

**BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY**

**WEST VIRGINIA BOARD OF DENTISTRY,**

**Complainant,**

**v.**

**CASE NO. 2018-DB-0039D**

**LINDA L. RAY, DDS,**

**Respondent.**

**CONSENT DECREE AND ORDER**

Now comes the West Virginia Board of Dentistry (hereinafter referred to as “the Board”) and Linda L. Ray, DDS (hereinafter referred to as “the Respondent”), *pro se*, for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

WHEREAS, the Board initiated its own investigation into this matter after receiving notice of a substantial malpractice settlement reached between the Respondent and her patient. The malpractice settlement resulted from prolonged orthodontic treatment performed by the Respondent on a minor child which caused resorption and the loss of four of the patient’s anterior teeth. Such conduct, if proven to be true, would constitute professional negligence and/or a willful departure from accepted standards of professional conduct in the dental profession, which would be grounds for disciplinary action, in violation of W. Va. Code §§ 30-4-1, *et seq.*, and W. Va. Code R. §§ 5-5-1, *et seq.*;

WHEREAS, the Board notified the Respondent of its inquiry, subpoenaed the patient’s file, and provided the Respondent with an opportunity to explain her treatment of the patient.

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The Respondent readily admitted to having left the patient's orthodontic appliances on for too long, resulting in the resorption and loss of anterior teeth;

WHEREAS, following a review of the patient's file and the Respondent's explanation, the Board found probable cause that the Respondent violated the standard of care with regard to her orthodontic treatment of her patient; and

WHEREAS, the parties mutually desire to settle the issues without further prosecution and a formal hearing, and without the filing of a formal statement of charges.

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. The Board, approving such an agreement, does hereby FIND and ORDER as follows:

**FINDINGS OF FACT:**

1. The Board is a state entity created by W. Va. Code §§ 30-4-1, *et seq.* (Dental Practice Act), and is empowered to regulate the practice of dentistry in the State of West Virginia.
2. At all times relevant to this investigation, the Respondent was a licensee of the Board, holding License No. 2872, and a Class 3B anesthesia permit. As a result, the Respondent is subject to the Board's rules and regulations.
3. On or about September 6, 2018, the Board received information regarding a substantial malpractice settlement between the Respondent and one of her patients, a 12-year-old girl, involving the patient's orthodontic treatment.

4. Upon inquiry by the Board, the Respondent readily admitted to having left the orthodontic appliances on for an extended period of time, causing resorption and the loss of four anterior teeth. The Respondent attributed her actions, in part, to efforts to satisfy an insistent parent.

5. Based upon the foregoing, the Board found probable cause that the Respondent violated the standard of care in the practice of dentistry, specifically orthodontics, and the *ADA Code's* duty that dentists remain current in their knowledge and skills in the practice of dentistry and seek consultation and make referrals to dental specialists when warranted, in violation of W. Va. Code §§ 30-4-19(g)(7), (g)(12), and *ADA Code*<sup>1</sup> §§ 2.A, 2.B.

#### **CONCLUSIONS OF LAW:**

1. The Respondent is a licensee of the Board and is subject to its licensing requirements.

2. The Board has jurisdiction to take disciplinary action against the Respondent.

3. It is a violation of the Dental Practice Act for a licensee to engage in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare and safety of the public, that is, to perform dental and/or orthodontic services not within the accepted standards of care of the dental profession. W. Va. Code § 30-4-19(g)(7).

4. It is further a violation of the Dental Practice Act and the *ADA Code* for dentists not to keep their knowledge and skills current and not to seek consultation from or refer patients to dental specialists when the patient's welfare and safety warrant it. W. Va. Code § 30-4-19(g)(12) and *ADA Code* §§ 2.A, 2.B.

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<sup>1</sup>American Dental Association's *Principles of Ethics and Code of Professional Conduct*, incorporated into the West Virginia Dental Practice Act by W. Va. Code § 30-4-19(g)(12), hereinafter referred to as "the *ADA Code*."

5. The Respondent does not contest that the Board has probable cause to charge her with one or more violations of the Dental Practice Act and the *ADA Code* with regard to this matter.

