

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

AMBER NICOLE DEVINE, R.D.H,
(License No. 9520)

)
) CONSENT ORDER OF
) CONDITIONAL REINSTATEMENT

THIS MATTER is before the North Carolina State Board of Dental Examiners (Dental Board), pursuant to N.C. Gen. Stat. §§ 90-231 and 150B-38, for consideration of the application for reinstatement of the dental hygiene license of Amber Nicole Devine, R.D.H. (Petitioner). Petitioner represented herself, and Douglas J. Brocker represented the Investigative Panel. In lieu of a formal evidentiary hearing and pursuant to N.C. Gen. Stat. § 90-231(b), the parties freely and voluntarily consent to the following Findings of Fact and Conclusions of Law and to the entry of the Order of Conditional Reinstatement:

FINDINGS OF FACT

1. The Dental Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding pursuant to the authority granted to it in Chapter 90 of the North Carolina General Statutes, including the Dental Hygiene Act in Article 16, and the Rules and Regulations of the North Carolina State Board of Dental Examiners, set forth in 21 North Carolina Administrative Code Chapter 16.

2. Petitioner was licensed to practice dental hygiene in North Carolina on July 9, 2010 and held license number 9520.

3. At all times she held a license and in seeking reinstatement, Petitioner was subject to the Dental Hygiene Act and the Board's rules and regulations promulgated thereunder.

4. On April 6, 2016, Petitioner presented to a private dental practice for a working interview for a dental hygiene position. At the time of the interview, she was impaired with alcohol. The practice reported Petitioner to the Board.

5. As part of the investigation, the Board conducted a background check, which revealed that Petitioner was found guilty of Driving While Impaired and Open Container after Consuming Alcohol in Buncombe County on February 20, 2012, for offenses occurring on June 10, 2011.

6. On July 22, 2016, the Board's Investigative Panel asked Petitioner to immediately obtain a substance abuse assessment through the North Carolina Caring Dental Professionals Program ("CDP") and report the results of the assessment to the Board within the next month.

7. Petitioner contacted CDP but refused to participate in a substance abuse assessment and did not reply to the Investigative Panel's request.

8. On August 24, 2016, the IP informed Petitioner, by letter, that it would recommend a summary suspension of her license if she failed to obtain the substance abuse assessment by September 2, 2016.

9. Despite further contact with CDP, Petitioner refused to undergo a substance abuse assessment through CDP by the September 2, 2016 deadline.

10. On September 15, 2016, the Dental Board found that the public health, safety, and welfare required emergency action related to Petitioner's conduct and summarily suspended Petitioner's license.

11. On February 17, 2017, the Investigative Panel issued a Notice of Hearing set for July 15, 2017, along with a Motion for Substance Abuse Evaluation pursuant to Rule 35, which was set for a separate hearing on March 10, 2017.

12. Petitioner was served with the Notice of the July 15, 2017 Hearing, as well as the Motion for Substance Abuse Evaluation pursuant to Rule 35 and Notice that the Motion would be heard on March 10, 2017. However, Petitioner did not appear for the hearing on the Motion for Substance Abuse Evaluation on March 10, 2017.

13. On that same day, the Dental Board entered an order requiring Petitioner to meet with CDP to set up an examination consisting of drug testing, assessment of potential substance abuse, and any related physical or mental health conditions. However, Petitioner did not comply with the Board's March 10, 2017 Order.

14. Thereafter, the Investigative Panel served Petitioner with its First Request for Admissions on May 15, 2017, which Petitioner did not answer.

15. Petitioner did not appear at the July 15, 2017 hearing.

16. Following the July 15, 2017 hearing, at which the Board's Hearing Panel received the evidence submitted by the Investigative Panel, the Hearing Panel entered a Final Agency Decision revoking Petitioner's dental hygiene license.

17. The Hearing Panel found that Petitioner's 2012 conviction for driving while impaired, her intoxication at an April 6, 2016 working interview, her failure to comply with the Investigative Panel's repeated requests to obtain an assessment, her failure to comply with this Board's March 10, 2017 Order compelling an examination, and her failure to appear at the Motion and contested case hearing were consistent with behavior of an active addict.

18. The Hearing Panel further concluded that Petitioner was a chronic user of intoxicants, drugs, or narcotics to the extent that the same impaired her ability to practice dental hygiene in violation of N.C. Gen. Stat. § 90-229(a)(4). The Panel also concluded that Petitioner's

failure to comply with the Board's March 10, 2017 Order violated N.C. Gen. Stat. § 90-229(a)(6) and 21 NCAC 16V .0102(4).

19. The Panel's Order of Discipline in the 2017 Final Agency Decision revoked Petitioner's license; however, the same Order also provided a pathway for Petitioner to seek reinstatement of her dental hygiene license. Specifically, the Petitioner must show by clear and convincing evidence that:

- a. She obtained a substance abuse assessment at a facility approved by CDP, followed all recommendations provided by the approved treatment facility, and participated in any in patient, out-patient, or after-care treatment plan recommended by the approved treatment facility;
- b. If recommended by the assessment, she has entered into a contract with CDP and has complied with all terms of the CDP contract;
- c. She has maintained continuous abstinence from alcohol and all drugs, other than those prescribed to her by a treating physician who is aware of her addiction, for a period deemed sufficient to CDP and confirmed through compliance with a CDP Participation Agreement; and
- d. She has obtained the support and advocacy of CDP, including that Petitioner is not impaired and can practice dental hygiene safely in the state of North Carolina.

20. The Final Agency Decision also provided that if the Dental Board reinstates Petitioner's license, it may impose probationary terms and conditions of reinstatement as deemed necessary for the protection of the public.

