

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

SUNIL KASHYAP, D.D.S.
(License No. 9723; Permit No. 0979)

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CONSENT ORDER

THIS MATTER is before the North Carolina State Board of Dental Examiners [the "Board"] as authorized by N.C. Gen. Stat. § 90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. Respondent Sunil Kashyap, D.D.S. ["Respondent"] acknowledges that the Board has sufficient evidence to prove and establish the findings of fact and conclusions of law and to warrant the order of discipline. Carrie Meigs represented Respondent and Crystal S. Carlisle represented the Investigative Panel [the "IP"]. The parties freely and voluntarily consent to the following:

FINDINGS OF FACT

1. The 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 Practice Act and the rules and regulations of the Board.
2. Respondent was licensed to practice dentistry in North Carolina in May 2014 and holds license number 9723. Respondent was issued moderate conscious sedation permit number 0979 on November 1, 2022.

3. At all times relevant hereto, Respondent was subject to the Dental Practice Act and the Board's rules and regulations.

4. On June 6 and June 17, 2024, a Board Investigator performed inspections of Respondent's office and sedation facilities as a result of a complaint filed against him.

5. During the inspections, the Investigator discovered that:

a. Respondent performed sedation, or supervised a CRNA providing sedation, on patients from at least March 1, 2024 to June 8, 2024 with an expired ACLS certification;

b. Respondent administered sedation to patients with the following expired or missing medications:

i. Epinephrine, expired 9/2023;

ii. Atropine, expired 2/2024;

iii. Antiarrhythmic and lidocaine, both expired 4/2023, and amiodarone, expired 7/20/23;

iv. Antihistamine, expired 2/2024;

v. Flumazenil, not a sufficient amount to be used in an emergency;

vi. Narcan, expired 11/2023;

vii. Nitroglycerin tablets, expired 9/2023; and

viii. Dextrose, expired 4/2024;

c. Respondent maintained expired local anesthetics in his office including Marcaine (expired 3/20/24) and citanest (expired 2/2024);

- d. At the June 6, 2024 inspection, Respondent was unable to produce written emergency protocols or records demonstrating the emergency training had been conducted, the date of the last drill, and the auxiliaries in attendance;
- e. Respondent produced a Sedation Log to the Board Investigator that was inaccurate and did not include sedation medications administered by a CRNA in Respondent's office;
- f. Respondent did not store all controlled substances in compliance with federal law;
- g. Respondent administered flumazenil to patients with no documented clinical justification; and
- h. Respondent permitted his Basic Life Support certification to lapse for the period from April 9, 2023 to May 12, 2023.

6. After the June 17, 2024 inspection, Respondent entered into a Consent Order Summarily Suspending his moderate conscious sedation permit, pending the Board's further order.

7. As part of its investigation into Respondent's sedation practices, the IP obtained patient treatment records for ten (10) example patients.

8. The Board had an independent evaluator review the example treatment records.

9. Respondent's treatment and care of the example patients involved some or all the following deficiencies and, thereby, violated the standard of care and the Board's regulations concerning administering moderate conscious sedation, in that Respondent:

- a. did not obtain complete patient medical histories;
- b. failed to address medical conditions disclosed by patients making it difficult or impossible to appropriately assess the American Society of Anesthesiologists ("ASA") status of patients;
- c. failed to obtain or document required consultations with treating medical professionals for patients properly classified as level three or higher under the American Society of Anesthesiologists classification system ("ASA");
- d. failed to perform or document preoperative examinations prior to administering sedation;
- e. failed to obtain essential preoperative information, including basic data such as patients' height and weight, which is necessary for a proper ASA classification;
- f. failed to assess or document Mallampati Classification of the patients' airways;
- g. failed to keep complete or accurate anesthesia records;
- h. failed to identify the clinician administering anesthesia;
- i. administered excessive dosages of sedation to patients;
- j. placed patients under deep sedation without an anesthesia permit;
- k. performed lengthy procedures on patients without using necessary safety equipment and precautions; and
- l. failed to perform or document adequate post-procedure discharge assessments.

10. Respondent provided the Board with information on his 2024 sedation permit renewal inaccurately attesting that he satisfied all requirements for renewal, which the Board relied upon in issuing the permit renewal.

11. Respondent desires to enter into this Consent Order for the purpose of resolving the foregoing issues identified by the IP.

Based upon the foregoing Findings of Fact and with the consent of the parties hereto, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter of this action and over Respondent.

2. Respondent was properly notified of this matter and has consented to the entry of this Consent Order.

3. Respondent violated N.C. Gen. Stat. § 90-41(a)(6) and (12) in multiple instances as set forth in Paragraphs 5(a)-(h) and 9(a)-(m) and specifically violated the Board's rules governing administering moderate conscious sedation and having patient treatment and sedation records in 21 NCAC 16Q .0302 and 21 NCAC 16T .0101 and .0103.

