

BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

WEST VIRGINIA BOARD
OF DENTAL EXAMINERS,

Complainant,

CASE No.: 2008-DB-0010D

v.

CHARLES W. RHODES, DDS,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dental Examiners (hereinafter referenced as the Board) and Charles W. Rhodes, DDS, (hereinafter referenced as the Respondent), for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

As reflected in this Consent Decree, the parties have 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. That the Board is the State entity created by West Virginia Code § 30-4-1 *et seq.* (Dental Practice Act) and is empowered to regulate the practice of dentistry.
2. That the Respondent is a licensee of the Board, possessing license number 2680 and is subject to the license requirements of the Board.

3. That the Respondent failed to properly supervise the dental hygienists working in his office as is required by the Dental Practice Act and the rules and regulations of the Board.

4. That the Respondent permitted the dental hygienists in his office to perform dental services without any supervision or the physical presence of any dentist in the office.

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 Dental Examiners 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 engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of the Dental Practice Act, West Virginia Code § 30-4-1 *et seq.*

CONSENT OF LICENSEE

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

1. That he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Dental Examiners; the right to reasonable notice of said hearing; the right to be represented by counsel at his own expense; and the right to cross examine witnesses against him.

2. That he waives all rights to such a hearing.

3. That he has had the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without coercion or duress and mindful that it has legal consequences.

4. That no person or entity has made any promise or given any inducement whatsoever to encourage him to enter into this Decree other than as set forth herein.

5. That he acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

6. That he waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that he may have otherwise claimed as a condition of this Decree.

7. That he acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Consent Decree have been met to the satisfaction of the Board.

8. That he acknowledges that he is aware 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, professional Boards or organizations.

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

8. The 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, Charles W. Rhodes, DDS and hereby ORDERS as follows:


1. The Board shall issue a written reprimand to the Respondent.
2. That the Board, or its designee, may conduct unannounced site visits to Respondent's office to review the appointment calendar and observe procedures being conducted by Respondent or his employees;
3. The Respondent shall pay a fine of Five Thousand Dollars (\$5,000.00) to the Board;
4. The Respondent shall reimburse the Board in the amount of Two Thousand Dollars (\$2,000.00) for all costs incurred by the Board in the investigation and disposition of this case.
5. All matters in controversy related to the instant complaint are hereby resolved and closed, pending full compliance with the terms mandated herein; and
6. 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.


7. The Respondent shall neither direct nor permit his employees to violate any provisions of the West Virginia Dental Practice Act or its rules and regulations.

Entered this 11th day of July 2008.
~~4th~~ day of ~~June~~

West Virginia Board of
Dental Examiners:


~~James W. Vargo, DDS~~ David G. Edwards, DDS
President

Inspected and Agreed to by:


Charles W. Rhodes, DDS
Respondent