21. On January 23, 2023, Petitioner submitted her Petition for Reinstatement of her dental hygiene license. Thereafter, pursuant to the requirements of the 2017 Final Agency Decision, Petitioner underwent an assessment through CDP on May 1, 2023, followed all recommendations for treatment resulting from the assessment, and entered into a Participation Agreement with CDP on June 9, 2023.

22. After approximately a full year into Petitioner's participation in the CDP program, CDP reported to the Board on June 4, 2024, that Petitioner has been compliant with the terms of the CDP Participation Agreement, and CDP advocates Petitioner be granted a license to practice dental hygiene in North Carolina.

23. Petitioner also successfully completed the American Board of Dental Examiners dental hygiene licensure clinical examinations on March 18, 2024 and May 9, 2024, pursuant to 21 NCAC 16C .0601. She obtained her Basic Life Support certification on May 2, 2024 and a total six (6) hours of required continuing education courses on May 3, 2024 and June 5, 2024.

24. Petitioner has taken significant steps at recovery and reformation and, based on her recent compliance, currently does not appear to pose a threat to public health, safety, and welfare if allowed to resume practicing dental hygiene in strict compliance with certain essential terms and conditions set forth herein.

Based upon the Findings of Fact and the consent of the parties, the Board hereby enters the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Petitioner and the subject matter of this case.
2. At all times she held a license and in seeking reinstatement, Petitioner was subject to the Dental Hygiene Act and the Board's rules and regulations promulgated thereunder.

3. Petitioner demonstrated that she is complying with the conditions set forth in the 2017 Final Agency Decision necessary to her potential reinstatement and has successfully completed the required examinations so that she can safely resume the practice of dental hygiene under certain conditions.

4. In light of Petitioner's history with substance abuse and addiction, protection of the public in the future requires that certain restrictions be placed on her ability to practice dental hygiene.

Based upon the foregoing Findings of Fact and Conclusions of Law and with the consent of the parties hereto, the Board enters the following:

CONSENT ORDER OF CONDITIONAL REINSTATEMENT

1. Petitioner shall be conditionally granted reinstatement of her license to practice dental hygiene in the state of North Carolina subject to fully complying with the following probationary terms and conditions for a minimum of four (4) years:

- (a) Petitioner shall continue participation in CDP, remain in the program, and fully comply with all terms of her participation agreement with CDP;
- (b) Petitioner shall not possess or use any controlled substances, alcohol, or any other mood-altering substance unless it is both (i) prescribed for her in the usual course of professional treatment and (ii) approved by CDP in advance of its use;
- (c) Petitioner shall sign a release with CDP permitting it to release information to the Board, including reports, either monthly or upon its request, regarding her progress in the program, treatment information, and authorizing it to report any substance screens to the Board immediately upon notification to CDP and revoking or withdrawing a release or authorization for the Board would constitute a violation of this Consent Order;

(d) Petitioner shall submit to interviews by the Board or its authorized agent during regular office hours, unless a mutually convenient alternative time can be arranged. Petitioner also shall provide each employer with a copy of this Consent Order prior to beginning any employment and arrange for the Board or its agent to interview her employer and co-employees during regular office hours.

(e) Petitioner shall give written notice to the Board of the street and mailing addresses of both her place(s) of employment and residence. Petitioner shall notify the Board of any changes in either address within ten days of the change; and

(f) Petitioner shall violate no provision of the Dental Hygiene Act or the Board's rules and regulations.

2. The Board recognizes that the conditions, limitations, or requirements set forth in this Consent Order may present Petitioner with certain practical difficulties. The Board concludes that each one is necessary to ensure public protection, and it does not intend to modify or eliminate any of the conditions, limitations, or requirements set forth herein based on such potential difficulties during the minimum four-year term of this Consent Order.

3. At the end of the minimum four-year term of this Consent Order, Petitioner may submit a written petition to terminate the conditions and provisions in this Consent Order if she can provide evidence and documentation of full compliance with the Consent Order during that time. The Board may determine in its discretion whether protection of the public warrants modification or termination of the conditions and provisions in this Consent Order at that time.

4. If Petitioner violates any term of this Consent Order or breaches any term or condition of the reinstatement of her license, the Board will promptly schedule a hearing to require Petitioner to show cause why her dental hygiene license should not be suspended. This

sanction shall be in addition to and not in lieu of any sanction that the Board may impose as a result of future violations of the Dental Hygiene Act or the Board's rules.

5. The Board shall retain jurisdiction of this matter and Petitioner to enforce the provisions herein or enter orders as necessary in the future.

This the 18th day of July, 2024.



Casie S. Goode

BY: _____
Casie S. Goode
Deputy Operations Officer

NORTH CAROLINA STATE BOARD
OF DENTAL EXAMINERS



STATEMENT OF CONSENT

I, Amber Nicole Devine, R.D.H., do hereby certify that I have read the foregoing Consent Order in its entirety. I assent to the terms and conditions set out herein. I freely and voluntarily admit that there is a factual basis for the findings of fact herein, that the findings of fact support the conclusions of law, and that I will not contest the findings of fact, the conclusions of law, or the consent order of discipline in any future proceedings before or involving the Board, including if future disciplinary proceedings or action is warranted in this matter. I knowingly waive any right to seek judicial review, appeal, or otherwise later challenge this Consent Order once entered. I understand the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order will become part of the Board's permanent public record. I further acknowledge that this required reporting may have adverse consequences in other contexts and any potential effects will not be the basis for a reconsideration of this Consent Order. I agree to service of the Consent Order to the email or mailing address of record with the Board and waive service by any other method. I have had the opportunity to consult with an attorney prior to signing this Consent Order.

This the 1 day of July, 2024

Amber N. Devine
AMBER NICOLE DEVINE, R.D.H.