

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

IN RE:	)	
TAMMY LAROCQUE	)	Docket No. 2019-154
License No. 014.0001428	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Traci Leibowitz, and the Respondent, Tammy Larocque, 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").

Statement of Facts

2. Tammy Larocque ("Respondent") of St. Albans, Vermont is licensed by the State of Vermont as a Registered Traditional Dental Assistant ("RTDA") under license number 014.0001428. Respondent originally registered on March 31, 1997 and the registration expires on September 30, 2021.
3. On October 19, 2020, Respondent's RTDA registration was indefinitely suspended by order of the Board after a final hearing on the merits. The Board's final order (the "Final Order") is attached. See Attachment 1.
4. Respondent now seeks reinstatement of her RTDA registration.
5. Respondent obtained an evaluation and submitted negative urinalysis screens, as required by the Final Order.
6. Based on the contents of the evaluation and Respondent's full compliance with the Final Order, the State supports Respondent's reinstatement request, with the conditions as outlined below.

Understandings

7. Respondent acknowledges that the facts above are true and that the conditions set out in the Consent Order below are appropriate and necessary to protect the public.
8. Respondent understands that the Board 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.
9. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
12. 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.
13. Respondent voluntarily waives Respondent's right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
14. 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 of Dental Examiners hereby **CONDITIONS** the Respondent's license for a **MINIMUM OF EIGHTEEN (18) MONTHS**, commencing on the date of entry of this order. The **CONDITIONS** shall be as follows:
 1. Re-issuance of License. Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."
 2. Length of Time of 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 a **minimum of eighteen (18) months** of supervised practice in which Respondent works at least forty (40) hours every two (2) weeks as an RTDA. Part time hours of fewer than forty (40) hours every two (2)

weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.

3. **Monitoring.** The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
4. **Completion of Substance Abuse and Mental Health Counseling, Treatment Plan, Treatment Reports.** Respondent shall engage in individual substance abuse and mental health counseling with a pre-approved counselor (the "Treating Professional"). The Treating Professional must hold an active, unencumbered licensure, registration, and/or certification by a state authority as a Licensed Alcohol and Drug Abuse Counselor or a comparable credential in a related field (e.g., Board Certified physician in Addictionology) and also licensure, registration and/or certification in a field such as: Psychologist, Social Worker, Marriage & Family Therapist, Advanced Practice Registered Nurse, or Clinical Mental Health Counselor.

Respondent must comply with the treatment plan(s) until the Treating Professional certifies in writing that such counseling is no longer necessary and Respondent successfully petitions the Board for a modification of these conditions. Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to the Treating Professional and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent shall cause the Treating Professional to submit to the Case Manager, on forms provided by the Case Manager, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan(s).

Respondent shall authorize the Treating Professional to submit **monthly** reports on forms issued by the Case Manager. Respondent shall authorize the Treating Professional to provide all information requested, either orally or in writing, at any time during the period this Consent Order is in effect.

If Respondent is prescribed medication as part of her substance abuse and mental health counseling and treatment, Respondent's monthly treating professional reports must also indicate Respondent's current dosage and whether Respondent is appropriately taking the medication as prescribed. Respondent must continue to take such medications as prescribed, until the Treating Professional certifies in writing that such medication is no longer necessary.

Respondent shall participate as recommended by Respondent's treating professional in substance abuse recovery group(s), and, if recommended, shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

5. Self-help recovery groups. Respondent shall participate as recommended by Respondent's treating professional in substance abuse recovery group(s). If such participation is recommended, Respondent shall submit quarterly reports documenting attendance on forms issued by the Case Manager.
6. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the designated entity. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All specimens collected for tests shall be collected in an observed setting. All test results shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any test shall cause that test result to be presumed positive. Any positive test result shall constitute a violation of this Order. Failure to check-in to determine whether Respondent is selected for testing on any given day, regardless of whether Respondent is actually selected that day, may be considered a violation of this Order.

7. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.
8. Drug Use Exception. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Case Manager in writing by Respondent within forty-eight (48) hours of the prescription. If requested by the Enforcement Case Manager, Respondent's health care practitioner shall acknowledge, in writing and on appropriate letterhead, an understanding of Respondent's substance abuse and/or mental health issue(s) within seven (7) days of entering into the practitioner/patient relationship. Additionally, the practitioner shall inform the Case Manager of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Case Manager may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential.

Respondent shall provide the Case Manager with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Case Manager within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications or when requested by the Case Manager.

