

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

VINAY N. CHIRNALLI, D.M.D.)
(License No. 8129)) CONSENT ORDER

THIS MATTER is before the North Carolina State Board of Dental Examiners (Board) as authorized by G.S. §90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. A settlement conference was held on March 13, 2010 with the consent of the parties. Vinay Nagappa Chirnalli, D.M.D. (Respondent) was represented by Johnny Loper. Carolin Bakewell represented the Investigative Panel. Based upon the evidence presented at the settlement conference and the consent of the parties, the Board hereby enters the following:

FINDINGS OF FACT

1. The North Carolina State Board of Dental Examiners is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 90 of the North Carolina General Statutes (the Dental Practice Act) and the Rules and Regulations of the North Carolina State Board of Dental Examiners (Dental Board).
2. Respondent was licensed to practice dentistry in North Carolina on January 26, 2006 and is subject to the Dental Practice Act and the rules promulgated thereunder.
3. At all times relevant hereto, Respondent was engaged in the practice of general dentistry in Wake Forest, North Carolina.

4. On February 2, 2009, Louis Kirsch (Mr. Kirsch) presented to the Respondent's dental office for a complete oral examination, full mouth probing and radiographs.

5. Following the examination, the Respondent diagnosed Mr. Kirsch with type II periodontal disease and recommended that Mr. Kirsch undergo scaling and root planing for the lower right and lower left quadrants and in the areas of teeth numbers 2, 3, 4, 13, 14, and 15.

6. Neither the Respondent's clinical chart entries nor the radiographs in the patient record supported his diagnosis of type II periodontal disease.

7. Mr. Kirsch returned to the Respondent's office on February 18, 2009, at which time the scaling and root planing was performed.

8. The standard of care for dentists licensed to practice dentistry in North Carolina in 2009 required dentists to accurately diagnose periodontal disease and refrain from directing auxiliaries to perform scaling and root planing when the need for such is not supported by clinical and radiographic documentation.

9. The Respondent violated the standard of care by diagnosing Mr. Kirsch with type II periodontal disease and by directing his staff to perform scaling and root planing that was not supported by clinical and radiographic documentation.

10. The Respondent, or his staff acting on his direction, billed Mr. Kirsch for the performance of scaling and root planing when such was not supported by clinical and radiographic documentation.

11. The standard of care for dentists licensed to practice dentistry in North Carolina in 2009 required dentists to refrain from billing patients for the performance of

scaling and root planing when such is not supported by clinical and radiographic documentation.

12. The Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina by billing or directing his staff to bill Mr. Kirsch for the performance of scaling and root planing when such was not supported by clinical and radiographic documentation.

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

CONCLUSIONS OF LAW

1. The North Carolina State Board of Dental Examiners has jurisdiction over the subject matter of this action and over the person of the Respondent.

2. Respondent has stipulated that such allegations, if proven, are legally sufficient to support Findings and Conclusions that he has violated G.S. 90-41 as specified in the Findings of Fact. Furthermore, Respondent has stipulated that, solely for the purposes recited herein, Respondent will not contest the allegations set forth in this Order, which allegations are previously incorporated in this Order, as if fully set forth herein, as Findings of Fact.

3. Respondent's failure to comply with the applicable standard of care in his treatment of Louis Kirsch as set forth in the Findings of Fact constituted negligence in the practice of dentistry within the meaning of G.S. §90-41(a)(12).

4. Respondent's negligent acts constituted a violation of Article 2, Chapter 90, of the North Carolina General Statutes within the meaning of G.S. §90-41(a)(6).

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

ORDER OF DISCIPLINE

1. License Number 8129 issued to Respondent for the practice of dentistry in North Carolina is hereby suspended for a period of one (1) year.

2. With the Respondent's consent, his license to practice dentistry shall be immediately reinstated, with no period of active suspension, provided that, for the five (5) years following the date of this Order, he adheres to the following probationary terms and conditions:

- (a) Respondent shall violate no provision of the Dental Practice Act or the Board's rules and regulations;
- (b) Respondent shall submit to interviews by the Board or its authorized agent during regular office hours or at such other times as are mutually convenient. Respondent shall also permit the Board or its agents to interview his employees during regular office hours;
- (c) Respondent shall, within one (1) year from the date of this Order, perform one hundred (100) hours of community dental service approved by the Board, in writing, and in advance of performed work. Within thirty (30) days of issuance of this Consent Order, Respondent shall submit to the Board a written plan for compliance with this condition. After a plan is approved by the Board and until such time the plan is completed, Respondent shall furnish to the

Board a monthly report which should include a daily tabulation of all services performed by him under the plan during the preceding month. The report must be signed by an individual at the location who has been pre-approved by the Board. Respondent shall be responsible for all costs associated with his community service;

- (d) Respondent shall, within one (1) year of the date of this Order, successfully complete the continuing education course entitled "Ethics in Dentistry," by Michael D.L. Weisenfeld, D.D.S. and Wayne S. Silverman, D.D.S. Respondent shall submit to the Board's Deputy Operations Officer written proof of satisfactory completion of this course. It is the Respondent's responsibility to make all arrangements and complete the course within the specified time;
- (e) Within thirty (30) days of the date of this Order, Respondent shall reimburse the Board for the costs associated with its investigation of this matter in the amount of \$ 235.00.

3. If Respondent fails to comply with any provision of this Order or breaches any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing to permit Respondent to show cause why his dental license should not be suspended. 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 Order, Respondent's license shall be rescinded and, upon written demand, Respondent shall immediately surrender his license and current renewal certificate to the Board for a

period of one year. 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 30 day of June 2010.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By: Terry W. Friddle
Terry W. Friddle
Deputy Operations Officer

STATEMENT OF CONSENT

I, VINAY NAGAPPA CHIRNALLI, D.M.D., do hereby certify that I have read the foregoing Consent Order in its entirety and that I do freely and voluntarily admit, exclusively for the purposes of this disciplinary proceeding and any other disciplinary or licensure proceedings before this Board or any other Dental Licensing Board, that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that I will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that I assent to the terms and conditions set forth therein. By signing this Statement of Consent I hereby express my understanding that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order shall become a part of the permanent public record of the Board.

This the 23 day of June, 2010.



VINAY N. CHIRNALLI, D.M.D.