

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:)
)
) **FINAL AGENCY DECISION**
WILLIAM BOLES, JR., D.D.S.)
(License No. 3897))
)

THIS MATTER was heard before the North Carolina State Board of Dental Examiners ["Board"] on March 15-16, 2019, pursuant to N.C. General Statute §§ 90-41.1 and 150B-38 and 21 NCAC 16N .0504 of the Board's Rules. The Board's Hearing Panel consisted of Board members Dr. Millard W. Wester, III, presiding, Dr. Merlin W. Young, Dr. William M. Litaker, Jr., Dr. Edward J. Clemons, and Dr. Catherine A. Watkins. Board members Dr. Kenneth M. Sadler, Ms. Nancy A. St. Onge, and Mr. Dominic Totman did not participate in the hearing, deliberation, or decision of this matter. Carrie Meigs and Justin May represented Respondent, Dr. William Boles, Jr. ["Respondent"]. Douglas J. Brocker and Crystal S. Carlisle represented the Investigative Panel, and Fred Morelock represented the Hearing Panel.

Based upon the stipulations of the parties and the evidence introduced at the hearing, the Board Hearing Panel makes 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 in Article 2, and the Rules and Regulations of the Board, set forth in 21 North Carolina Administrative Code Chapter 16.

2. Respondent was licensed to practice dentistry in North Carolina on July 1, 1974 and holds license number 3897.

3. Respondent has remained licensed to practice dentistry in North Carolina and was subject to the Dental Practice Act and the Board's Rules and Regulations at all times relevant hereto.

4. At all times relevant hereto, Respondent worked as a general dentist in Wilson, North Carolina in his dental practice, Boles, Ham, Dixon and Boles.

5. Respondent was properly served with the pleadings in this matter and had appropriate and adequate notice of the hearing dates.

6. On August 30, 2017, Dr. William Claytor, Volunteer Coordinator with the North Carolina Caring Dental Professionals ("CDP") received a telephone call expressing concern regarding Respondent's excessive alcohol consumption.

7. It was Dr. Claytor's impression that the caller was calm and rational and seemed genuinely concerned about Respondent.

8. The caller reported to Dr. Claytor that Respondent's office staff smelled alcohol on Respondent's breath while he was at the office.

9. The caller also reported to Dr. Claytor that Respondent's partners had asked him to take a breathalyzer test, which Respondent refused.

10. Dr. Claytor relayed the information he obtained from the caller to Nancy Davis, Executive Director of CDP.

11. On the same date the call of concern was received, Nancy Davis, Executive Director of CDP, sent a letter to Respondent regarding the call of concern. The letter was sent to Respondent's home and office addresses.

12. The letter stated that CDP had received information which made it urgent that Respondent contact CDP before 12:30 p.m. on September 1, 2017.

13. Respondent contacted Ms. Davis before the deadline and agreed to obtain a professional evaluation through CDP. However, Respondent initially did not agree to stop practicing dentistry, and Ms. Davis offered to have Dr. Claytor speak with him.

14. After Nancy Davis spoke to Respondent regarding the call of concern, Dr. Bill Claytor contacted Respondent and advised Respondent that he needed to stop seeing patients until he was able to be professionally evaluated.

15. Ms. Davis forwarded Respondent an Evaluation Agreement, which is standard practice for CDP.

16. Respondent signed the Evaluation Agreement on September 1, 2017.

17. Paragraph 3 of the Evaluation Agreement states Respondent could remain an anonymous Voluntary Participant unless: (b) he refused to cooperate with the Program or refused to follow the recommendations as a result of the professional evaluation, including submitting to treatment.

18. Respondent did not comply with the terms of the Evaluation Agreement.

19. In February 2018, CDP's compliance committee determined that:

- a. Respondent could not be managed or monitored by CDP due to his noncompliance;
- b. His contract with CDP should be terminated; and
- c. He should be reported to the Board.

20. Ms. Davis reported Respondent to the Board and informed Respondent she had done so.

21. The remainder of the Board's findings are contained in Exhibit A entitled – Findings Under Seal and incorporated herein by reference.

Based on the above findings and the evidence presented in the record, including the findings and evidence filed under seal, the Board Hearing Panel reaches the following:

CONCLUSIONS OF LAW

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

2. Respondent violated N.C. Gen. Stat. § 90-41(a)(2) by chronically or persistently using intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice dentistry.

3. Respondent violated N.C. Gen. Stat. § 90-41(a)(6) by engaging in an act or practice violative of any of the provisions of the Dental Practice Act or violative of any of the rules and regulations promulgated and adopted by the Board.

4. Respondent violated N.C. Gen. Stat. § 90-41(a)(26) by engaging in unprofessional conduct, which is defined under 21 N.C.A.C. 16V .0101(13) to include failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program. The violations set forth in this conclusion 4, even without those violations set forth in conclusions 2 and 3 above, are sufficient to warrant the Order of Discipline set forth herein.

5. Findings of Fact in Exhibit A contain information protected from disclosure by federal law and should be sealed for the same reasons set forth in the Order closing the hearing and sealing certain exhibits entered by the Board in this matter on May 6, 2019, pursuant to the request of Respondent.

Based on the foregoing Findings of Fact, Findings of Fact Under Seal, and Conclusions of Law, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Respondent's license to practice dentistry in North Carolina is suspended indefinitely.

2. Respondent's license may be conditionally reinstated if he files a petition to reinstate his dental license and provides evidence demonstrating that he has signed a new Participation Agreement with CDP of least five years in length, and the CDP compliance committee has accepted the Participation Agreement and agreed to allow Respondent back into the CDP program. Respondent shall not be required to obtain a new professional evaluation, as a condition of reinstatement, provided he enters into a new Participation Agreement within 90 days of entry of this FAD.

3. If Respondent's license is conditionally reinstated, his suspension shall be stayed provided he complies with the following probationary terms and conditions necessary to protect the public for five years from his conditional reinstatement:

- a. Respondent fully complies with all terms and conditions of his CDP Participation Agreement. Respondent shall sign a release with CDP permitting it to submit monthly reports to the Board;

- b. Respondent shall violate no provisions of the Dental Practice Act or the Board's Rules and Regulations;
- c. Respondent shall neither permit nor direct any of his employees to violate any provision of the Dental Practice Act or the Board's Rules and Regulations; and
- d. Respondent shall permit the Board and its agents to inspect and observe his office and patient records and interview employers, employees, and co-workers at any time during normal office hours.

4. The Board recognizes that the conditions, limitations, or requirements set forth in this FAD may present Respondent 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.

5. If Respondent fails to comply with any provision of this FAD or breaches any term or condition thereof, the Board shall promptly schedule a Show Cause Hearing to permit Respondent to show cause why his dental license should not be suspended indefinitely. If, as a result of the Show Cause Hearing, the Board is satisfied that Respondent failed to comply with or breached any term or condition of this FAD, Respondent's license shall be indefinitely suspended and, upon written demand, Respondent shall immediately surrender his dental license and current renewal certificate to the Board. This sanction shall be in addition to and not in lieu of any sanction the Board may impose as a result of future violations of the Dental Practice Act or the Board's Rules.

This the 15th day of JUNE 2019.



Dr. Millard W. Wester, Presiding Officer
on behalf of the Hearing Panel
The N.C. State Board of Dental Examiners

