

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

CHERYL E. PAYNE, R.D.H.  
(License No. 5040)

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FINAL AGENCY DECISION

THIS MATTER was heard on March 10, 2011 before the North Carolina State Board of Dental Examiners (Board) pursuant to G.S. §§ 90-229 and 150B-38 and 21 NCAC 16N .0504 of the Board's Regulations. The Hearing Panel of the Board consisted of members Dr. Ronald K. Owens, presiding; Dr. Brad C. Morgan, Dr. C. Wayne Holland, Dr. Millard W. Wester III, Ms. Jennifer Sheppard and Dr. David A. Howdy. Board members Dr. Kenneth M. Sadler and Dr. James Hemby did not participate in the hearing, deliberations or decision of this matter. The Respondent, Cheryl E. Payne (Ms. Payne or Respondent), did not appear nor was she represented by counsel. Carolin Bakewell represented the Investigative Panel and Thomas F. Moffitt represented the Board.

Based upon the evidence produced at the hearing, the Board enters the following:

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 and the Rules and Regulations of the North Carolina State Board of Dental Examiners.

2. Respondent was licensed to practice dental hygiene in North Carolina on June 21, 1994 and holds license number 5040.

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

4. The Respondent was properly served with a Notice of Hearing in this matter by publication in compliance with N.C. Civ. Pro. Rule 4(j1).

5. In 2004, the Respondent voluntarily underwent 30 days of in-patient treatment at Fellowship Hall for alcohol dependence.

6. In early 2009, the Respondent relapsed on Hydrocodone.

7. On April 22, 2009, the Respondent's employer confronted her with allegations that Respondent had diverted drugs from a patient.

8. On April 23, 2009, the Respondent was admitted for an evaluation at Oakwood Place.

9. Oakwood Place diagnosed the Respondent with poly-substance dependence.

10. On April 29, 2009, the Respondent signed a five year contract with the North Carolina Caring Dental Professionals (CDP).

11. On May 3, 2009, the Respondent began in-patient treatment for substance dependence at Hope Valley, where she remained for a month.

12. Hope Valley diagnosed the Respondent with opioid dependence and recommended that she continue receiving outpatient care at Oakwood Place and comply with all conditions of her CDP contract.

13. On February 11, 2010, the Respondent announced that she was withdrawing from the CDP because of financial concerns.

14. The Respondent's CDP contract required her, among other things, to participate in random urine screens, remain abstinent from all mind altering drugs, attend monthly meetings with her peer assistant and submit written monthly progress reports to the CDP.

15. Following her resignation from the CDP, the Respondent ceased participating in random urine screening, did not attend monthly meetings with her peer assistant, and did not submitted monthly progress reports to the CDP. The foregoing requirements were all material terms of the Respondent's CDP contract.

16. Addiction is a chronic, relapsing disease.

17. Without treatment, it is very unlikely that the Respondent will be able to maintain her sobriety.

18. There is no evidence that Respondent has remained abstinent from drugs and alcohol since she withdrew from the CDP or that she is participating in a sound program of recovery from her drug and alcohol dependence.

19. The Respondent is a chronic or persistent user of intoxicants to the extent that the same impairs her ability to practice dental hygiene.

20. On October 17, 2007, the Respondent was convicted of misdemeanor assault and battery. Although she was required to disclose this conviction on her application for renewal of her dental hygiene license in 2008, she knowingly and intentionally failed to do so.

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

#### CONCLUSIONS OF LAW

1. The Respondent was properly served with the Notice of Hearing in this matter and had notice of the day, time and place of the hearing.

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

3. By failing to comply with several material terms of her CDP contract, the Respondent engaged in unprofessional conduct as defined in 21 NCAC 16V.0102(10) and thereby violated G.S. 90-229(a)(12).

4. By being a chronic or persistent user of intoxicants to the extent that the same impairs her ability to practice dental hygiene, the Respondent is in violation of N.C. Gen. Stat. 90-229(a)(4).

5. By failing to disclose her 2007 assault conviction on her 2008 renewal form, the Respondent engaged in fraud, deceit or misrepresentation in obtaining the renewal of her dental hygiene license, in violation of N.C. Gen. Stat. 90-229(a)(1).

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board enters the following:

#### ORDER OF DISCIPLINE

1. Respondent's license to practice dental hygiene in North Carolina is hereby suspended indefinitely.

2. Respondent may not apply for the reinstatement of her dental hygiene license until she produces written proof that:

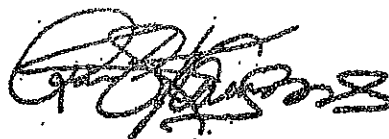
- (a) She has signed a contract with the Caring Dental Professionals and CDP is advocating for her return to the practice of hygiene.
- (b) She has complied with all mandatory continuing education requirements of the Board.
- (c) She has not violated the Dental Hygiene Act, the Board's rules and regulations or the laws of the United States or of any state during the suspension of her hygiene license.

3. Any order staying the suspension of the Respondent's dental hygiene license shall include, but not be limited to, the following terms:

- (a) Respondent shall violate no provision of the Dental Hygiene Act or the Board's Rules;
- (b) Respondent shall give written notice to the Board of the street and street number (not a Post Office Box) and mailing addresses of her places of employment and residence. Respondent shall notify the Board of any changes of either address within ten (10) days of the change;
- (c) 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 arrange for the Board or its agent to interview her employer and co-employees during regular office hours;
- (d) Respondent shall inform all employers, in writing, of her recovery status and provide each employer with a copy of this Consent Order;

- (e) Respondent shall not possess or use any controlled substances, alcohol or any other mood altering substance unless prescribed for her in the usual course of professional treatment. Respondent shall immediately notify the CDP of any medications prescribed, along with the name of the physician issuing the prescription. This must be accomplished prior to Respondent consuming the medication;
- (f) Respondent shall abide by all terms and conditions of her contract with the North Carolina Caring Dental Professionals (CDP).

This the 23 day of June, 2011.



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Ronald K. Owens, DDS,  
President and Hearing Panel Chair

THE NORTH CAROLINA STATE  
BOARD OF DENTAL EXAMINERS