



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

Tel: 617-973-0800
TTY : 617-973-0988
www.mass.gov/dph/boards

MARYLOU SUDDERS
Secretary
MONICA BHAREL, MD, MPH
Commissioner

September 8, 2015

VIA FIRST CLASS AND CERTIFIED MAIL NO. 7014 0510 0001 0375 2480
RETURN RECEIPT REQUESTED

Jeffrey O'Connor, Esq.
Morrison Mahoney
1500 Main Street
P.O. Box 15387
Springfield, MA 01115

RE: **In the Matter of Dr. Eric James Castenson, DN License No. 1855884**
Board of Registration in Dentistry Docket No. DEN-2013-0042

Dear Attorney O'Connor:

Enclosed is the *Final Decision and Order* ("*Final Order*") issued by the Board of Registration in Dentistry (Board) in connection with the above-referenced matter. The effective date of the Board's Order is ten (10) days from the date appearing on page 5 of the *Final Order* ("*Date Issued*"). Your client's appeal rights are noted on page 5 of the *Final Order*.

Sincerely,


Barbara A. Young
Executive Director
Board of Registration in Dentistry

Enc.

cc: Jason Barshak, Chief Administrative Hearings Counsel
Beth Oldmixon, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

)
In the Matter of)
Dr. Eric James Castenson)
License No. DN1855884)
Expires March 31, 2106)
_____)

Docket No. DEN-2013-0042

FINAL DECISION¹

Procedural Background

On May 14, 2014, the Board of Registration in Dentistry (“Board”) issued an Order to Show Cause to Dr. Eric James Castenson (“Respondent”), directing him to appear and demonstrate why the Board should not take action against his dental license pursuant to M.G.L. c. 112, § 61 based on the allegations that he: (a) failed to operate his dental office in compliance with the Centers for Disease Control’s Recommendations on Infection Control in Dental Health-Care Settings (“CDC Recommendations”); (b) failed to comply the Board’s regulations at 234 CMR 6.15 for the administration of anesthesia and sedation; (c) failed to comply with applicable regulatory requirements at 234 CMR 5.04 related to posting of dental licenses and permits and to providing name tags for all providers and staff; and (d) failed to have a written protocol for managing medical and dental emergencies. Respondent seasonably answered.

This matter now comes before the Board after the parties filed stipulations with the Administrative Hearings Counsel (“AHC”), Stephanie Carey, on December 10, 2014 and testimony was taken during a hearing held on January 15, 2015 related to sanction.

Pursuant to 801 CMR 1.01(11)(c), and based on the stipulations and testimony, the AHC issued a Tentative Decision on April 8, 2015. Respondent filed objections on May 7, 2015 and Prosecuting Counsel did not file objections or responses to Respondent's objections.

On July 1, 2015, the Board reviewed the Respondent's two objections and found them without merit. See Board's Ruling on Respondent's Objections at Exhibit B.

On September 2, 2015, the Board reviewed the Tentative Decision and after considering its Ruling on Respondent's Objections, voted to adopt the Tentative Decision in its entirety, and incorporates the Tentative Decision, attached herewith at Exhibit A, into its Final Decision and Order.

In keeping with its duty to promote the public health, welfare, and safety, and consistent with its prior rulings, the Board issues the following order after careful consideration of the facts and information presented in the record.

¹ Pursuant to 801 CMR 1.01(11)(c), the Administrative Hearings Counsel issued a tentative Decision in the first instance.

ORDER

Based on its Final Decision, the Board orders Respondent's license to practice dentistry in the Commonwealth be placed on **probation for one (1) year** ("Probation"), commencing on the Effective Date of the Final Decision and Order ("Probation Period").

