

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

IN RE:)
ROBERT BATES) Docket No: 2011-816
License No: 016.0002212)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Robert S. Bates, who stipulate and agree as follows:

Board Authority

1. The Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate complaints of unprofessional conduct against dentists pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809; the Administrative Rules of the Board of Dental Examiners ("RBDE"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Robert Bates (the "Respondent") is licensed in Vermont as a dentist under license number 016.0002212. Respondent's license was originally issued on or about November 22, 2005 and is currently set to expire on September 30, 2013. Respondent is president of Allcare Dental Management, LLC ("Allcare"), which managed a chain of dental offices across 13 states that abruptly closed effective December 31, 2010 upon strict advice of counsel due to financial problems. Allcare never managed a dental office in Vermont.
3. On October 14, 2011, in the wake of the Allcare office closings in Massachusetts, Respondent entered into a Consent Agreement for Reprimand with the Commonwealth of Massachusetts' Board of Registration in Dentistry. This Agreement was a result of the alleged: failure of Respondent to provide treatment and services which patients had paid for; failure to provide patient records; and abandoning patients. The Agreement was for a reprimand on the license of the Respondent and for the Respondent not to seek relicensure to practice dentistry in Massachusetts. Attachment A.
4. On January 6, 2012, in the wake of the Allcare office closings in West Virginia, Respondent entered into a Consent Decree and Order with the West Virginia

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Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

Board of Dental Examiners. This Order was a result of the West Virginia Allcare office allegedly closing without prior notice to patients. The Agreement was in part for a 1 year suspension of Respondent's West Virginia dental license, with all but 90 days of the suspension stayed. Attachment B

Violations

5. Neither the West Virginia Consent Decree and Order nor Massachusetts Consent Agreement for Reprimand contained any admissions or finding of misconduct by Respondent.
6. Respondent, in consideration of this Stipulation and Consent Order, has chosen not to contest the allegations in paragraphs 3 and 4 above, and while admitting no guilt, violation or wrongdoing, agrees that solely for purposes of this or any future proceedings before the Vermont Board of Dental Examiners / the Office of Professional Regulation, the acts, omissions and/or circumstances described above regarding the West Virginia Consent Decree and Order and the Massachusetts Consent Agreement for Reprimand, constitute grounds for discipline, because Respondent violated:
 - a. The State incorporates paragraphs 3 and 4, 3 V.S.A. §129(a)(5) (The Board may discipline any licensee or refuse to license any person who has had a license application denied or license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct).
7. Respondent, in consideration of this Stipulation and Consent Order, has chosen not to contest the allegations in paragraphs 3 and 4 above, and while admitting no guilt, Violation or wrongdoing, agrees that solely for purposes of this or any future proceedings before the Vermont Board of Dental Examiners / the Office of Professional Regulation, the acts, omissions and/or circumstances described above, if proven to be true, constitute grounds for discipline, because Respondent violated:
 - a. The State incorporates paragraphs 3 and 4, 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
 - b. The State incorporates paragraphs 3 and 4, 3 V.S.A. § 129a(b)(1) and (2) (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

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unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and

Understandings

8. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.
9. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
10. This Stipulation and Consent Order is entered into voluntarily by the Respondent after the opportunity to consult with legal counsel. The Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
11. The Respondent is voluntarily waiving his right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
12. Respondent agrees that the Order set forth below may be entered by the Board.
13. The Respondent agrees to pay any and all costs associated with this Stipulation and Consent Order.

WHEREFORE, the parties agree that the following constitutes a reasonable resolution given the above violations:

ORDER

Based upon the above stipulation, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board of Dental Examiners hereby imposes an **ADMINISTRATIVE PENALTY OF ONE THOUSAND DOLLARS (\$1,000.00)** against the Respondent. This penalty shall be paid within sixty (60) days of the date of entry of this Order.
- B. The Board of Dental Examiners hereby changes Respondent's license status to **CONDITIONED**. The conditions are as follows:
 - a. Respondent must notify the Office of Professional Regulation if he practices dentistry in Vermont. The written notice requirement contemplated by this section shall only apply the initial time following the effective date of this Stipulation and Consent Order that Respondent announces his intention to commence the practice of dentistry in Vermont.

