

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

ROBERT LEE WARREN, D.D.S  
(License No. 3735)

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**CONSENT ORDER**

THIS MATTER came on to be heard and was heard before the North Carolina State Board of Dental Examiners (Board) pursuant to N.C. Gen. Stat. § 90-41(b) for consideration of a Consent Order in lieu of a formal administrative hearing. A settlement conference was held before the full Board on October 16, 2009. Robert Lee Warren, D.D.S. (Respondent), was represented by Anthony S. diSanti. Carolin Bakewell represented the Investigative Panel.

While Respondent does not admit for any purposes, other than this disciplinary hearing and any other disciplinary or licensure proceeding before this Board or any other dental licensing Board, the allegations contained in this Consent Order, in order to terminate further controversy and avoid additional proceedings, the Respondent agrees not to contest the allegations set forth within this Consent Order and does furthermore agree to the provisions and sanctions contained herein. Respondent further agrees that any breach or violation of this Consent Order shall constitute an admission of the Findings of Fact and Conclusions of Law as it pertains to the allegations contained herein.

Based upon the consent of the parties hereto, the Board 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).

2. Respondent was licensed to practice dentistry in North Carolina on July 19, 1972 and, at all times relevant hereto, was engaged in the practice of general dentistry in Boone, North Carolina.

### OFFICE PRESCRIPTION PROTOCOLS

3. Respondent prescribed medications for patients while they were in his office for treatment and directed his staff to pick up the pills at the local pharmacy. Respondent dispensed one or two pills of the medication as needed for treatment that day and kept the remainder of the medication in his office.

4. The medication was left unsecured, in plain view of patients and staff. Respondent did not keep a controlled substances log and was unable to account for the remainder of the medication.

5. The standard of care for dentists licensed to practice dentistry in North Carolina in 2005 – 2009 required dentists to account for all controlled substances maintained in the office.

6. The standard of care for dentists licensed to practice dentistry in North Carolina in 2005 - 2009 required dentists to properly secure controlled substances left in the office.

## INACCURATE RECORDS

7. During the investigation of this matter, the Investigative Panel directed Respondent to produce patient records for DF and JK. Respondent added entries to the patient records without dating the added material to make it clear that they were written after the fact. Respondent failed to disclose to the Investigative Panel that the records had been altered.

8. The standard of care for dentists licensed to practice dentistry in North Carolina at the time of this investigation required dentists who add entries to patient records after the fact to note the date of the added entry.

9. During the investigation of this matter, the Investigative Panel directed the Respondent to produce his drug log. Respondent constructed a drug log after the fact, which he presented to the Investigative Panel without disclosing that he had done so and that the document he produced had been compiled to address concerns raised by the Investigative Panel.

10. Pursuant to 21 NCAC 16V. 0101(2), intentionally presenting misleading records during a Board investigation constitutes unprofessional conduct.

## INADEQUATE RECORDS

11. Respondent failed to record all prescriptions he issued.

12. The standard of care for dentists licensed to practice dentistry in North Carolina at this time required dentists to maintain complete dental records that accurately and adequately reflect the name and strength of any medications prescribed, dispensed or administered, along with the quantity and date provided.

## SEDATION

13. Respondent administered minimal oral sedation to patients, despite the fact that he does not have a valid permit.

14. Pursuant to 21 NCAC 16Q .0401, a North Carolina dentist may not administer minimal oral sedation without first obtaining a valid permit.

### **CONCLUSIONS OF LAW**

1. The Dental Board has jurisdiction over the subject matter of this proceeding 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 as set out in Finding of Fact Numbers 5 and 6 was a dereliction from professional duty and constituted negligence in the practice of dentistry within the meaning of G.S. §90-41(a)(12).

4. Respondent's failure to comply with the applicable standard of care as set forth in Findings of Fact Number 8 was a dereliction from professional duty and constituted negligence in the practice of dentistry within the meaning of G.S. §90-41(a)(12).