6. Pursuant to W. Va. Code § 30-4-19(g), the Board may deny, refuse to renew, suspend, restrict, or revoke a license, certificate or permit of, or impose probationary conditions upon or to take disciplinary action against, any licensees, certificate holder or permittee for violations of the Dental Practice Act, including violations of the *ADA Code*.

7. Disciplinary action may include (1) reprimand; (2) probation; (3) restrictions; (4) suspension; (5) revocation; (6) administrative fine not to exceed \$1,000 per day per violation; (7) mandatory attendance at continuing education seminars or other training; (8) practicing under supervision or other restrictions; or (9) requiring the licensee or permittee to report to the Board on a periodic basis. W. Va. Code § 30-4-19(h).

8. In addition to any other sanctions imposed, the Board may require a licensee or permittee to pay the costs of the proceeding. W. Va. Code § 30-4-19(i).

**CONSENT OF LICENSEE:**

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

1. Respondent has been provided the opportunity to consult with counsel and executes this negotiated *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 negotiated *Consent Decree and Order* other than as set forth herein.

3. Respondent acknowledges that she is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and is aware of her 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 the Respondent other than as appear herein.

5. Respondent acknowledges that this *Consent Decree and Order* is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code §§ 29B-1-1, *et seq.*), and may be reported to other government agencies, professional boards or other organizations.

6. 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.

7. Respondent consents to the entry of this Order affecting her license in the State of West Virginia.

8. Respondent, by affixing her signature hereon, consents and agrees to the following terms and conditions:

#### **ORDER**

The Board agrees to forego further prosecution of this matter, pursuant to the Consent Decree entered between the Board and Respondent, Linda L. Ray, DDS, and hereby ORDERS as follows:

1. The Respondent shall receive a reprimand.

2. The Respondent hereafter shall not accept nor treat any new orthodontic patients unless and until the Respondent enrolls in and successfully completes no less than sixteen (16) hours of continuing education in the area of orthodontics.

3. Within six months of the date of this *Consent Decree and Order*, the Respondent shall enroll in and successfully complete three (3) hours of professional education in the area of ethics.

4. All of the professional education requirements referenced in paragraphs 2 and 3 above must be preapproved by the Board. The Respondent shall submit written verification to the Board of her enrollment in and successful completion of the coursework. Such professional education courses shall be in addition to the Board's biennial continuing education requirements for licensed dentists as set forth in W. Va. Code R. § 5-11-3.

5. With regard to the Respondent's current and past patients who are undergoing orthodontic treatment or in need of supplemental or follow-up orthodontic treatment, the Respondent may continue to treat those patients orthodontically only under the supervision of another orthodontist. If the Respondent is unable to treat those patients under the supervision of another orthodontist, the Respondent shall refer those patients to an orthodontic specialist to complete their orthodontic treatment.

6. The Respondent shall pay a fine in the amount of Five Thousand Dollars (\$5,000.00) and shall reimburse the Board for all costs it has incurred in the investigation and disposition of this matter, not to exceed the sum of One Thousand Five Hundred Dollars (\$1,500.00). Both sums shall be paid within sixty (60) days of the date of entry of this *Consent Decree and Order*, or within such additional time as may be authorized in writing by the Board.

7. The Respondent's failure to fully comply with the terms and conditions of this *Consent Decree and Order* shall be deemed a violation hereof. If the Respondent violates any of the within terms, the Board may take further disciplinary action against the Respondent's license including, but not limited to, suspension and/or revocation.

8. 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.

9. This *Consent Decree and Order* shall remain in effect until all of its terms have been completed, the fine and costs set forth in paragraph 6 are paid, and the professional education obligations set forth in paragraphs 2 and 3 of this Order are fulfilled.


ENTERED this 21 day of August, 2019.

**WEST VIRGINIA BOARD OF DENTISTRY**

By:

  
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SAMUEL V. VELTRI, DDS, President

INSPECTED AND AGREED TO BY:

  
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LINDA L. RAY, DDS, *pro se*  
Respondent