

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

IN RE:)
MARK EDWIN YOUNG) **Docket No. 2015-456**
License No. 016.0001211)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through its State Prosecuting Attorney S. Lauren Hibbert and Respondent, Mark Edwin Young:

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 and applicants for licensure 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 ("ARBDE"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Mark Edwin Young ("Respondent") of Norwich, Vermont is licensed by the State of Vermont as a Dentist under license number 016.0001211. This license was originally issued on or about November 10, 1993 and is set to expire on or about September 30, 2017.
3. Respondent is a solo practitioner in a dental practice he owns and operates in White River Junction, Vermont. Respondent employs several staff members including hygienists, dental assistants and administrative personnel.

Facts

4. Several employees at Respondent's dental practice submitted a complaint to the Board alleging that Respondent has abused alcohol in recent years and that such abuse has affected his ability to practice dentistry. The employees alleged that Respondent lacks compassion for his patients; that he has smelled of alcohol while at work; that he has displayed slurred speech while at work; that he has forgotten patients' medical histories; and that he has had to cancel appointments due to alcohol consumption.
5. After this conduct was reported in October 2015, Respondent agreed to a voluntary suspension of his license. Respondent immediately enrolled in a four-month inpatient addiction treatment and recovery program in Pennsylvania. As of the time of this

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

writing, Respondent has responded well to treatment and is scheduled to be discharged on February 21, 2016. His treatment providers expect to recommend that he is fit to resume the practice of dentistry.

Violations

6. The above acts and circumstances, alone or in combination, violate:
 - 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);
 - b. 3 V.S.A. § 129a(a)(5) (Practicing the profession when medically or psychologically unfit to do so);

Understandings

7. 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 Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are 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.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

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 hereby **INDEFINITELY SUSPENDS** Respondent's license. Within forty-five (45) days of requesting reinstatement, Respondent must:

- 1) Obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board ("Independent Evaluator") and who has verified receipt of this Order, the results of which must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients;
- 2) Submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting; administered by a person or entity that has been pre-approved by the Board; and analyzed by a lab qualified to analyze samples for forensic purposes and pre-approved by the Board, the results of which shall be negative; failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive;
- 3) If recommended by Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a treating professional(s) pre-approved by the Board.

Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF THREE (3) YEARS** commencing with the date of reinstatement. The conditions will 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 for a **minimum of three (3) years**.
3. Completion of Substance Abuse Counseling, Treatment Plan, Treatment Reports and recovery groups. If recommended by Independent Evaluator, Respondent shall enter into and continue substance abuse counseling and comply with substance abuse treatment plan until the pre-approved treating professional certifies in writing to the Board that such counseling is no longer necessary.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

Respondent shall authorize Respondent's treating professional to submit to the Board **quarterly** reports on appropriate letterhead. Respondent shall authorize Respondent's treating professional to provide all information requested by the Board, either orally or in writing, at any time during the period this Consent Order is in effect.

4. If recommended by Independent Evaluator, Respondent shall participate as recommended by Respondent's treating professional in substance abuse recovery group(s), and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.
5. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person or entity that has been pre-approved by the Board or its designee to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall constitute a violation of this Order.

6. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.
7. 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 Board in writing by Respondent within forty-eight (48) hours of the prescription. Respondent's health care practitioner shall inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Additionally, the practitioner shall inform the Board 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 Board or its designee may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall provide the Board with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Board 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.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

8. Supervision. Within one (1) month of the commencement of the conditions, the Respondent shall retain a dentist to provide supervision to the Respondent when he engages in any practice of dentistry. The supervising dentist shall be approved by the Board. The Respondent shall be supervised for a minimum of three (3) years. The supervising dentist shall provide reports to the Board as outlined below.
9. Reports from Supervisor. During the first month following the resumption of Respondent's dental practice, the supervising dentist shall audit three (3) of Respondent's cases and shall submit to the Board a report evaluating Respondent's work performance. Thereafter, the supervising dentist shall audit seven (7) of Respondent's cases per quarter for four consecutive quarters beginning with the second quarter of 2016, and shall submit to the Board a report evaluating Respondent's work performance. Thereafter, the supervising dentist shall audit three (3) of Respondent's cases per quarter for eight consecutive quarters and continuing through the end of the conditional period, and shall submit to the Board a report evaluating Respondent's work performance.

All reports shall indicate satisfactory performance and adherence to the essential standards of practice for dentistry. All reports shall be submitted in writing on the supervising dentist's letterhead. The supervising dentist shall discuss with applicable staff any concerns that have surfaced and the discussions with staff shall be on a confidential basis so that Respondent is not aware of which staff may or may not be reporting.

10. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
11. 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 Board. The Board will approve out-of-state practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
12. 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 Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
13. Notification to Other States. In the event that Respondent is licensed in any other state(s), Respondent must inform the licensing board of the state(s) in which

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

Respondent is licensed of the conditional status of Respondent's Vermont license within thirty (30) days of the date of entry of this Order.

14. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
15. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol 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 with the Board or its designee. Any and all of this information may be provided to the Office of Professional Regulation investigators, 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 of dentistry.

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 license.

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 Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

16. Costs. Respondent shall bear all costs of complying with this Consent Order.
17. 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.
18. Completion of Conditional License Period. Respondent must petition the Board, or its designee, to remove any and all conditions on Respondent's license. Respondent must present proof that Respondent has fully complied with the terms of this Order. Respondent must also present proof of successful substance abuse rehabilitation, that Respondent poses no danger to the public, and that Respondent can safely and competently perform the duties of a licensed dentist.

- B. Notwithstanding any provision above, the Respondent must continue to meet all Board 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).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

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:

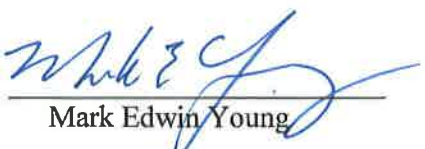
STATE OF VERMONT
SECRETARY OF STATE

Dated: 2/10/16

By: 
S. Lauren Hibbert
State Prosecuting Attorney

MARK EDWIN YOUNG
RESPONDENT

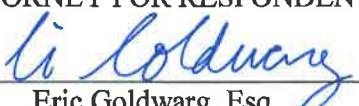
Dated: 2/5/16

By: 
Mark Edwin Young

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

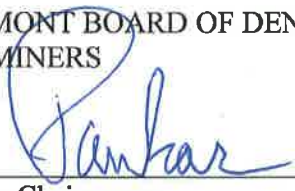
Dated: 2/5/16

By: 
Eric Goldwarg, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF DENTAL
EXAMINERS

Dated: 2/10/16
Date of Entry: 2/10/16

By: 
Chairperson

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402