

**STATE OF VERMONT
BOARD OF DENTAL EXAMINERS**

IN RE:)
John E. O'Connor, D.M.D.) Docket No. APP/DE20-0600
License No.: 16-____)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont through its Attorney General, William H. Sorrell, and Respondent, John E. O'Connor, D.M.D., who stipulate and agree as follows:

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 Board's Administrative Rules and the Office of Professional Regulation's Rules.
2. Respondent John E. O'Connor, D.M.D., of Quincy, Massachusetts, is a dentist holding license no.: 9871 issued by the Commonwealth of Massachusetts.
3. Respondent admits that on or about July 18, 1998, the Massachusetts Board of Registration in Dentistry entered a Consent Agreement, which placed his license on probationary status (Docket No.: DN-97-124, which is attached and incorporated).
4. Respondent admits that according to the above Consent Agreement:
 - a. "The Licensee states that he voluntarily enters this Consent Agreement...in resolution of Complaint Docket No. DN-97-124...and

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information provided to the Board regarding impaired practice by the Licensee prior to the date Licensee executes this Consent Agreement." (§ 1).

b. "The Licensee understands and agrees that the resolution of the above-referenced complaint pursuant to the terms and conditions of this agreement is conditioned upon his admission to the Massachusetts Professional Recovery System (MPRS)." (§ 3).

c. "The Licensee agrees that effective on the date of execution of this Agreement by the Board, the Board will place his license on PROBATIONARY STATUS for a minimum period of five (5) years (the "Probation Period")." (§ 4).

5. Respondent admits that on or about May 10, 2000, he prepared, signed and/or filed an Application For Licensure as a Dentist by Examination, with the Vermont Secretary of State, Office of Professional Regulation (thus, is both a "Respondent" and an "Applicant"), and further, on this application, he:

a. indicated, "No" when asked, "Has any state or federal authority restricted, suspended, revoked, or taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?" The application continued, "If the answer is "yes", provide a copy of the order or official notification of the Board action." though no such documentation was provided.

b. indicated, "No" when asked, "Has your use of alcohol, drugs or medications...in any way impaired or limited your ability to practice with

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reasonable skill and safety?" The application continued, "If yes, please explain in detail." though no such explanation was provided.

c. [redacted] Indicated "No" when asked, "Prior to this application have you engaged in unprofessional conduct as defined in Title 26 § 809 and Title 3 § 129a?". The application continued, "If the answer is 'yes' provide detailed information," though no such information was provided.

6. Respondent admits to the conclusions of unprofessional conduct as set forth below in the Board's Order.
7. Respondent agrees that the Board may enter the Order set forth below.
8. Respondent understands that the Board must review and accept the terms of this Stipulation and Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
9. Respondent waives any notification period and agrees to have this document reviewed by the Board during the next available meeting. 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.
10. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
11. Respondent waives his right to a contested hearing before the Board on any pending charges.
12. Respondent has read and reviewed this entire document and agrees it contains the entire agreement between the parties.

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13. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this agreement.

ORDER

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

A. The Vermont Board of Dental Examiners concludes that the acts, omissions and/or circumstances above constitute unprofessional conduct and violate: 3 V.S.A. §129a(a)(1) (...deceptive procurement or use of a license); 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession), and; 3 V.S.A. § 129a(6) (...a board may...discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct).

B. The Board **REPRIMANDS** Respondent, and cognizant of the discipline previously imposed by Massachusetts, grants his license and **CONDITIONS** Respondent's license to practice commencing on the date this Order is entered by the Board. The **CONDITIONS** on Respondent's license are as follows:

1. Respondent must complete the terms of his "probation" in Massachusetts (as specified in the attached Consent Agreement), and;

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2. Respondent must, upon request of the Board or its designee, produce any and all records and reports prepared pursuant to the completion of his "probation" in Massachusetts, or on request of the Board/Designee, submit an authorization allowing for production of same. Further, Respondent shall execute all release of information forms which are necessary to authorize those responsible for supervision of his probation in Massachusetts, (including, but not necessarily limited to the Commonwealth of Massachusetts, the Massachusetts Board of Registration in Dentistry, the M.P.R.S., their agents, servants or employees) to release all information concerning his probation to the Board, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

3. Respondent must obtain written acknowledgment from the Board or its designee that he has complied with the conditions of B(1) and B(2) above, and that he has an unencumbered license in Massachusetts and all states in which he is licensed.

4. Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board, its investigators, and the Attorney General's Office. All information disclosed to the

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Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

5. If Respondent violates the terms of this Consent Order in any respect (including the attached Consent Agreement), the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

6. Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license and after formal review by the Board, Respondent's license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Board, that he poses no danger to the practice and that he can safely and competently practice the profession. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that he fully complied with all the terms of this Consent Order.