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- b. Respondent must remain in compliance with the conditions imposed upon him by Massachusetts and West Virginia.
- c. After the Respondent successfully completes the conditions imposed upon him by Massachusetts and West Virginia, the Respondent may petition to remove all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order and those of Massachusetts and West Virginia.
- C. It is the State's understanding that in addition to Massachusetts and West Virginia, the Respondent has either been disciplined or is in the process of being disciplined in several other states where he holds dental licenses and/or where Allcare offices were abruptly closed. This Stipulation and Consent Order is intended to cover conduct similar to that outlined in paragraphs 2 through 4 above that occurred in the other states not listed herein. The State reserves the right to initiate an investigation and/or prosecution for conduct different than that outlined in paragraphs 2 through 4 above.
- 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 the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 7/10/12

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

ROBERT S. BATES
RESPONDENT

By: [Signature]

Robert S. Bates

Dated: 6/13/12

APPROVED AND SO ORDERED:

Dated: 7/11/12

Date of Entry: 7/11/12

VERMONT BOARD OF DENTAL
EXAMINERS

By: [Signature]

Chairperson

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

_____	)	Docket Nos. DEN 2010-0064; DEN 2011-0033;
In the Matter of	)	DEN 2011-0008; SA INV-1547; SA INV-1712; SA
Dr. Robert Bates License	)	INV-1939; SA INV-2079; SA INV-1890;
No. DN 20241	)	SA INV-1418
_____	)	

CONSENT AGREEMENT FOR REPRIMAND

The Massachusetts Board of Registration in Dentistry ("Board") and Dr. Robert Bates ("Licensee" or "you"), License No. DN20241, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board.

1. The Licensee hereby states that he voluntarily enters into this Consent Agreement ("Agreement") in resolution of the matters set forth in Docket Nos. DEN 2010-0064 et. al.
2. The Licensee and the Board stipulate and agree that this matter has been resolved without any findings, and by agreement, in order to resolve a dispute between the parties without having to proceed to a formal adjudicatory hearing on the allegations that licensee violated M. G. L. c. 112, §61 by failing to provide treatment and services which patients had paid for, provide patient records, and abandoning patients.
3. In order to resolve this matter without further proceedings before the Board, the Licensee agrees that the Board hereby imposes a *Reprimand* on his license pursuant to 234 Code of Massachusetts Regulations ("CMR") 9.03 (2)(a) which is effective as of the date on which this Consent Agreement is signed by the Board ("Effective Date").
 - (a) Licensee understands and agrees that pursuant to the Reprimand and upon the Effective Date of this Agreement:
 - i. He shall, upon signing of this Consent Agreement voluntarily return any dental registration and license issued to him by the Board to the Board's office located at 239 Causeway Street, Boston, MA. 02114 by hand or certified mail.
 - ii Licensee agrees that he shall not seek relicensure to practice dentistry in the Commonwealth.

- iii. Licensee agrees not to seek to maintain, operate, own or have any management responsibilities in any dental clinic, dental practice or other entity organized to provide or manage dental services in the Commonwealth. Said management responsibilities may include, but not be limited to: supervision of any staff, directing patient treatment, and developing, implementing and/or managing business protocols and procedures.
4. Within **thirty days of the Effective Date**, Licensee shall provide a copy of this Consent Agreement to all jurisdictions in which he holds a license to practice dentistry.
 - (a) Licensee shall provide written documentation to the Board demonstrating his compliance with paragraph (7).
5. The Licensee understands that his action in entering into this Agreement is a final act and not subject to reconsideration, collateral attack or judicial review in any form or forum.
6. The Licensee acknowledges and understands that this Consent Agreement is a public record within the meaning of M.G.L. c. 4, § 7 and as such may be disseminated to the public.
7. The Board agrees that, in return for the Licensee's entering into this Agreement, the Board will not conduct any further prosecution of the allegations contained in the Complaint included in Docket Nos. DEN 2010-0064 et. al. unless the licensee does not fulfill the stipulations as stated in Paragraphs 5 and/or 6 above.
8. The Licensee states that he enters this Consent Agreement of his own free will. The Licensee further states that he is aware that he has a right to counsel in this matter and either has conferred with counsel prior to signing this Agreement or waives his right to have counsel.
9. A waiver by the Board of any provisions of this Consent Agreement at any time shall not constitute a waiver of any other provision of this Agreement, nor shall it constitute waiver by the Board of its rights to enforce such provision at any future time.
10. The Licensee certifies that he has read this document entitled "Consent Agreement for Reprimand." The Licensee understands that he has the right to a formal adjudicatory hearing concerning the complaint contained in, Docket Nos. DEN 2010-0064 et. al. and that at said hearing he would have the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights set forth in the State Administrative Procedure Act

