

IN THE MATTER OF
NEIL R. WHITTAKER, D.D.S.

Respondent

License Number: 12504

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BEFORE THE MARYLAND
STATE BOARD OF
DENTAL EXAMINERS

Case Number: 2007-020

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AMENDED CONSENT ORDER

On or about December 19, 2007, the Maryland State Board of Dental Examiners (the "Board") and Neil R. Whittaker, D.D.S. (the "Respondent") entered into a Consent Order, which is incorporated by reference as set forth herein.

ADDITIONAL FINDINGS OF FACT

The Findings of Fact contained in the December 19, 2007 Consent Order are incorporated by reference as if fully set forth in this Amended Consent Order. The Board makes the following additional Findings of Fact:

7. Under the terms and conditions of the December 19, 2007 Consent Order, the Respondent was required, within sixty (60) days of the effective date of the Consent Order, to be evaluated by Ellen McDaniel, M.D, Rodney V. Burbach, M.D., or other Board approved physician for the purpose of determining the Respondent's substance abuse status. The Respondent was also required to comply with any treatment recommendations of the evaluator, including but not limited to recommendations for substance abuse treatment and other psychiatric and/or psychological treatment. Should the evaluator recommend treatment, the Respondent was required to appear before the CRC of the Board for amendments to this Consent Order. On or about

February 2008 and pursuant to the Consent Order, the Respondent was evaluated by Dr. Ellen McDaniel.

8. Dr. McDaniel reported to the Board that the Respondent has no drug problem, she did not recommend that the Respondent undergo any treatment, and she further recommended that the restrictions on his Maryland dental license for prescribing, dispensing, or administering controlled dangerous substances ought to be removed.

9. The Respondent is currently enlisted in the United States Air Force and subject to supervision of his clinical practice and prescription writing.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the December 19, 2007 Consent Order are incorporated by reference as if fully set forth in this Amended Consent Order.

ORDER

The Order provisions contained in this Amended Consent Order supersede the Order provisions of the December 19, 2007 Consent Order. Based on the foregoing Findings of Fact and Conclusions of Law, it is by the Maryland State Board of Dental Examiners, hereby:

ORDERED that the Consent Order dated December 19, 2007, be and is amended; and it is further

ORDERED that effective December 19, 2007, the Respondent's license to practice dentistry in the State of Maryland is **SUSPENDED** for Nine (9) Months; and it is further

ORDERED that the **SUSPENSION** shall be IMMEDIATELY STAYED effective December 19, 2007; and it is further

ORDERED that on or before December 19, 2008, the Respondent shall enroll in and successfully complete an intensive course in the proper prescribing of controlled dangerous substances, which must be pre-approved by the Board. The Respondent shall submit a written request for approval to the Board's Case Manager. The Respondent shall submit written verification to the Board's Case Manager of his enrollment and shall submit proof of having successfully completed the course; and it is further

ORDERED that should the Respondent seek to resume the practice dentistry in the State of Maryland, the Respondent shall prior to resuming his practice, enroll in and successfully complete a course in ethics, with must be which must be pre-approved by the Board. The Respondent shall submit a written request for approval to the Board's Case Manager. The Respondent shall submit written verification to the Board's Case Manager of his enrollment and shall submit proof of having successfully completed the course; and it is further

ORDERED that the Respondent shall notify the Board, at least thirty (30) days prior to resuming any practice of dentistry in the State of Maryland,¹ that he intends to resume practicing dentistry in the State; and it is further

ORDERED that prior to resuming the practice of dentistry in the State of Maryland, the Respondent shall be required to appear before the Board or the Case Resolution Conference Committee of the Board, for a determination as to whether the Board will place the Respondent under the following conditions:

¹ The Respondent is currently enlisted in the United States Air Force having sold his dental practice.