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).

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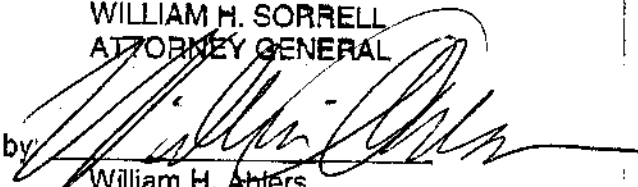
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D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERALDated: 3/28/01

by:


William H. Ahlers
Assistant Attorney GeneralJOHN E. O'CONNOR, D.M.D.
RESPONDENTDated: 2/14/01

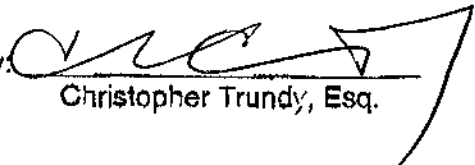
by:


John E. O'Connor, D.M.D.CHRISTOPHER TRUNDY, ESQ.
RESPONDENT'S ATTORNEY

Approved as to Form:

Dated: _____

by:

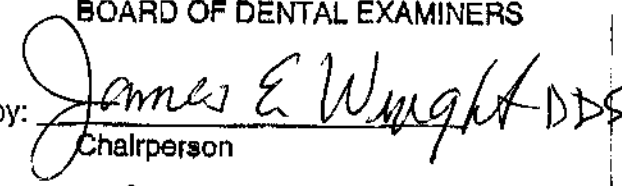

Christopher Trundy, Esq.

APPROVED AND SO ORDERED:

BOARD OF DENTAL EXAMINERS

Dated: 4-11-01

by:


James E. Wright DDS
ChairpersonDate of entry: 4-13-01

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

In the Matter of)
JOHN E. O'CONNOR, D.M.D.)
)
License No. 9871)
_____)

DOCKET NO. DN-97-124

CONSENT AGREEMENT

The Board of Registration in Dentistry (hereinafter "the Board") and John E. O'Connor, D.M.D., License No. 9871 (hereinafter "the Licensee") do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of the Licensee which is maintained by the Board:

1. The Licensee states that he voluntarily enters into this Consent Agreement ("Agreement") in resolution of Complaint Docket No. DN-97-124 (the "Complaint") and information provided to the Board regarding impaired practice by the Licensee prior to the date Licensee executes this Consent Agreement.
2. The Licensee acknowledges and agrees that this Agreement sets forth the terms and conditions by which the Licensee will be permitted to practice dentistry in the Commonwealth.
3. The Licensee understands and agrees that the resolution of the above-referenced complaint pursuant to the terms and conditions of this agreement is conditioned upon his admission to the Massachusetts Professional Recovery System (MPRS).
4. The Licensee agrees that effective on the date of execution of this Agreement by the Board, the Board will place his license on PROBATIONARY STATUS for a minimum period of five (5) years (the "Probation Period").
5. The Licensee understands and agrees that:
 - (a) his contract with the Massachusetts Professional Recovery System (MPRS) and shall be incorporated by reference into this Agreement;

(b) MPRS is authorized by the Licensee to promptly inform the Board of any lapse in compliance or violation of the terms of the MPRS contract by the Licensee;

(c) the Licensee will provide all and any necessary waivers of privilege or confidentiality for the use of MPRS information; and

(d) a violation of or termination of the MPRS contract shall be considered by the Board to be a violation of this Agreement and a basis for disciplinary action by the Board, pursuant to Paragraph 13 hereof.

6. During the Probation Period, the Licensee agrees:

(a) to undergo monitoring by the Board which shall include random drug/alcohol screenings as required by MPRS;

(b) to refrain from all consumption of alcohol and use of all controlled substances, unless specifically prescribed by a treating physician for a legitimate medical purpose in the usual course of the treating physician's medical practice and approved by MPRS; provided also that the physician must be informed of the licensee's history of drug diversion and recovery status;

(c) that he may not self-prescribe controlled substances and shall adhere to all laws and regulations pertaining to the dispensing, administration and distribution of controlled substances; and

(d) that he hereby waives any privileges concerning any and all information, reports, and records related to his MPRS contract and the disclosure of such information to the Board. This release includes the Licensee's waiver of any privileges or rights he may possess regarding all material covered by 42 CFR Part 2, the Criminal Offender Records Information (CORI) Act (G.L. c. 6, §§167-178) and authorizes the Board to have access to all such information and records.

