

STATE OF VERMONT
SECRETARY OF STATE
BOARD OF DENTAL EXAMINERS

IN RE:

TYLER CARMACK, D.D.S.
License No. 016.0073365

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)
Docket No: 2011-323

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont and Respondent, Tyler Carmack, D.D.S. who hereby enter into the following stipulation and consent order:

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.

Stipulated Facts

2. Tyler Carmack, D.D.S. (the "Respondent") of Arlington, Vermont is licensed as a dentist in the State of Vermont holding license number 016.0073365. This license was originally issued on or about November 30, 2010 and is currently set to expire on September 30, 2013.
3. At all times relevant, the Respondent was licensed and worked as a dentist from his office at the Shaftsbury Dental Center in Shaftsbury, Vermont.
4. On or about March 24, 2011, A.G. completed an intake form for her son, J.G., a new patient of the Respondent. The third page of the form contains the question, "Do you object to using laughing gas on your child?" The box labeled "YES" was clearly marked with an "X."
5. On or about April 13, 2011, J.G. was taken into Respondent's operatory for restorative treatment on tooth #18. While in the operatory, J.G. became extremely nervous. Respondent then used nitrous oxide and completed the procedure.
6. Respondent was not aware of A.G.'s response on the intake form, indicating she objected to the use of laughing gas on J.G.

STATE OF VERMONT



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

Violations

7. The State contends that the above act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because, if proven, the Respondent has committed unprofessional conduct in violation of:
 - a. 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 unacceptable patient or client care; or (2) failure 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 appeal from 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. Including the costs of any course work and the administrative penalty.
- viii. This Stipulation is neither an admission of liability by the Respondent, nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final agreement pursuant to this Stipulation and that the Board may impose the Consent Order set forth below. The Respondent does not admit to any of the alleged facts as outlined above, but does not contest that the State could prove some or all of them by a preponderance of the evidence if this matter went to a merits hearing.

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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 as follows:

(1) Patient Rights/Communications Coursework

The Respondent shall complete a minimum of six (6) hours of live/in-person continuing education coursework in patient rights and communications or its substantial equivalent. This coursework shall be pre-approved in advance by the Board or its designee. This condition shall be completed within the one year of the date of entry below. Failure to complete this condition within one year shall be a violation of this Order.

(2) The Board of Dental Examiners hereby **WARNS** the Respondent's license and imposes an **ADMINISTRATIVE PENALTY OF ONE THOUSAND DOLLARS (\$1000.00)** against the Respondent. This penalty shall be paid within sixty (60) days of the date of entry of this Order. Failure to abide by this condition shall be a violation of this Order.

C. 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.

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

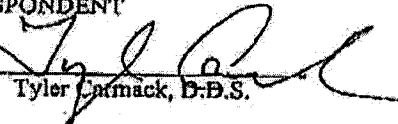
Dated: 4/4/13

G. Gilman for

By: 
Edward G. Adrian
State Prosecuting Attorney

TYLER CARMACK, D.D.S.
RESPONDENT

Dated: 4/4/13

By: 
Tyler Carmack, D.D.S.

STATE OF VERMONT



Prosecuting Attorney
Office of
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National Life Building
Second Floor North
Montpelier, VT
05620-3602

APPROVED AS TO FORM:

Dated:

4/4/13

ATTORNEY FOR RESPONDENT

By:

Pietro J. Lynn, Esq.

APPROVED AND SO ORDERED:

Dated:

4/10/13

Date of Entry:

4/10/13

VERMONT BOARD OF DENTAL
EXAMINERS

By:

Katherine C. [Signature]
Chairperson

STATE OF VERMONT



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