Respondent may petition the Board for termination of the Probation no sooner than 60 days prior to the end of the Probation Period and upon demonstration that he has fulfilled the following terms and conditions:

- (1) Respondent shall successfully pass the Board's *Jurisprudence and Ethics Examination* within **thirty days** after the date of the Board's Order.
- (2) Within thirty days of the Effective Date, Respondent shall provide a copy of this Final Decision and Order to all jurisdictions in which he holds a license to practice dentistry.
 - (i) Respondent shall provide written documentation to the Board demonstrating his compliance with paragraph 2.
 - (ii) If Respondent is not licensed to practice dentistry or another profession in any other jurisdiction, he shall submit an attestation to the Board stating such.

Upon receipt of Respondent's petition for termination of probation the Board may require Respondent to appear before it.

During the Probation Period, the Respondent shall comply with the additional following terms and conditions:

- (3) Respondent shall renew his license to practice dentistry biennially in accordance the M.G.L. c. 112, § 44 and 234 CMR 4.14(1).
- (4) Respondent shall fully and promptly cooperate with any Board conducted unannounced inspections of the Respondent's dental practice, regardless of whether Respondent is given prior notice of the inspection(s).

- (5) Respondent shall notify the Board in writing of any change in his current address of record within seven (7) calendar days of such changes.
- (6) Respondent shall not, during the Probation Period:
 - (a) violate any law or regulation (state or federal) relating to the practice of dentistry;
 - (b) commit any act that constitutes deceit, malpractice, gross misconduct in the practice of dentistry, unprofessional conduct or conduct which undermines public confidence in the integrity of the profession; and
 - (c) violate any regulation promulgated by the Board set forth in 234 CMR 2.00 *et seq.*
- (7) During the Probation Period, Respondent shall fully and promptly cooperate and respond to any inquiry or request made by the Board.

If, during the Probation Period, the Respondent fails to comply with the terms and conditions of paragraphs 1 – 7 above, the Respondent shall be entitled to a hearing as to whether he violated the terms and conditions of Probation. This hearing may be conducted in accordance with the State Administrative Procedure Act, M.G.L. c. 30A, §§ 10 and 11 and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* After a hearing, if the Board determines a violation did occur during the Probation Period, it may impose a further sanction, deemed appropriate in its discretion. Such sanction may include Suspension or Revocation of Respondent's license to practice dentistry in the Commonwealth.

The Board voted on September 2, 2015, in favor of a motion to adopt the Tentative Decision and issue it as the Board's Final Decision as follows: In favor: Dr. Stephen C. DuLong, Dr. Paul Levy, Dr. David Samuels, Ms. Kathleen Held, M.Ed., Ms. Lois Sobel, RDH and Ward Cromer, Ph.D.; Opposed: none; Abstained: none; Recused: none.

The Board voted on September 2, 2015, in favor of a motion to adopt the Proposed Order, as amended, and issue it as the Board's Order as follows: In favor: Dr. Stephen C. DuLong, Dr. Paul Levy, Dr. David Samuels, Ms. Kathleen Held, M.Ed., Ms. Lois Sobel, RDH and Ward Cromer, Ph.D.; Opposed: none; Abstained: none; Recused: none.

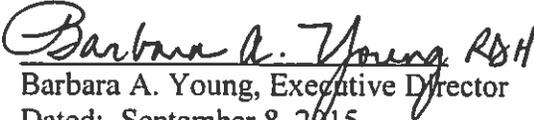
EFFECTIVE DATE

This Final Decision and Order becomes effective upon the tenth (10th) day from the date it is issued (see Date Issued, below).

RIGHT OF APPEAL

Respondent is hereby notified of his right to appeal this Final Decision and Order pursuant to M.G.L. c. 30A, § 14 within thirty days of receipt of this Final Decision and Order.

