

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

WEST VIRGINIA BOARD OF DENTISTRY,

Complainant,

CASE NO. 2017-DB-0032D

ANTOINE E. SKAFF, DDS,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dentistry (hereinafter “the Board”) and Antoine E. Skaff, DDS, (hereinafter “the Respondent”), by undersigned counsel, for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

1. The Respondent is a licensee of Complainant West Virginia Board of Dentistry.
2. The Complainant is a regulatory board created for the purpose of regulating the practice of dentistry in the State of West Virginia. *See* W. Va. Code § 30-4-1 *et seq.* and W. Va. Code State R. § 5-5-1 *et seq.*
3. In order to carry out its regulatory duties under the authority granted to it by W. Va. Code § 30-4-1 *et seq.*; W. Va. Code State R. § 5-5-1 *et seq.*; and the *Principles of Ethics and Code of Professional Conduct of the American Dental Association* (hereinafter referred to as the *ADA Code*), the Complainant is empowered to refuse to renew a license, or suspend or revoke any license of a licensee upon satisfactory proof that a licensee is or has, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of the profession.

4. The Respondent acknowledges that the Board has served the Respondent with the Statement of Charges against his license, alleging that he violated certain acts of W. Va. Code § 30-1-8(a); W. Va. Code § 30-4-1, *et seq.*; and W. Va. Code R. § 5-5-1, *et seq.* which acts, if proven to be true, would constitute professional negligence and/or a departure from, and failure to conform to, the standards of acceptable and prevailing dental practice and the ethics of the dental profession, which would be grounds for disciplinary action.

5. The Respondent wishes to resolve this matter without further prosecution and a formal hearing.

6. The Board agrees and acknowledges that this agreement is a compromise of claims disputed by the Respondent. Among other things, the Respondent and the Board disagree as to whether or not the Board may reconsider the status of the Respondent's license as a result of a previous Consent Decree and Order signed by the Board, Respondent, and Respondent's counsel.

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:

7. At all times relevant to this investigation, the Respondent was a licensee of the Board, holding License No. 3049. As a result, the Respondent is subject to the Board's licensing requirements and rules.

8. On July 20, 2017, the parties entered into a *Consent Decree and Order* in case 2015-DB-0057D based upon Dr. Skaff's prescribing practices of pain medication and fraudulent billing for

Medicaid patients. Paragraph 10 of the previous *Consent Decree and Order* under ORDER on page 12 provided:

10. Should any other governmental entity (federal, state or local) pursue any civil or criminal remedies against the Respondent and obtain a judgment or conviction against him for the conduct forming the basis of this disciplinary action, the Board reserves the right to reconsider the status of the Respondent's license in such instance, regardless of whether or not he has completed the period of suspension and paid the monetary penalties.

9. On May 24, 2017, an Agreement was sent to Dr. Skaff for his signature by the United States Attorney in the Southern District of West Virginia outlining the terms to which they agreed, including that Dr. Skaff would plead guilty to health care fraud as charged in the information.

10. On August 21, 2017, Dr. Skaff entered into a plea agreement on one count of health care fraud pursuant to Title 18, United States Code, Section 1347 reading:

- a. Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—
 - 1) to defraud any health care benefit program; or
 - 2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.
- b. With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

15. On November 7, 2017, Dr. Skaff was sentenced to be imprisoned for a total term of sixth (60) months. Upon release from imprisonment, Dr. Skaff was ordered to be on supervised release for a term of three (3) years during which he is prohibited from practicing dentistry.

Based on these findings, the Complainant Board hereby charges the Respondent with the violation of engaging in certain practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code § 30-1-8(a); W. Va. Code § 30-4-1 *et seq.*; and W. Va. Code State R. § 5-5-4.

CONCLUSIONS OF LAW:

16. The Board has jurisdiction to take disciplinary action against Respondent who is a licensee of the Board. W. Va. Code § 30-4-5.

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

18. 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 for periodic interviews for a specified period of time. W. Va. Code § 30-4-19(h).

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

20. Based on the investigation conducted, the Complaint Committee of the Board believes that there is substantial evidence to demonstrate that the Respondent has committed the above listed infractions.

CONSENT OF LICENSEE

21. The Respondent acknowledges that he 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.

22. The Respondent acknowledges that no person or entity has made any promise or given any inducement whatsoever to encourage the Respondent to enter into this Consent Decree and Order, other than as set forth herein.

23. The Respondent consents to the revocation of his license to practice dentistry in the State of West Virginia, beginning on the day immediately following the date of entry of this Consent Order. The Respondent will reimburse the Board for costs in the amount of \$265.80.

24. In consideration thereof, the Board agrees not to further prosecute any of the violations alleged in the Statement of Charges.

25. The 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.

26. The 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.

27. The 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.

28. The Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed, as they may apply to the Board action that is the subject of this Consent Decree and Order.

29. The 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.

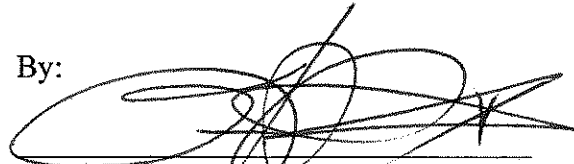
30. The Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions affecting his license to practice dentistry in the State of West Virginia:

ORDER

The Respondent presently holds a license to practice dentistry in the State of West Virginia, number 3049, that is hereby REVOKED and SURRENDERED beginning on the day following the date of entry of this Consent Decree and Order.

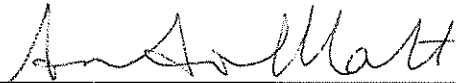
ENTERED this 20~~49~~ day of January, ²⁰¹⁸~~2017~~.

By:



**STANLEY W. KACZKOWSKI, DDS, President
WEST VIRGINIA BOARD OF DENTISTRY**

REVIEWED AND APPROVED BY:



**ANTOINE E. SKAFF, DDS
Respondent**



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