication, along with an explanation for the prescribing, administering or dispensing of the medication. A copy of this log shall be sent to the Board quarterly. Said log shall also be made available upon request by the Board or its designee at any time.

5. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a course in ethics pre-approved by the Board. The Respondent shall submit written verification to the Board of his enrollment and shall submit proof of having successfully completed the course.

6. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a course in record keeping pre-approved by the Board.

The Respondent shall submit written verification to the Board of his enrollment and shall submit proof of having successfully completed the course.

7. After completing the courses outlined above, the Respondent shall successfully complete the Jurisprudence, Ethics and Risk Management (JERM) Examination administered by the North East Regional Board of Dental Examiners, Inc. and the Dental law examination as given by the West Virginia Board of Dentistry.

8. That the Respondent shall at all times cooperate with the Board, any of its agents or employees, in the monitoring or investigation of the Respondent's compliance with the terms and conditions of this Consent Order. The Respondent shall be responsible for any expense associated with the monitoring of his practice as well as any expenses associated with written reports, records or verifications of actions that may be required by the Board.

9. That the Respondent's failure to fully comply with the terms and conditions of this Consent Order hereby imposed shall be deemed a violation of this Consent Order, and that if the Respondent violates any of the terms of this Consent Order, the Board may immediately suspend the Respondent's license.

10. The Respondent shall obey all laws of the United States, the State of West Virginia and its political subdivisions. The Respondent shall comply with the West Virginia Dental Practice Act and its rules and regulations.

11. The Respondent shall neither direct nor permit his dental personnel under his supervision to violate any provisions of the West Virginia Dental Practice Act or its rules and regulations.

12. The Respondent shall pay a fine in the amount of Five Hundred Dollars, (\$500.00) to be paid within sixty (60) days of the entry of this order.

13. The Respondent shall reimburse the Board in this case the sum of Two Thousand Five Hundred Dollars (\$2,500.00) for all costs incurred by the Board in the investigation and disposition of this case which shall be paid within sixty (60) days of the entry of this order.

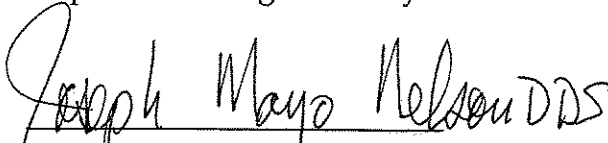
Entered this 11 day of OCTOBER 2013.

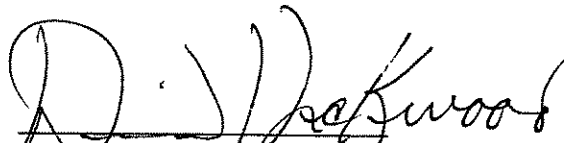


West Virginia Board of
Dentistry:


Board President

Inspected and Agreed to by:


Joseph Mayo Nelson, DDS
Respondent


Legal Counsel or Witness
For Respondent