Bates, R.
Reprimand

(M.G.L. c. 30A), and 801 CMR 1.00 *et seq*

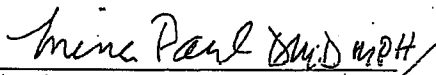
- (a) The Licensee further understands and agrees that, by executing this "Consent Agreement," he is knowingly and voluntarily waiving his right to such a formal hearing, and to all of the above-listed rights attendant thereto.



Licensee: Dr. Robert Bates

Date Signed: 10/12/11

Board of Registration in Dentistry

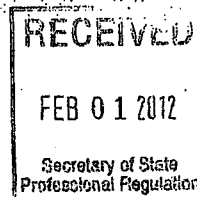

Dr. Mina Paul D.M.D., MPH
Chair

Date Signed: 10/14/11

EFFECTIVE DATE:

10/14/11





BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

WEST VIRGINIA BOARD OF
DENTAL EXAMINERS,

Complainant,

v.

Case No.: 2011-DB-00015D

ROBERT S. BATES, DDS,

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dental Examiners (hereinafter referenced as the Board) and Robert S. Bates, DDS, (hereinafter referenced as the Respondent), for the purpose of agreeing to disciplinary action which shall be taken against the Respondent by the Board.

As reflected in this Consent Decree, the parties have reached an understanding concerning the proper disposition of the matter in controversy. The Board, approving such an agreement does hereby Find and Order as follows:

FINDINGS OF FACT

1. That the Board is the State entity created by West Virginia Code § 30-4-1 et seq. (Dental Practice Act) and is empowered to regulate the practice of dentistry.

Attachment B

2. That the Respondent is a licensee of the Board, possessing license number 3655 and is subject to the license requirements of the Board.

3. That if a disciplinary hearing were to take place, the Board anticipates receiving evidence upon which the Board asserts it could conclude that the Respondent has violated certain acts of West Virginia Code § 30-4-1 *et seq.*, and West Virginia Code R. § 5-5-1 *et seq.*, specifically patient abandonment and failure to provide for reasonable continuity of care for numerous patients in continued need of treatment, such conduct is unethical and unprofessional and a departure from, and a failure to conform to, the standards of acceptable and prevailing dental practice and the ethics of the dental profession, as is required by the Dental Practice Act and the rules and regulations of the Board.

4. That the Respondent was the President of Allcare Dental Management, LLC and Dr. Bates, DDS, Inc. (collectively, "Allcare"), which closed its West Virginia office on or about January 1, 2011 without prior notice to any of the existing patients. Respondent denies that he engaged in professional misconduct or conduct in violation of West Virginia Code § 30-4-1 *et seq.*, and West Virginia Code R. § 5-5-1 *et seq.*, but he acknowledges that the alleged misconduct or conduct, if proven, could constitute grounds upon which the Board could take action with respect to his license to practice dentistry in the State of West Virginia.

CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.

2. That pursuant to West Virginia Code § 30-4-1 *et seq.*, the Board may revoke a license, suspend a license, reprimand a licensee or take other disciplinary action for violation of the rules and regulations of the Board.

3. The Respondent is a licensee of the West Virginia Board of Dental Examiners and is subject to license requirements of the Board.

4. Based on the investigation conducted, the Complaint Committee of the Board believes that if a disciplinary hearing were to take place, there is substantial evidence to demonstrate that the Respondent has engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of the Dental Practice Act, West Virginia Code § 30-4-1 *et seq.*

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto, acknowledges the following:

1. That he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Dental Examiners; the right to reasonable

notice of said hearing; the right to be represented by counsel at his own expense; and the right to cross examine witnesses against him.