1. From the date of the Respondent's resumption of the practice of dentistry in the State of Maryland, the Respondent shall be placed on **PROBATION** for a period of **THREE (3) YEARS**, subject to the following terms and conditions:

a. In the event that the Respondent obtains his CDS Certificate and/or DEA permit, the Respondent shall maintain a log of all CDS prescriptions written as well as a copy of the actual prescriptions written.

b. The Board will appoint a clinical practice reviewer to supervise the practice of the Respondent.

c. The Respondent shall meet with his practice reviewer on a quarterly basis² to review his patient charts, at random, to ensure that the Respondent is not inappropriately prescribing CDS. The practice reviewer shall submit quarterly reports to the Board's Case Manager addressing the Respondent's prescribing practices. The quarterly reviews shall continue for the duration of the probationary period.

c. In the event that the practice reviewer's report indicates to the Board that the Respondent's prescribing practices fail to meet appropriate standards, the Board may, in its discretion, modify the terms and conditions of the probation after giving the Respondent the opportunity to be heard before the CRC of the Board. In addition, the Respondent may be subject to further disciplinary action by the Board; and it is further

ORDERED that the Respondent shall at all times cooperate with the Board and any of its agents or employees, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of this Amended Consent Order, including the Respondent causing to be submitted at his own expense, written

² The first meeting shall take place within 90-100 days after the Respondent returns to practice.

reports, records and verifications of actions that may be required by the Board; and it is further

ORDERED that the Respondent shall comply with the Maryland Dentistry Act and regulations. Failure to do so shall constitute a violation of this Consent Order and the Respondent may be subject to further disciplinary action by the Board; and it is further

ORDERED that the Respondent shall obey all laws of the United States, the State of Maryland and its political subdivisions. A guilty verdict or probation before judgment sentence for any crime, except minor traffic offenses (not involving drugs or alcohol), shall constitute a violation of Probation and of this Consent Order, and the Respondent may be subject to further disciplinary action by the Board; and it is further

ORDERED that if the Respondent violates any of the terms of this Consent Order, the Board may immediately suspend the Respondent's license without either prior notice or and opportunity to be heard, provided that the Respondent is given the opportunity for a show cause hearing before the Board at the next regularly scheduled meeting of the Board and after notice and a hearing, and a determination of violation, the Board may impose any other disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that this Consent Order does not resolve any possible charges under the Act that may result from a conviction, guilty plea or *nolo contendere* to any criminal charges that result from the circumstances which lead to this Amended Consent Order,


and the Respondent may be separately charged for such a conviction, guilty plea or *nolo contendere* under Md. Health Occ. Code Ann. § 4-315(a)(4); and it is further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (Supp. 2007), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and the Board may disclose to any national reporting bank or other entity to whom the Board is mandated to report; and it is further

ORDERED that this is a Final Order of the Board, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Govt. Code Ann. §§ 10-611, *et seq.* (2004 & Supp. 2007).

5/21/08
Date



David A. Williams, D.D.S.
President
State Board of Dental Examiners

CONSENT OF NEIL R. WHITTAKER, D.D.S.

I, **Neil R. Whittaker, D.D.S.**, License No. 12504, by affixing my signature hereto, acknowledge that:

1. I have had the opportunity to consult with counsel before signing this document.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 4-318 (2005) and Md. State Gov't. Code Ann. §§10-201 *et seq.* (2004 & Supp. 2007).

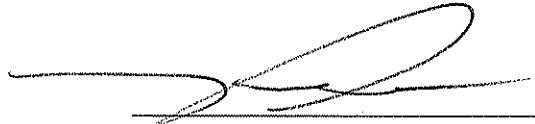
3. I acknowledge the validity of this Consent Order as if entered into after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

4. I voluntarily enter into and consent to the foregoing Amended Findings of Fact, Conclusions of Law and Order, provided that the Board adopts the foregoing Amended Consent Order in its entirety. I waive any right to contest the Amended Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order as set forth in § 4-318 of the Act and Md. State Gov't. Code Ann. §§ 10-201 *et seq.* (2004 & Supp. 2007).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice dentistry in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

30 Apr 08
Date


Neil R. Whittaker, D.D.S.

NOTARY

STATE OF Virginia

CITY/COUNTY OF Langley AFB

I HEREBY CERTIFY THAT on this 30th day of April, 2008, before me, a Notary Public for the State of ~~Maryland~~ ^{Virginia} and the City/County aforesaid, personally appeared Neil R. Whittaker, D.D.S., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

AVIVA REINHARDT, USAF
Paralegal
Notary by Federal Statute
10 U.S.C. 1044g
IAW AFI 51-504


Notary Public

My Commission Expires: Indef.