

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

ELYSA de MORIAS, D.D.S.
(License No. 8492)

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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 April 17, 2010. Elysa de Morias, D.D.S. (Respondent), was represented by Stephen Coles. 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. Elysa de Morias, D.D.S. (Respondent), was licensed to practice dentistry in North Carolina on September 11, 2007 and holds license number 8492.

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 relevant times, Respondent was engaged in the practice of general dentistry in Greensboro, North Carolina.

5. On November 3, 2008, Elena Wachendorfer presented to the Respondent's dental practice with her daughter, Hannah Wachendorfer, who was then three years old.

6. Following a limited examination, the Respondent developed a treatment plan that called for the restoration of six of Hannah's teeth, with possible stainless steel crowns on three of her teeth. The Respondent also placed "watches" on six of Hannah's other teeth.

7. Owing to Hannah's lack of cooperation, the Respondent was unable to conduct an adequate visual clinical exam or take sufficient radiographs to support her

treatment plan. Nevertheless, the Respondent presented the treatment plan to Ms. Wachendorfer as definitive, not as a preliminary proposal.

8. Ms. Wachendorfer was not satisfied with the Respondent's diagnosis and treatment plan and took Hannah to a second dentist on November 14, 2008. The second dentist was not able to perform a full examination because Hannah was not cooperative.

9. On June 4, 2009, Ms. Wachendorfer and Hannah returned to the second dentist, who performed a comprehensive examination. The second dentist located a small discolored spot on tooth number A and a minor fracture in the enamel of tooth of tooth number N. He found no decay on any of the teeth that the Respondent had recommended for restorations.

10. On November 20, 2009, more than a year after Hannah's appointment with the Respondent, Hannah was evaluated by a third dentist. The third dentist found incipient decay on tooth number A, which he opined was probably not there when the Respondent saw the child in November 2008. The third dentist found no other decay on any of Hannah's other teeth.

11. The standard of care for dentists licensed to practice dentistry at the time Respondent treated Hannah Wachendorfer required that dentists propose definitive treatment plans for patients after conducting an adequate clinical examination and obtaining sufficient radiographs.

12. Respondent violated the standard of care for dentists licensed to practice dentistry in North Carolina by proposing a definitive treatment plan for Hannah

Wachendorfer that called for the restoration of six teeth, without having conducted an adequate clinical examination and obtained sufficient radiographs.

Based upon the consent of the parties and the record herein, the Board makes 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 she 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 her treatment of Hannah Wachendorfer as set forth in the Findings of Fact 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 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, the Board hereby enters the following

ORDER OF DISCIPLINE

1. Respondent's license to practice dentistry in North Carolina is hereby suspended for thirty (30) days.

2. With the Respondent's consent, her dental license shall be immediately restored, with no period of active suspension, provided that for two (2) years from the date of this Order the Respondent complies with 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 her office, conduct random patient chart reviews and interview her employees and co-workers at any time during regular office hours.
- (d) Respondent shall, within one (1) year from the date of this Order, complete a continuing education course especially designed for her 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 a comprehensive, remedial course in (1) pediatric diagnosis and treatment planning and (2) radiographic interpretation and diagnosis. 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.

- (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 \$650.00.

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 her 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 her license and current renewal certificate to the Board for a period of thirty (30) days. 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 8 day of June, 2010.

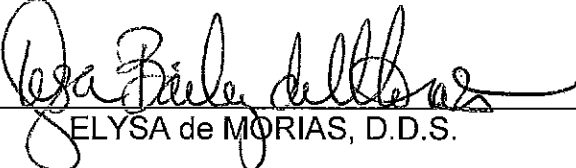
THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

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

STATEMENT OF CONSENT

I, ELYSA de MORIAS, D.D.S., 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, if proven, 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 24 day of May, 2010.



ELYSA de MORIAS, D.D.S.