ADDITIONAL FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE

1. Respondent's violations related to administering sedation could have resulted in significant harm to patients, including permanent injury or death.

2. During the investigation, the IP discovered no evidence that Respondent's conduct at issue caused or contributed to any of the example patients suffering physical injury or adverse health effects.

3. Respondent provided documents and information in response to all requests or subpoenas from the Board during the IP's investigation and this disciplinary proceeding.

4. Respondent cooperated fully in the disciplinary proceeding and complied with the Board's rules and orders related to the proceeding, including the Consent Summary Suspension Order entered on June 27, 2024.

5. Respondent is willing to participate in additional continuing education courses addressing the issues identified by the IP, is willing to administer sedation consistent with the guidelines and recommendations from these tailored continuing education courses, and consents to utilizing a practice monitor to confirm that those issues have been addressed and remedied.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Additional Findings and Conclusions Regarding Discipline, and with the consent of the parties hereto, it is ORDERED as follows:

ORDER OF DISCIPLINE

1. License number 9723 issued to Respondent for the practice of dentistry in North Carolina is suspended for a period of one year but conditionally restored with no active suspension, provided that for a period of three years, Respondent complies with the requirements in Paragraphs 2-5 of this Consent Order of Discipline.

2. Permit 0979 issued to Respondent for the administration of moderate conscious sedation is **SUSPENDED** and subject to the following conditions:

- a. Respondent shall not administer any level of sedation to patients, except in full compliance with the conditions set forth in this paragraph.
- b. Respondent may administer to patients, if clinically appropriate to do so, (i) local anesthetic, (ii) nitrous oxide, and (iii) anxiolysis, but only in strict compliance with 21 NCAC 16Q .0101(3) and the interpretive statements attached to this Consent Order.
- c. Respondent may utilize an independent provider who is authorized to administer general anesthesia or sedation [collectively hereafter "Sedation"] without supervision. The Independent Sedation Provider must be either (i) a dentist who holds an active itinerant permit issued by the Board or (ii) a board-certified medical anesthesiologist with an active NC medical license in good standing. Because his permit is summarily suspended, Respondent cannot utilize or supervise a CRNA administering Sedation while the permit suspension remains in effect.
- d. Prior to utilizing any Independent Sedation Provider, Respondent shall confirm and maintain appropriate documentation that the Independent Sedation Provider is in good standing with his or her professional licensing agency or agencies and has been practicing with an unrestricted license for a minimum of five years. Respondent shall provide such documentation to the Board upon request.

e. Respondent shall keep records demonstrating his use of an Independent Sedation Provider for each patient to whom sedation is administered and shall provide such records to the Board upon request.

3. Within one year after the effective of this Consent Order, Respondent shall complete the following continuing education ["CE"] courses especially designed for him by the University of North Carolina School of Dentistry in conjunction with and approved in advance by the Board's IP, including a comprehensive remedial course covering: (1) Patient assessment, including the need for consultation with treating physicians; (2) Treatment, procedures, and protocols for moderate conscious sedation, including appropriate medications, doses, and titration with respect to individual patients; (3) Monitoring of patient's vitals and other information during sedation procedures, including required ancillary personnel and training; (4) Postoperative protocol, including discharge monitoring, criterion, and assessment; (5) Sedation recordkeeping, including sequencing and amounts of medication administered and accurately recording all drugs administered; and (6) Ethics and jurisprudence, including the importance of providing accurate information to the Board for renewals and other submissions. This requirement shall be in addition to the continuing education required by the Board for renewal of Respondent's dental license and permit. Respondent shall submit to the Board's Director of Investigations written proof of satisfactory completion of these courses before they will be accepted in satisfaction of this requirement. It is the Respondent's responsibility to make all arrangements for and bear the costs of these courses within the specified time.

4. After satisfying the requirements in Paragraphs 2 and 3 of this Consent Order, Respondent may petition the Board to lift the suspension of his permit. If

Respondent demonstrates that he has fully complied with the conditions in Paragraphs 2 and 3 of this Order, the suspension of Respondent's permit will be **STAYED**. If Respondent fails to renew his permit before these requirements are satisfied, he will have to demonstrate that he has satisfied all of them before his permit would be eligible for reinstatement.