DATE ISSUED: September 8, 2015


Barbara A. Young, Executive Director
Dated: September 8, 2015

Notify:

By First Class and Certified Mail:

Jeffrey O'Connor, Esq.
Morrison Mahoney
1500 Main Street
P.O. Box 15387
Springfield, MA 01115

By Hand:

Beth Oldmixon, Esq.
Prosecutor
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, 4th Floor
Boston, MA 02114

By Hand:

Jason Barshak, Esq.
Chief Administrative Hearings Counsel
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, 5th Floor
Boston, MA 02114

Exhibit A

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN DENTISTRY

In the Matter of)
Eric James Castenson, D.D.S.)
License No. DN 1855884)
License expiration date 3/31/2016)
_____)

Docket No. DEN-2013-0042

BOARD'S TENTATIVE DECISION¹

On May 14, 2014, the Board of Registration in Dentistry ("Board" issued an Order to Show Cause ("Order") to Eric Castenson, ("Respondent Castenson or "Dr. Castenson"), a dentist licensed by the Board. On June 13, 2014, Respondent filed an Answer to the Order to Show Cause ("Answer"). Pursuant to the Stipulation of the Parties ("Stipulation") and Request for Sanction Hearing filed on December 10, 2014, this matter was scheduled for a sanction hearing to be held on January 15, 2015.² The Stipulation filed by the parties provided as follows:

STIPULATED FACTS AND REQUEST FOR SANCTION HEARING

Respondent and Prosecution hereby stipulate to the facts (Stipulations) as recited below and further acknowledge that the Stipulations between the parties will be admitted

¹ Pursuant to 801 CMR 1.01(11)(c), the Board issues a Tentative Decision in the first instance.

² Included in the Stipulations filed on December 10, 2014 were those pertaining to *In the Matter of James G. Hunt, DEN-2013-0041* ("Hunt matter"), a companion case. Both matters were heard at the joint sanction hearing held on January 15, 2015.

as evidence in the hearing in the above-entitled matter. Respondent states that he waives his right to a full adjudicatory hearing on the merits and requests that the matter be set for a sanction hearing.

STIPULATED FACTS

1. Dr. Castenson was issued a license to practice dentistry in the Commonwealth of Massachusetts on January 10, 2012, License No. DN1855884.
2. Dr. Castenson is presently a co-owner of Hunt, Castenson & Ivancev Dental, a dental practice located at 148 Amity Street Amherst, Massachusetts 01002 (Dental Practice). Dr. Castenson first became employed at the practice in January 2012.
3. On March 12, 2013, the Board conducted a compliance inspection (Inspection) at the Dental Practice.
4. The Inspection revealed the Dental Practice failed to comply with the *Recommended Infection Control in Dental Health Care Settings-2003*, Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, Atlanta (Recommended Infection Control). Said deficiencies included the following:
 - a. Failure to conduct weekly spore tests on the two sterilizers present in the office;
 - b. Failure to provide and utilize internal chemical indicators in wrapped cassettes;
 - c. Failure to sterilize instruments in wrapped cassettes; and
5. The Inspection revealed the Dental Practice failed to comply with applicable regulatory requirements for the administration of local anesthesia including the following:
 - a. Failure to maintain two (2) ampules of Epinephrine;
 - b. Failure to maintain pre-loaded pediatric Epinephrine syringe;
 - c. Failure to maintain pediatric oxygen mask; and
 - d. Failure to maintain valid pediatric Automated External Defibrillator (AED) pads.
6. The Inspection revealed the Dental Practice failed to comply with applicable regulatory requirements relative to the conduct of a dental practice, including:

- a. Failure to post licenses and permits for all providers employed by office; and
 - b. Failure to provide name tags for all providers and staff.
7. The Inspection revealed the Dental Practice failed to maintain a written emergency protocol to handle medical or dental emergencies.