9. Notification to Employers/Educational Programs. Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as an RTDA and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment as an RTDA, Respondent shall cause

Respondent's immediate supervisor to submit to the Case Manager an employer agreement form, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

10. Practice Under Supervision. Respondent shall practice as an RTDA only in a setting where Respondent is supervised for the entire shift by a licensed dentist that is in good standing with the Board. The level of supervision required is:
√ On-Site Supervision. On-Site supervision means the supervising dentist is present in the same facility as Respondent.
11. Reports from Employers/Program Director. Within one (1) month of the date of reinstatement or within one (1) month of the commencement of employment as an RTDA and monthly thereafter, Respondent shall cause every employer where Respondent has worked as an RTDA during the month to submit to the Case Manager an evaluation of Respondent's work performance and attendance during that month. These reports shall be submitted in writing on forms issued by the Case Manager. All employer reports shall indicate satisfactory performance (i.e., consistently meeting all standards of practice) and attendance.
12. Types of Employment Prohibited. Respondent shall not work in a supervisory role during the effective period of this Consent Order.
13. Administration of Medications. Respondent is prohibited from handling or managing any controlled substances.
14. Interview with the Board or its Designee. Respondent shall appear in person or by telephone for interviews with the Board or Case Manager upon request.
15. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Case Manager. Out-of-state RTDA practice will be approved so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a professional license held in another state during the conditioned period, Respondent must inform the Case manager of such, in writing, within ten (10) days of receiving such discipline.
16. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Case Manager, in writing, of Respondent's current place of employment, personal address, email address, and telephone number. Respondent shall further notify the Case Manager, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, email address, or telephone number.
17. Notification to Other States. In the event that Respondent is registered or licensed as a dental assistant in any other state(s), Respondent must inform the regulatory board

of the state(s) in which Respondent is registered or licensed of the conditional status of Respondent's Vermont RTDA registration within thirty (30) days of the date of entry of this Order.

18. License Renewal. This Order does not automatically extend the registration and Respondent must comply with the requirements for registration renewal.
19. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol and mental health treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol and mental health with the Board and Case Manager. Any and all of this information may be provided to the Office of Professional Regulation investigators and prosecutors, and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession.

Respondent is entitled to revoke this consent at any time. However, any revocation shall be considered a violation of this Order. This consent expires when the conditions are removed from Respondent's registration.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31. Respondent understands that the Treating Professional may require Respondent to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

20. Costs. Respondent shall bear all costs of complying with this Consent Order.
 21. Violation of this Order. If Respondent violates this Order the Board, after giving 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 Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.
 22. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions from Respondent's registration. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden of proof and must present evidence that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.
- B. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a registration, registration renewal and 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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: May 26, 2021

By:  E-SIGNED by Traci Leibowitz
on 2021-05-26 09:01:20 EDT
Traci Leibowitz
State Prosecuting Attorney

RESPONDENT

Dated: May 26, 2021

By:  E-SIGNED by Tammy Larocque
on 2021-05-26 07:52:39 EDT
Name

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL
EXAMINERS

Dated: June 09, 2021

By:  E-SIGNED by Robert Ruhl
on 2021-06-09 12:11:35 EDT
Chairperson

Date of Entry: 6/9/2021

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

**In re: Tammy Larocque
License No. 014.0001428**

Docket No. 2019-154

**FINAL ORDER
DECISION ON UNPROFESSIONAL CONDUCT**

Board of Dental Examiners:

Robert Ruhl, Chair
David Baasch
Mimi Kevan
Linda Greaves
Jennie Kendall
William Koch
Elizabeth Merrill
Cheryl Ullman

Appearances:

Prosecuting Attorney: Traci Leibowitz, Esq.
Lucille Kelly, Investigative Team
Respondent: Respondent Tammy Larocque personally appeared

Presiding Officer:

Michael S. Kupersmith, Esq., Administrative Law officer

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Introduction

This matter came before the Board of Dental Examiners on Specification of Charges filed by the State on October 1, 2019. The hearing was held on October 14, 2020 and was conducted remotely pursuant to the Emergency Rules for Remote Hearings adopted by the Office of Professional Regulation (OPR). Traci Leibowitz, Esq. Prosecuting Attorney, appeared for the State. Respondent Tammy Larocque appeared and represented herself.

Findings of Fact

After hearing, the Board finds that the following facts have been proved by a preponderance of the evidence.

1. Respondent Tammy LaRocque is licensed by the State of Vermont as a Registered Traditional Dental Assistant (RTDA) under license number 014.0001428. Respondent originally registered on March 31, 1997. Her current registration was renewed as of October 1, 2019 and will expire September 30, 2021.
2. During all relevant times, Respondent was employed at RVI Dental Center in St. Albans, Vermont as a dental assistant.
3. From April 2016 through November 2016, on three or four occasions, Lindsey Cox, the office manager at RVI Dental Center, created fake prescriptions using her employer's prescription pads that purported to bear the signature of a licensed provider.¹
4. Respondent knew the prescriptions were forged.
5. At the request of Ms. Cox, Respondent filled the forged prescriptions at pharmacies and obtained Oxycodone, a controlled substance.
6. After filling the prescriptions, Respondent gave the Oxycodone pills to Ms. Cox, keeping one or two pills for herself.
7. In November 2018, Respondent was indicted in the United States District Court for the District of Vermont for one count of conspiracy to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.
8. On July 30, 2019, Respondent entered into a plea agreement with the Office of the United States Attorney in which she agreed to plead guilty to one count of simple possession of Oxycodone, in violation of 21 U.S.C. § 844(a). The offense is a misdemeanor.
9. In paragraph 12 of the plea agreement, Respondent stipulated to the following facts:

From in or about April 2016 through in or about November 2106 . . . Tammy LaRocque knowingly and willfully conspired with Lindsay Cox to acquire and obtain possession of Oxycodone, a Schedule II controlled substance, by misrepresentation, fraud, forgery, and deception. During the period of April 2016 through November 2016, Tammy Larocque was working as a licensed dental assistant at RVI Dental Center. On about four occasions during this time period, another employee at RVI Dental Center, Lindsay Cox, provided Tammy LaRocque with a fake prescription that purported to bear the signature of a licensed prescriber. Tammy LaRocque knew the prescriptions were fake, Tammy LaRocque then filled the fake prescriptions at pharmacies. After filling the prescriptions, Tammy LaRocque shared Oxycodone pills with Lindsay Cox and

¹ See Respondent's exhibit A, a letter from Respondent's employer.

Unfortunately, it has come to light that [Respondent] participated in illegal activity at the expense of my business and my trust. . . I firmly believe she was just a tool or pawn of Lindsey Cox. . . [Lindsey] stole prescription pads and used Tammy to fill the prescriptions. . .

possessed some of the Oxycodone pills herself.

10. Respondent was subsequently sentenced on July 30, 2019 as provided in the plea agreement and received a sentence of one year of supervised release. As of the date of the hearing, Respondent was still on supervised release.

Conclusions of Law

The Board concludes that the State has established the four violations alleged.

Violation One: 3 V.S.A. § 129a(b): 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: . . . (2) failure to conform to the essential standards of acceptable and prevailing practice.

The essential standards of acceptable and prevailing practice require that a professional refrain from working in concert with a co-worker to obtain controlled substances using a forged prescription received from the co-worker. The Board concludes that the co-worker appropriated blank prescription forms from RVI Dental Center and either forged the name of a licensed prescriber or had them forged by another accomplice. In any event, the Respondent obtained the forged prescription from a co-worker while both worked for their employer.

Respondent's failed to practice competently in several ways: She obtained regulated drugs using forged prescriptions thereby violating state and federal criminal laws. She worked in concert with a co-worker to use prescription forms obtained from their mutual employer. She thereby violated the trust that is necessary for professional relationships. In so doing, she also engaged in a fraudulent scheme that co-opted her professional standing.

Violation Two: 3 V.S.A. § 129a(a)(15): Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

The Respondent clearly failed to use appropriate independent judgment when participated with a co-worker in an illegal scheme to obtain regulated drugs. Respondent admitted in her Answer that she permitted the office manager to overcome her own judgment by means of constant badgering.

By allowing herself to be dominated by a co-worker, she became involved in a criminal scheme to obtain regulated drugs by using forged prescriptions. Respondent used her professional position to commit criminal offenses, clearly action repugnant to the obligations of the profession. The obligations of the profession at the least include avoidance of criminal activity which involves one's professional standing.

Violation Three: 26 V.S.A. § 584(3): Promotion of the sale of drugs, devices, appliances, good or services provided for a patient in a manner to exploit the patient for financial

gain or selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes.

The Respondent gave away regulated drugs: she gave most of the pills obtained by means of forged prescription to Lindsey Cox. The drugs were not for a legitimate therapeutic purpose.

Violation Four: 3 V.S.A. § 129a(a)(7): Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records.\

Although the Respondent herself did not forge the prescriptions, she intentionally cooperated with a co-worker in the creation of false records, namely forged prescriptions.

ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, it is hereby ORDERED:

- 1 . Respondent's license is suspended indefinitely until she complies with the conditions set forth in this Order.
- 2 . Respondent must submit a report from her treating therapist which must include a statement regarding Respondent's fitness to practice as a Registered Traditional Dental Assistant.
- 3 . Respondent must submit reports of three consecutive negative urinalyses, the latest of which may be no earlier than August 31, 2020.
- 4 . The Board reserves the right to impose conditions upon Respondent's license at the time she petitions for reinstatement.

Dated at Montpelier, Vt., this 14th day of October, 2020,

E-SIGNED by Robert Ruhl
on 2020-10-19 17:18:07 EDT

Board of Dental Examiners
By: Robert Ruhl, Chair

Date of Entry: 10/19/2020

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Dental Examiners. A party aggrieved by a final decision by the Board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Office of Professional Regulation, 89 Main St., 3rd floor, Montpelier, VT 05620-3402, within 30 days of the entry of this Order. If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an Appellate Officer. The review shall be conducted on the basis of the record created before the Board. In cases of alleged irregularities in procedure

before the Board, not shown in the record, proof on that issue may be taken by the Appellate Officer. 3 V.S.A. §§ 129(d) and 130a. A stay may also be requested.