

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF)
) FINAL AGENCY DECISION
)
SPURGEON W. WEBBER, III, D.D.S.)
(License Number 5647))

THIS MATTER was heard before the North Carolina State Board of Dental Examiners (“Dental Board” or “Board”) on June 18, 2016, pursuant to G.S. §§ 90-41 and 150B-38, and 21 N.C.A.C. 16N .0504 of the Board's Rules. The Board’s Hearing Panel consisted of Board members Dr. Clifford O. Feingold, presiding; Dr. Stanley L. Allen; Dr. Millard W. Wester, III and Dr. Merlin W. Young. Board members Dr. William M. Litaker, Jr., Dr. David A. Howdy, and Ms. Carla Stack, R.D.H., did not participate in the hearing, deliberations or decision of this matter. Dr. Spurgeon W. Webber, III, (“Respondent”) elected to appear without legal counsel. Crystal S. Carlisle represented the Investigative Panel, and Thomas F. Moffitt represented the Hearing Panel.

Based upon the evidence introduced at the hearing, the Board enters 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 North Carolina State Board of Dental Examiners.

2. Respondent was licensed to practice dentistry in North Carolina on July 28, 1987 and holds license number 5647.

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

4. At all times relevant hereto, the Respondent was engaged in the practice of general dentistry in Charlotte, North Carolina.

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

6. On October 22, 2014, following a settlement conference, the Respondent signed a Consent Order (2014 CO) stating that he violated the standard of care for dentists licensed to practice in North Carolina, and thereby engaged in negligence in the practice of dentistry in violation of N.C. Gen. Stat. §§ 90-41(a)(12) and (a)(6).

7. The 2014 CO was signed, entered and effective on November 6, 2014. Pursuant to the 2014 CO, the Dental Board suspended Respondent's license for a period of sixty (60) days but allowed immediate reinstatement provided that for three (3) years from the date of the 2014 CO Respondent adhered to certain probationary terms and conditions.

8. Among the probationary terms and conditions set forth in the 2014 CO was the requirement that Respondent shall, within one (1) year from the date of the 2014 CO, complete 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.

9. The courses required by the 2014 CO included comprehensive, remedial courses in ethics, jurisprudence, implant reconstruction and complex crown and bridge, and record keeping. This requirement was in addition to the continuing education required by the Board for the renewal of Respondent's dental license.

10. The 2014 CO stated that if Respondent failed to comply with any provision of the Order or breached any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing. 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 the 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 sixty (60) days.

11. The Respondent was fully aware of the terms of the 2014 CO.

12. On July 15, 2015 Respondent requested to be relieved from the remainder of the 2014 CO.

13. The Dental Board denied Respondent's request on August 24, 2015.

14. Respondent did not specifically request additional time to complete the continuing education requirements of the 2014 CO during the year he was required to complete this requirement.

15. Respondent took other continuing education courses after the 2014 CO was entered, but none of the courses were approved by the Board.

16. Respondent admitted he did not take the continuing education courses required under the 2014 CO.

17. Respondent testified that he was financially unable to take the continuing education required under the 2014 CO but failed to present substantial evidence that supports his testimony that he was financially unable to comply with the terms of the 2014 CO.

18. Respondent violated the terms of the 2014 CO by failing to complete the required continuing education courses within the time allowed by the 2014 CO.

19. Respondent is African-American. He has acknowledged that he does not contend or believe that the Board's disciplinary actions are racially motivated. Instead, he contends that the Board's disciplinary action has had a negative impact on him, as an African-American, and on the African-American community in which he provides dental services. Respondent asks the Board to exercise discretion to rescind the disciplinary action against him based on this perceived racial impact. This the Board cannot do. First, the Board must exercise its disciplinary authority equally and evenhandedly to all dentists in North Carolina in order to protect the public without regard to race. Second, the Board finds no evidence of racial motive, intent or effect based on Respondent's race due to any of the Board's disciplinary actions concerning Respondent. Discipline in Respondent's case is based solely on what Respondent did or failed to do as a dentist. Race played no role in the Board's decision.

Based upon the Findings of Fact, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

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

2. By violating the 2014 CO, Respondent violated a lawful order of the Board entered in a disciplinary proceeding and thereby violated 21 NCAC 16V .0101(4) and G.S. 90-41(a)(6) and (a)(26).

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 dentistry in North Carolina is hereby suspended for sixty (60) days.

2. Respondent shall surrender his license and current renewal certificate to the Board at its offices no later than September 1, 2016.

3. After the sixty (60) day suspension has concluded, Respondent may apply for reinstatement of his dental license upon submitting written proof that he has successfully completed the comprehensive, remedial 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 in ethics, jurisprudence, implant reconstruction and complex crown and bridge, and record keeping as required by the 2014 CO.

4. Except as set forth herein, all other terms and conditions of the 2014 CO remain binding upon the parties.

This the 18th day of August, 2016.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

BY: 
Clifford O. Feingold
Hearing Panel Chair