2. That he waives all rights to such a hearing.

3. That he has had the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without coercion or duress and mindful that it has legal consequences.

4. That no person or entity has made any promise or given any inducement whatsoever to encourage him to enter into this Decree other than as set forth herein.

5. That he acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and he is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

6. That he waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that he may have otherwise claimed as a condition of this Decree.

7. That he acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Consent Decree have been met to the satisfaction of the Board.

8. That he acknowledges that he is aware that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B *et seq.*, of the West Virginia Code, Freedom of Information Act and may be reported to other governmental, professional Boards or organizations.

9. That he acknowledges that this Consent Decree and Order shall be presented to the Board as soon as practical but no later than next scheduled meeting of the Board, with a recommendation for approval from the Complaint Committee.

10. The Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions.

ORDER

That the Board agrees to forego further prosecution of the complaint pursuant to the Consent Decree between the Board and Respondent, Robert S. Bates, DDS and hereby ORDERS as follows:

1. That the license of the Respondent to practice dentistry in the State of West Virginia shall be SUSPENDED for a period of one year, with all but ninety (90) working days STAYED, the Suspension shall commence upon entry of this Consent Decree and Order.

2. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a course in ethics pre-approved by the Board. The Respondent shall submit written verification to the Board of his enrollment and shall submit proof of having successfully completed the course.

3. Within one year of the date of this Consent Order, the Respondent shall enroll in and successfully complete a course in Dental Practice Management pre-approved by the Board. The Respondent shall submit written verification to the Board of his enrollment and shall submit proof of having successfully completed the course.

4. The Respondent shall successfully complete the Jurisprudence, Ethics and Risk Management (JERM) Examination administered by the North East Regional Board of Dental Examiners, Inc. and the Dental law examination given by the West Virginia Board of Dental Examiners.

5. The Respondent shall pay a fine in the amount of Five Hundred Dollars, (\$500.00), which shall be paid within ninety (90) days of the entry of this order.

6. The Respondent shall reimburse the Board in this case the sum of Three Thousand Two Hundred Fifty Dollars (\$3,250.00) for all costs incurred by the Board in the investigation and disposition of this case which shall be paid within ninety (90) days of the entry of this order.



7. The Respondent shall obey all laws of the United States, the State of West Virginia and its political subdivisions.

8. The Respondent shall comply with the West Virginia Dental Practice Act and its rules and regulations. All matters in controversy related to the instant complaint are hereby resolved and closed, pending full compliance with the terms mandated herein; and

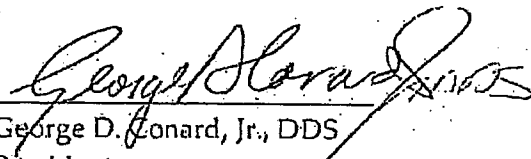
9. That the Respondent's failure to fully comply with the terms and conditions of this Consent Decree and Order hereby imposed shall be deemed a violation of this Consent Decree and Order, and that if the Respondent violates any of the terms of this Consent Decree and Order, the Board may immediately suspend the Respondent's license.

10. That, except as provided herein, this Consent Decree and Order shall bar the commencement of further disciplinary action by the Board based upon either: a) the misconduct described above; or b) action(s) taken against Respondent's license(s), certification(s) or credential(s) in any other states, based upon misconduct similar to what is described, above stemming from the closure of Allcare offices in other states where Respondent holds or held license(s), certification(s) or credential(s). However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the

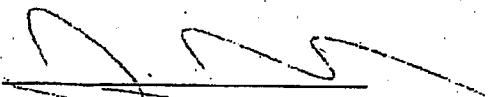
Board may consider the fact that discipline was imposed by this Consent Decree and Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

Entered this 6th day of January, 2012.

West Virginia Board of
Dental Examiners:


George D. Leonard, Jr., DDS
President

Inspected and Agreed to by:


James M. McGovern, Esquire
GRAFF & MCGOVERN, L.P.A.,
Counselors and Attorneys at Law
604 East Rich Street
Columbus, Ohio 43215-5341


Robert S. Bates, DDS
Respondent