5. By submitting patient records that had been altered and a drug log that he created without disclosure to the Investigative Panel, Respondent engaged in unprofessional conduct in violation of 21 NCAC 16V.0101(2) and G.S. §90-41(a)(26).

6. Respondent's failure to comply with the applicable standard of care for dentists licensed to practice dentistry in North Carolina by adding entries after the fact to the patient records for DF and JK without clearly dating the added entries was a dereliction from professional duty and constituted negligence in the practice of dentistry within the meaning of G.S. §90-41(a)(12).

7. By administering minimal oral sedation to patients, despite the fact that he did not have a valid permit, the Respondent violated 21 NCAC 16Q. 0402 and G.S. § 90-41(a)(6).

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

#### **ORDER OF DISCIPLINE**

1. License Number 3735 issued to the Respondent for the practice of dentistry is hereby suspended for a period of six (6) months. Respondent shall surrender his license and current renewal certificate to the Board at its offices on or before December 1, 2009.

2. With Respondent's consent, his license to practice dentistry shall be immediately restored, *with no period of active suspension*, provided that for the two (2) years immediately following the effective 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 neither direct nor permit any employee to violate any provision of the Dental Practice Act or the Board's rules and regulations.
- (c) Respondent shall allow the Board or its authorized agents to inspect and observe his office, conduct random patient chart reviews and interview his employees and co-workers at any time during regular office hours.
- (d) Response shall not administer oral sedation, with the exception of anxiolysis, until such time as he has applied for and received a permit to do so.
- (e) Respondent shall, within one (1) year from the date of this Order, complete a continuing education courses especially designed for him by the University of North Carolina School of Dentistry in conjunction with, and approved by, the North Carolina State Board of Dental Examiners. This will be comprehensive, remedial courses in (1) recordkeeping, (2) appropriate prescription writing in the practice of dentistry, to include the proper procedures for maintaining and securing controlled substances in the office; and (3) ethics. This requirement shall be in addition to the continuing education required by the Board for the renewal of Respondent's dental license. Respondent shall submit to the Board's Deputy Operations Officer written proof of satisfactory completion of this course before it will be accepted in satisfaction of this requirement. It is

the Respondent's responsibility to make all arrangements for and bear the cost of this course within the specified time.

- (f) Within thirty (30) days of the date of this Order, Respondent shall submit a written report to the Board outlining his current method of record keeping and submitting copies of all recordkeeping documents currently being used in his dental practice. Within thirty (30) days of completing the recordkeeping course as outlined in item (d) above, Respondent shall submit a second written report to the Board outlining what he learned at the course and how he has implemented the changes to his recordkeeping in his practice, attaching copies of all recordkeeping documents being used in his dental practice since implementing the changes.
- (g) Within ninety (90) days of completing the continuing education requirement, Respondent shall take and pass the Board's jurisprudence exam;
- (h) 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 \$ 1,947.00.

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 six months. 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 24 day of June, 2010.

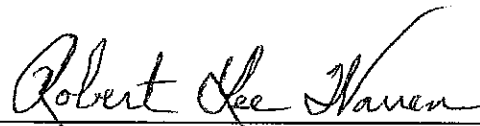
THE NORTH CAROLINA STATE  
BOARD OF DENTAL EXAMINERS

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

**STATEMENT OF CONSENT**

I, ROBERT LEE WARREN, DDS, 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 admit, exclusively for the purposes of this disciplinary proceeding and any other disciplinary or licensure proceedings before the Dental Board, that there is a factual basis for the findings of fact herein, that the findings of fact, if proven, support the conclusions of law and that I will not contest the findings of fact, the conclusions of law, or the order of discipline on appeal or if further disciplinary action is warranted in this matter. 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.

This the 21st day of June, 2010.

A handwritten signature in cursive script that reads "Robert Lee Warren". The signature is written in black ink and is positioned above a horizontal line.

ROBERT LEE WARREN, D.D.S.