7. The Licensee understands and agrees that any of the following may be considered by the Board to be a violation of this Agreement and a basis for disciplinary action by the Board:

(a) a sample of the Licensee's blood, breath or other substance is found to contain any evidence of alcohol or any controlled substance in violation of this Agreement or his MPRS contract; or

(b) the Board or MPRS has other reliable evidence that the Licensee has used alcohol or any controlled substance in violation of this Agreement or his MPRS contract, subject to the Licensee's rights to defend against the assertion of a violation of this Agreement as set forth in Paragraph 13 hereof; or

(c) the Licensee misses any random screening tests, excluding an administrative or laboratory error beyond the control of the Licensee; or

(d) the Licensee refuses to cooperate with MPRS in its monitoring; or

(e) the Licensee withdraws any waiver or release provided and/or filed in connection with this Agreement and the MPRS contract

8. No sooner than two months prior to the expiration of the Probation Period, the Licensee may apply in writing to the Board for the termination of the Probation Period. The Licensee acknowledges and agrees that the Board will terminate the probationary status of his license provided that the Licensee has satisfied each of the following conditions:

(a) The Licensee provides documentation satisfactory to the Board that he has successfully completed the MPRS program;

(b) If requested by the Board, the Licensee appears before the Board; and

(c) The Licensee has fully complied with all of the terms and conditions of this Agreement and meets all Board requirements for licensure.

9. The Licensee acknowledges and agrees that, on request of the Board, he may be required to appear before the Board during the Probation Period.

10. In the event the Licensee seeks licensure to practice dentistry in another state, the Licensee shall notify the Board of such fact and shall disclose to the licensing authority in such state his status with the Board. The Licensee shall submit to the Board copies of all correspondence and application materials submitted to another licensing authority.

11. The Licensee understands that the Board will report the nature of this Agreement to interested state and federal agencies, including agencies within the U.S. Department of Health and Human Services.

12. In the event the Licensee should leave Massachusetts to reside or practice out of state, he shall promptly notify the Board in writing of his new residence and practice location.

Periods of residency or practice outside of Massachusetts will not apply to the reduction of the Probation Period, unless Respondent enters into a monitoring agreement, approved by MPRS and the Board.

13. The Licensee understands and agrees that his failure to satisfy any of the terms of this Agreement relating to drug and alcohol or any of the terms of his contract with MPRS shall constitute sufficient grounds for the Board Prosecutor to move to IMMEDIATELY SUSPEND his license to practice dentistry or such lesser sanction as the Board may see fit to adopt. Such sanctions may include, but are not limited to, suspension of the Licensee's license for not less than ninety (90) days and continuing until full compliance with this Agreement and the MPRS contract is achieved by the Licensee. The Licensee hereby knowingly waives any claim or defense to any subsequent action taken by the Board to suspend the Licensee's license or impose a lesser sanction for any such subsequent violation(s) without the requirement of further proceedings pursuant to G.L. 30A except that the Licensee shall be entitled to defend against the assertion of a violation of this Agreement. The Licensee acknowledges and agrees that by entering into this Agreement, he is relinquishing important procedural and substantive rights.

14. The Licensee understands that his action in entering into this Agreement is a final act and not subject to reconsideration or judicial review.

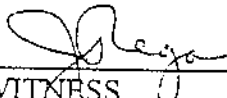
15. The Licensee states that he has consulted with legal counsel in connection with his decision to enter into this Agreement and that if he has not consulted with legal counsel, that his decision to enter into this Agreement was made of his own free will.

16. The Board agrees that in return for the Licensee executing this Agreement, the Board will not conduct any further prosecution based upon the allegations in Complaint Docket No. DN-97-124. The Licensee understands and agrees that his failure to satisfy any of the terms of this Agreement or the MPRS contract shall nullify the Board's representations herein.

17. A waiver by the Board of any provision of this Agreement at any time shall not constitute a waiver of any other provision of this Agreement, nor shall it constitute a waiver by the Board of its rights to enforce such provision at any future time.

18. The Licensee certifies that he has read this document titled "Consent Agreement." he Licensee understands that he has the right to a formal adjudicatory hearing concerning Complaint Docket No. DN-97-124 and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on

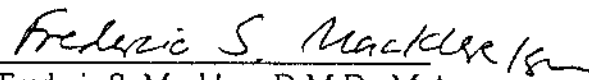
his own behalf, to contest the allegations, to oral argument, to appeal to the courts, and all other rights set forth in the State Administrative Procedure Act (G.L. c. 30A), and 801 CMR 1.00 *et seq.*


WITNESS


John E. O'Connor, DMD
LICENSEE

Date: 4-9-98

BOARD OF REGISTRATION
IN DENTISTRY


Frederic S. Mackler, D.M.D., M.A.
Chairman
Date: 7/12/98