

**STATE OF VERMONT
SECRETARY OF STATE
BOARD OF DENTAL EXAMINERS**

IN RE:	)	
PETER BRAUN, D.M.D.	)	Docket Nos: 2009-366, 2009-448,
	)	2009-296, 2011-296 (DE)
License No. 016-0001160	)	

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through its State Prosecuting Attorney Edward G. Adrian and Respondent, Peter Braun, D.M.D., who hereby stipulate and agree as follows:

Board Authority

- 1) The Vermont Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by dentists and dental surgeons pursuant to 3 V.S.A. §§129, 129a and 814; 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 ("OPR").
- 2) Abandonment of a patient is unprofessional conduct. 26 V.S.A. § 809(a)(1).
- 3) Practicing or maintaining a dental office in a manner so as to endanger the health or safety of the public is unprofessional conduct. 26 V.S.A. § 809(a)(15).
- 4) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care and (2) failure to conform to the essential standards of acceptable and prevailing practice. 3 V.S.A. §129a(b)(1) and (2).
- 5) Failure to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct. 3 V.S.A. §129a(a)(3).

Stipulated Facts

- 6) Respondent, Peter Braun, is licensed as a dentist in the State of Vermont holding license number 016-0001160. This license was originally issued on or about July 10, 1991 and is currently set to expire on September 30, 2011.
- 7) At all times relevant, the Respondent was licensed and worked as a dentist from his office located in Barre, Vermont.
- 8) At all relevant times E.B. was a patient of Respondent. The Respondent agreed to provide E.B. with specific dental work. The Respondent never provided this dental work.

The Respondent owed E.B. \$1,100.00 for an immediate lower-basic procedure that was not performed and for the remaining unutilized prepayment. The Respondent provided E.B. with a check of \$450.00 that E.B. attempted to tender and was denied for insufficient funds. The last date that the Respondent saw E.B. according to the Respondent's records was June 29, 2009.

9) At all relevant times J.M. was a patient of the Respondent. The Respondent agreed to provide J.M. with four MDI mini implants which were placed on September 10, 2008. On September 17, 2009 J.M. was scheduled to have follow-up surgery with the Respondent to correct the implants. However, when J.M. called to confirm the appointment he was told that the Respondent's offices were closed. The Respondent admits he closed the office in July, 2009. J.M. was not able to have the follow-up surgery because the Respondent closed his offices.

10) In a correspondence to OPR dated April 6, 2010 the Respondent stated that during a follow-up visit with J.M. on April 3, 2009, "it was discovered that the patient has been clenching from stress occurring in his life . . . Clenching with implants can cause the failure of implants." The Respondent's pre-treatment records fail to account for any inquiry into possible clenching; Respondent's surgical consent form fails to inform J.M. of the risks associated with clenching; and the Respondent failed to maintain pre- or post- treatment study models, that would indicate whether or not J.M. was a clencher/bruxer before Respondent began treating J.M.

11) At all relevant times V.C. was a patient of the Respondent. On or about February 25, 2008 V.C. paid the Respondent \$8,000.00 in advance for a full mouth extraction, four implants, and immediate dentures. On or about March 4, 2008 the immediate dentures were placed. V.C. attempted to contact the Respondent on or about August and September, 2009 but was not able to get in touch with the Respondent's offices as they had closed. V.C. was experiencing problems with the denture and needed the Respondent to correct them. When V.C. contacted the office of Dr. B.K. she was told that Dr. B.K.'s office had taken custody of her dental records but could not honor any service agreement that she had with the Respondent.

12) At all relevant times M.P. was a patient of the Respondent. On or about November 12, 2008 the Respondent received \$12,000.00 from a creditor of M.P. as an advance payment for complete mouth dental implants. M.P. later attempted to contact the Respondent in order to discuss the dental implants and discovered that the Respondent's office was closed. M.P. continues to make payments on the \$12,000.00 loan even though he did not receive the paid for dental implants.

13) The Respondent failed to send notice of closure to any of the patients referenced above before the closure of his offices.

14) As of the date below, the Respondent is practicing dentistry at a Veteran's Administration Facility in Northampton, Massachusetts.

