

**STATE OF VERMONT  
SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF DENTAL EXAMINERS**

IN RE: )  
ALBERT S. HARDY, DMD ) Docket No. 2021-5  
License No. 016.0001123 )

**STIPULATION AND CONSENT ORDER**

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Traci Leibowitz, and the Respondent in this matter, Respondent, Albert S. Hardy, DMD, who stipulate and agree as follows:

**Board Authority**

1. The Vermont State Board of Dental Examiners (the "Board") has jurisdiction to hear matters involving allegations of unprofessional conduct committed by dentists, dental hygienists, and dental assistants pursuant to 3 V.S.A. §§127, 129, 129a; 26 V.S.A. Chapter 12; the Administrative Rules of the Board of Dental Examiners ("ARBDE"); and the Rules of the Vermont Office of Professional Regulation ("OPR").

**Stipulated Facts**

2. Albert S. Hardy, DMD ("Respondent") of Colchester, Vermont is licensed by the State of Vermont as a Dentist under license number 016.0001123. This license was originally issued March 23, 1990, and expires on September 30, 2021.
3. Respondent, at all relevant times, was practicing as a dentist specializing in oral and maxillofacial surgery at the Vermont Center for Dental Implants and Maxillofacial Surgery (the "Practice") located in Colchester, Vermont.
4. A patient ("Patient") was referred to the Practice for an extraction consultation.
5. On February 23, 2017, Respondent treated Patient at the Practice, providing an oral examination and a consultation. The diagnosis and treatment plan were reviewed with Patient. The treatment plan called for extraction of tooth #17 and tooth #20.
6. At the February 23<sup>rd</sup> visit, Patient signed a consent form authorizing Respondent to extract tooth #17 and tooth #20.
7. The treatment plan, the referral form, and the signed consent form all identified tooth #17 and tooth #20 as the teeth to be extracted.

8. Respondent failed to properly review patient records prior to the extraction procedure.
9. On July 13, 2017, Respondent performed the extraction and extracted the wrong tooth.
10. Respondent extracted tooth #19 instead of tooth #17.
11. Shortly after Respondent completed the extraction procedure, Respondent realized the wrong tooth was extracted.
12. Arrangements were made for Patient to return to have the correct tooth, tooth #17, extracted.

**Violation One: 3 V.S.A §129a(b)(1) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care.**

13. The State re-alleges and incorporates Paragraphs 2 through 12 above.
14. As a Dentist, Respondent is required to provide safe and acceptable patient or client care.
15. Paragraphs 2 through 12 demonstrate that Respondent failed to practice competently and performed unacceptable patient care.
16. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

#### **Understandings**

17. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
18. Respondent understands that the Board of Dental Examiners must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
19. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
20. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

21. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
22. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
23. Respondent voluntarily waives his right to a contested hearing before the Board of Dental Examiners and waives any right to appeal from this Stipulation and Consent Order.
24. Respondent agrees that the Order set forth below may be entered by the Board.

### ORDER

Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board hereby places a **WARNING** on Respondent's license.
- B. **A MONETARY FINE IN THE AMOUNT OF TWO HUNDRED AND FIFTY DOLLARS (\$250.00)** is imposed on Respondent. This penalty shall be paid within ninety (90) days of the date of entry of this Order.
- C. Notwithstanding any provision above, the Respondent must continue to meet all requirements for maintaining a license, license renewal, and license reinstatement.
- D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a).
- E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

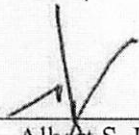
STATE OF VERMONT  
SECRETARY OF STATE

Dated: Apr. 22, 2021

By:   
Traci Leibowitz  
State Prosecuting Attorney

ALBERT S. HARDY, DMD  
RESPONDENT

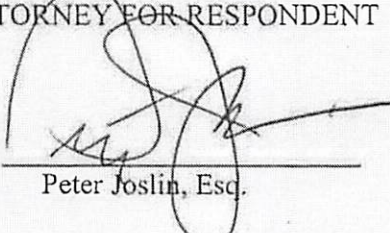
Dated: 3/11/21

By:   
Albert S. Hardy, DMD

APPROVED AS TO FORM ONLY:

PETER JOSLIN, ESQ.  
ATTORNEY FOR RESPONDENT

Dated: 3/15/21

By:   
Peter Joslin, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL  
EXAMINERS

May 13, 2021  
Dated: \_\_\_\_\_

E-SIGNED by Robert Ruhl  
on 2021-05-13 08:58:47 EDT  
By: \_\_\_\_\_  
Chairperson

Date of Entry: 5/13/21