

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

**WEST VIRGINIA BOARD OF
DENTISTRY,**

COMPLAINANT,

v.

CASE NO. 2023-DB-0003D

**LINDA L. RAY, DDS,
LICENSE NO. 2872,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Dentistry ("Board") and Linda L. Ray, 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. 2872, and at all times relevant, practiced dentistry in Fairmont, West Virginia.
2. On July 22, 2022, the Board initiated an investigation as a result of a complaint having been filed with the Board against another dentist, hereinafter referred to as "T.R.," by the mother of a patient seen in their office hereinafter referred to as "C.L." "T.R." was an employee of Respondent at the time he completed dental treatment on a sedated patient who is "C.L.'s" daughter.
3. The Board sent a subpoena to Respondent and to "T.R.," dated August 5, 2022, requesting "[s]chedules or like documents, dated March 28, 2022 to April 8, 2022, showing patient appointments and procedures scheduled/performed at your practice. If color coding is used on your schedules, please provide documents in color."
4. On or about August 16, 2022, the Board received the responsive documents from Respondent and "T.R.," along with correspondence signed by them dated August 11, 2022, in which Respondent and "T.R." addressed their office's sedation schedule and procedures. Thereafter, by subpoena dated August 25, 2022, the Board requested the original patient records for specific patients selected from the schedules previously received.

5. On August 31, 2022, the Board notified Respondent and "T.R.'s" counsel that a team from the Board's Anesthesia Committee would be visiting their office to conduct a facility inspection on September 1, 2022.

6. On September 1, 2022, the team from the Anesthesia Committee conducted an inspection of Respondent and "T.R.'s" anesthesia facility.

7. Thereafter, on or about September 9, 2022, the Board office received a report from the Anesthesia Committee team, which revealed missing emergency drugs and expired drugs.

8. On or about September 12, 2022, the Board received the responsive documents from Respondent and "T.R." via counsel.

9. By letter dated October 28, 2022, the Board addressed the missing and expired drugs with Respondent and requested that Respondent provide proof of receipt of all the needed drugs, absent or expired, no later than November 10, 2022.

10. On November 7, 2022, the Board received proof of receipt of the absent or expired drugs.

11. The Board sent a subpoena to Respondent, dated October 31, 2022, requesting "[s]chedules or like documents, dated April 11, 2022 to April 22, 2022, showing patient appointments and procedures scheduled/performed at your practice. If color coding is used on your schedules, please provide documents in color." The subpoenaed documents were due to the Board office by November 10, 2022.

12. On or about November 9, 2022, the Board received the responsive documents from Respondent.

13. The Board sent a subpoena to Respondent, dated November 10, 2022, requesting specific, original patient records chosen from the schedules previously received. The subpoenaed documents were due to the Board office by November 30, 2022.

14. On or about November 30, 2022, the Board received the responsive documents from Respondent.

15. Upon recommendation of the Complaint Committee, the Board, at its meeting on January 14, 2023, voted to file a complaint in this matter.

16. By letter dated January 25, 2023, the Board informed Respondent that it had opened a complaint against Respondent concerning the Complaint Committee's review of Respondent's Class 3B anesthesia permit records. The Board requested that Respondent file a written response to the complaint within thirty (30) days.

17. On February 24, 2023, the Board received a response from Respondent, through counsel, wherein Respondent:

[A]dmits that she has permitted a dentist to treat sedated patients and that, as of the time of the inquiry, that dentist did not hold a Class 3B anesthesia permit. That dentist, ["T.R.,"] now holds a Class 3B anesthesiology permit. [Respondent] contends, however, that the Board's regulations and the enabling statute, West Virginia Code § 30-4A-1, *et seq.*, do not require a dentist to hold a Class 3B anesthesia permit to treat patients under sedation induced by a dentist with a Class 3B anesthesia permit. [Respondent] also admits that she has sedated patients concurrently. [Respondent] contends, however, that the Board's regulations and the enabling statute do not prohibit concurrent sedation.

18. At the time of the initiated investigation, Board records indicate "T.R." held Qualified Monitor number QM-0653. Respondent holds 3B permit number 076, a parenteral conscious sedation permit.

19. The Board's Complaint Committee reviewed Respondent's response to the Board initiated complaint, and the medical records and other documents requested and submitted therewith and obtained during investigation.

20. Upon recommendation of the Complaint Committee, the Board, by majority vote at its meeting on April 1, 2023, found probable cause to believe that Respondent failed to meet the applicable standard of care by permitting another dentist, not having an appropriate dental anesthesia permit, to treat sedated patients, and by the Respondent having more than one patient under conscious sedation at the same time in violation of W. Va. Code § 30-4-19(g)(19), W. Va. Code § 30-4A-1(a), W. Va. Code § 30-4A-2(b), W. Va. Code § 30-4A-6, 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. 2872, 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 probable 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 § 30-4A-1(a), W. Va. Code § 30-4A-2(b), W. Va. Code § 30-4A-6, 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, Linda L. Ray, 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, Linda L. Ray, 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 pay a fine in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).
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. 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: *John E. Bogers*
John E. Bogers, DDS, President

Entered: 09/13/2023
Date

REVIEWED AND AGREED TO BY:

Linda L. Ray
Linda L. Ray, DDS
Respondent

7-22-23
Date

This day personally appeared before me, Linda L. Ray, 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 22nd day of July, 2023.

My Commission expires: Oct 14th 2025

[Signature]
Notary Public