Violations

15) The Respondent has engaged in unprofessional conduct by violating the statutory sections outlined in paragraphs 2-5 above. Specifically the Respondent engaged in the unilateral severance of the dentist-patient relationship without giving reasonable notice to patients E.B., J.M., V.C. and M.P. where each patient still required continuing attention. This constitutes abandonment, endangering patient health, unsafe patient care, unacceptable patient care, a failure to conform to the essential standards of acceptable and prevailing practice, and thus a failure to comply with the provisions of the state statutes governing the practice of dentistry. In addition by failing to inquire into J.M.'s pre-treatment clenching; failing to inform J.M. to the effects of clenching on MDI mini implants; and failing to maintain study models of J.M.; the Respondent engaged in unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing practice.

Understandings

- i. 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.
- ii. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
- iii. 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.
- iv. 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.
- v. The Respondent is of sound mind and is not under the influence of drugs or alcohol at the time he signs this stipulation and consent order.
- vi. Respondent agrees that the Order set forth below may be entered by the Board.
- vii. The Respondent agrees to pay any and all costs associated with this Stipulation and Consent Order.
- viii. The Respondent recognizes that this stipulation does not preclude E.B., J.M., V.C. and M.P. from pursuing any other remedies that may be available to them as a matter of law or equity.

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

CONSENT ORDER

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

A. The Board of Dental Examiners hereby **CONDITIONS** the Respondent's license to practice as a dentist for a minimum period of **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned".

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **one (1) year** of dental practice starting with the date of entry below.

(3) Risk Management Course

Within six (6) months of the date of entry below, the Respondent shall complete a risk management course. This course shall be pre-approved in advance by the Board or its designee. The course shall be a minimum of six (6) continuing education hours. The Respondent shall not be able to utilize regularly required continuing education credits to satisfy this condition.

(4) Quarterly Reports on Dental Practice and Record Keeping.

Within ninety (90) days of the date of entry of this Consent Order and **quarterly** thereafter, Respondent shall cause to be submitted to the Board a report from a dentist auditor. This dentist auditor shall be pre-approved by the Board or its designee. In the first quarter and each quarter thereafter, the dentist auditor shall select three (3) separate client files at random to review. The purpose of the review shall be in order to make sure that the Respondent's recordkeeping and practice meets acceptable and prevailing standards.

If upon review of the Respondent's records, deficiencies are found in respect to practice, recordkeeping or both, and the dentist auditor recommends further supervision in order to protect the health, safety and welfare of the public, the time period of conditions may be extended by the Board beyond the one (1) year indicated above, upon a petition by the State indicating that such conditions are necessary to protect the public's health, safety or welfare.

As the Respondent is currently employed by the Veterans Administration (the "VA"), so long as he continues to remain employed by the VA, the Board shall accept a review done internally at the VA, by another dentist so long as the written review meets the requirements as enumerated above. If the Respondent leaves employment at the VA before the end of the conditioned period, he shall be responsible for satisfying this condition with an independent auditor approved by the Board as set forth above.

(5) Restitution to Former Patients

The Respondent shall make restitution to his former patients as follows: E.B. in the amount of \$1,100.00 (One Thousand and One Hundred Dollars); V.C. in the amount of \$2,000.00 (Two Thousand Dollars); and M.P. in the amount of \$12,000.00 (Twelve Thousand Dollars). The Respondent shall fully satisfy these restitution amounts within the one year conditioned period. Failure to do so shall be considered a violation of this Order. This condition shall be satisfied by 1) the Respondent providing a checks in the full amount owed made out to the former patients, to the Office of Professional Regulation; and 2) proof presented by either the Respondent or confirmation from the former patients that the funds have been transferred and the debt satisfied.

(6) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice dentistry, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(7) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(8) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(9) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order.

B. Notwithstanding any provision above, the Respondent must continue to meet all Board of Dental Examiner requirements for maintaining a license, license renewal and license reinstatement.

C. 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).

D. 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:

Dated:

8/16/11

STATE OF VERMONT
SECRETARY OF STATE

By:

[Signature]
Edward G. Adrian
State Prosecuting Attorney

PETER BRAUN, D.M.D.
RESPONDENT

Dated:

7/30/11

By:

[Signature]
Peter Braun, D.M.D.

APPROVED AS TO FORM:

Dated:

8/1/11

ATTORNEY FOR RESPONDENT

By:

[Signature]
William A. O'Rourke, III, Esq.

APPROVED AND SO ORDERED:

Dated:

8/17/11

VERMONT BOARD OF DENTAL
EXAMINERS

By:

[Signature] DDS
Chairperson

Date of Entry:

8/17/11