STIPULATED FACTS IN MITIGATION

8. With respect to item 4.a above, the office has engaged a new spore testing laboratory and has instituted procedures to ensure weekly testing. The spore test is done on Wednesdays and is referenced in that morning's daily meeting, there are also automatic reminders and confirmatory follow-ups programmed into the office computer software. In the event a holiday falls on Wednesday, the test is done on Tuesday. The office receives its test results in a weekly e-mail from the laboratory
9. With respect to item 4.b above, the Respondent had external indicator tape on all wrapped cassettes.
10. With respect to item 4.c above, instruments were sterilized in all cassettes. On the day of the site inspection, it happened that one cassette had been brought out for use, was determined to be the wrong cassette, and had been replaced. The dental assistant involved now understands that an unwrapped, but unused, cassette, cannot simply be re-wrapped, but must be re-autoclaved.
11. With respect to items 5.a and 5.b above since 2010, the office has used Sav-A-Life for its emergency first aid kit. Believing it was in compliance with the Massachusetts regulations for kit necessities; and the office was on an auto-ship program. Sav-A-Life was contacted subsequent to the site inspection and stated that there is no way they can keep track of all of the states' requirements. The ampules of Epinephrine, and a pre-loaded pediatric Epi-Pen, were immediately ordered.
12. With respect to item 5.c above, pediatric oxygen masks were immediately ordered following the site inspection. The office maintains two or three oxygen tanks on the premises at all times.
13. With respect to item 5.d above, when purchased, the AED was shipped with both the adult and pediatric pads. The date of the adult pad was not expired it was naturally assumed the pediatric one would have the same expiration date since they were shipped together.

14. With respect to item 6.b above, name tags are and have been provided to staff upon hiring. On the day of the site inspection, some staff were not wearing them as requested. The Respondent now insists on their being worn, and this is checked at morning huddle. Office staff always introduce themselves when they enter a treatment room.

Respondent admits that he is subject to Board discipline based on the above facts and violation of the following regulations:

- A. 234 CMR 5.05(1) for to failure operate in compliance with the current Recommended Infection Control.
- B. 234 CMR 6.15 for failure to maintain the required drugs and equipment for administration of local anesthesia.
- C. 234 CMR 5.04(1) for to failure post current licenses in a place where it can be observed by the public.
- D. 234 CMR 5.04(3) for to failure provide name tags for all staff, with the individual's name and professional title and function.
- E. 234 CMR 5.16(1) for failure to have a written protocol for managing medical or dental emergencies.

Sanction Hearing

Although the Board held a joint sanction hearing for both Respondents, the Board issued separate decisions for each Respondent.

Exhibits³

1. Curriculum Vitae, James Hunt, D. D. S., Respondent Hunt
2. Curriculum Vitae, Eric Castenson, D. D. S., Respondent Castenson
3. Three Office Spore Testing Logs and Results, NorthBay/Bioscience

³ In addition to the exhibits admitted into evidence, Respondents also submitted the following: individual spore test results conducted by Enviro-Tech between April 2013 and July 2013; an office log of spore tests conducted by Enviro-Tech between March 20, 2013 and July 24, 2013; and individual spore test results conducted by North Bay/Bioscience between August 7, 2013 and January 7, 2015. Those submissions were not offered as exhibits in this matter but remain available for review.

- A. November 5, 2014 – January 14, 2015
 - B. March 19, 2014 – October 29, 2014
 - C. July 31, 2013 – March 12, 2014
4. Office Spore Testing Log, July 2011 – November 2012
 5. Office Spore Testing Log, December 26, 2012 – March 5, 2013
 6. Sterilizer Monitoring Report, Steri-Check Systems, Inc., March 12, 2013
 7. Sterilizer Monitoring Report, Steri-Check Systems, Inc., November 25, 2014
 8. Completed Continuing Education Courses, Respondent Castenson
 - A. CDC Infection Control for the Dental Office, July 23, 2014
 - B. Risk Management for the Dental Office, July 22, 2014
 9. Completed Continuing Education Courses, Respondent Hunt
 - A. Risk Management for the Dental Office, July 22, 2014
 - B. CDC Infection Control for the Dental Office, July 23, 2014