5. Respondent shall adhere to the following additional probationary terms and conditions:

- a. Respondent shall violate no provision of the Dental Practice Act or the Board's rules.
- b. Respondent shall neither direct or permit any of his employees to violate any provision of the Dental Practice Act or the Board's rules.
- c. Respondent shall permit the Board or its agents to inspect and observe his office, conduct a random review of patient chart records, and interview employers, employees, and coworkers at any time during normal office hours.
- d. Within sixty (60) days of the stay of restriction of his sedation permit, Respondent shall engage a licensed North Carolina dentist to serve as a sedation practice monitor ["Monitor"], who Respondent shall submit for review and obtain approval by the Board's IP, at its discretion. Respondent shall not resume administering sedation without restriction until the IP approves a monitor. The Monitor shall meet with Respondent regularly and no less than quarterly to review example patient charts selected by the Monitor, not by Respondent or employees at the office(s)

where he practices. During these meetings, the Monitor shall examine a minimum of ten example patient records to determine Respondent's compliance with the Dental Practice Act, the Board's rules, and the applicable standard of care concerning the issues identified in Paragraph 3 for CE training and any other issues identified by the Monitor. Respondent shall ensure that the Monitor prepares and timely submits to the Board quarterly reports with the findings concerning those issues for the quarter, **including identifying the specific patient treatment records reviewed.** The IP reserves the right to review the charts that the Monitor selects for his/her report, which records Respondent shall provide to the IP upon its request. The Monitor reports shall be due no later than April 30, July 30, October 30, and January 30 for the previous quarter in each year. Respondent is responsible for any and all payment of costs associated with this monitoring. If the Monitor reports information to the Board indicating that Respondent may be engaging in a violation of the Board's statutes or regulations or this Order, Respondent understands that such findings may result in further disciplinary action by the Board, including potential activation of his suspension, following notice to Respondent and an opportunity to be heard. If the Monitor's reports and the Board's inspections demonstrate no violations of the Dental Practice Act or the Board's rules continuously for one (1) year, then Respondent may petition the Board to eliminate this requirement for the remaining probationary period.

6. Respondent recognizes that the conditions, limitations, or requirements set forth in this Consent Order may present him 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.

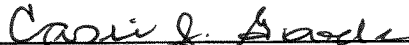
7. If Respondent fails to comply with any provision of this Consent Order or breaches any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing to allow Respondent an opportunity to show cause as to why the suspension of Respondent's license and permit shall not be activated for violating a valid order of the Board. If after the Show Cause Hearing, the Board is satisfied that Respondent failed to comply or breached any term or condition of this Consent Order, the Board shall activate the suspension of his license and permit and may enter such other discipline or conditions as the evidence warrants for proven violations of the Dental Practice Act or of the Board's rules occurring after entry of this Decision.

8. This Consent Order and the provisions contained herein shall be effective upon entry. As of the effective date of this Consent Order, the Summary Restriction Order is terminated.

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

This the 14th day of January 2025.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS




Casie S. Goode
Director of Investigations

STATEMENT OF CONSENT

I, Sunil Kashyap, D.D.S., do hereby certify that I have read the foregoing Consent Order in its entirety. I assent to its terms and conditions set out herein. I freely and voluntarily acknowledge that there is sufficient evidence to form a factual basis for the findings of fact herein, that the findings of fact support the conclusions of law, that I will not contest the findings of fact, the conclusions of law, the additional findings and conclusions regarding discipline, or the order in any future proceedings before, by, against, 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 agree to service of the Consent Order via email to my counsel and waive service by any other method. I understand that 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 have consulted with my attorney, Carrie Meigs, prior to signing this Consent Order.

This the 7th day of JANUARY 2025.



Sunil Kashyap, D.D.S.

Waiver of Limited Ex Parte Communication


I understand that the proposed Consent Order that I have signed is subject to review and approval and is not effective until approved by the Hearing Panel. **I agree and consent that the Hearing Panel members may be provided the proposed Consent Order for review and consideration.**

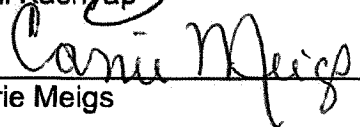
I further agree and consent that the Board staff, the Investigative Panel (IP), and its counsel may discuss the proposed Consent Order and related information and documentation with Hearing Panel members for the purpose of advocating approval of the proposed Consent Order without me or my counsel being present.

If the proposed Consent Order is not approved, I agree and consent that neither I nor anyone on my behalf will assert that these limited ex parte communications, including review of the documents, will disqualify any Hearing Panel members from considering and deciding this matter after a contested case hearing.

I also agree that I am not entitled to obtain or discover the above-referenced limited communications or the substance of these communications between the Hearing Panel members and the Board staff, the IP, and its counsel, regardless of whether the proposed Consent Order is approved.

I have consulted with my counsel before signing and agreeing to this waiver of limited ex parte communication.



Sunil Kashyap


Carrie Meigs

1/7/25
Date
1/9/25
Date