Witnesses

1. James Hunt, D.D.S., Respondent
2. Eric J. Castenson, D.D.S., Respondent
3. Kerry Daysh, Office Manager⁴
4. Dr. Howard Pactovis, Managing Director, Dynamic Dental Safety

⁴ Pursuant to the testimony of Ms. Daysh, as office manager, she was responsible for accounts payable and receivable, taxes, payroll, posting staff licenses, scheduling office meetings and staffing the front desk. Ms. Daysh reported to Dr. Hunt and Dr. Castenson and assisted them in their efforts to remediate the violations found during the 2013 inspection. Ms. Daysh indicated that she believes Hunt, Castenson & Ivancev Dental is one of the best dental practices in Amherst, Massachusetts.

SUMMARY OF ARGUMENTS

Eric Castenson (“Respondent Castenson” or “Dr. Castenson”) has been licensed to practice dentistry in the Commonwealth of Massachusetts (“MA”) since January 2012. He was formerly licensed to practice dentistry in Texas between 2010 and 2012, but has since let that license lapse. Respondent Castenson attended Central Michigan University for one semester in 1995, attended Washtenaw Community College in Ann Arbor, Michigan from 1996-1997, and attended Austin Community College in Austin, Texas from 2000-2003. While enrolled at the various community colleges, Respondent worked full time to pay for his education. In 2004, Respondent Castenson continued his education at the University of Texas at San Antonio (“UTSA”). At the time of his graduation from UTSA in 2006, Respondent Castenson had been on the Dean’s List every semester. In 2006, Respondent Castenson attended the University of Texas Dental Branch in Houston, Texas and graduated in the top quarter of his class in 2010. While in dental school, Respondent Castenson was very involved in the school’s urgent care clinic where he managed numerous and varied cases including cases of abuse. In 2011, Dr. Castenson met Dr. James Hunt and Dr. David Piech and was very impressed with their dental practice and the quality of the dental work performed at the practice. In 2012, Dr. Castenson moved to MA, joined the practice, and on December 31, 2012, became a partner and co-owner of the practice now known as Hunt, Castenson & Ivancev Dental. During his career as a dentist, Dr. Castenson has never been disciplined and has never had any malpractice suits filed against him.

2013 Inspection

In March 2013, Board investigators conducted an inspection of the practice and found various violations related to required dental equipment, the posting of staff licenses, and spore testing. The results of the inspection revealed: between July 2011 and March 2013, spore testing was conducted 53 weeks out of 88 weeks, and the practice failed to conduct spore testing for the remaining 35 weeks; spore testing on the Pelton-Crane autoclave had never been conducted; the failure of the practice to conduct spore testing occurred most frequently in 2011; spore testing logs reveal that 17 spore testing results were missing in 2012; 1 spore test was missing in February 2013 and 1 spore test was missing in March 2013. The inspection also revealed that the practice had no pediatric Automated External Defibrillator (“AED”) pads.

Dr. Castenson was present during the inspection and he does not dispute the violations found by the Board investigators. Dr. Castenson was shocked and humbled by the results of the inspection and admits that he bears some responsibility for the violations. Dr. Castenson asserts that as a relatively recent graduate of dental school, he was so focused on learning the policies and procedures of the practice that he failed to familiarize himself with or observe certain regulatory requirements. According to Dr. Castenson, the 2013 inspection served as a wake-up call.

Remediation

In addition to the remedial measures enumerated during testimony in the Hunt

matter,⁵ Dr. Castenson testified that after the inspection, he, Dr. Hunt, Dr. Piech, and the office staff reviewed proposed changes in office procedures and policies as well as mechanisms that needed to be implemented to address the lapses found during the inspection. Dr. Castenson admitted that he, Dr. Hunt, and other members of the staff had not been as conscientious about ensuring that practices and procedures were properly completed. As a result, after a review of the practice, certain policies were implemented including, a review of comprehensive treatment plans for patients by the entire staff. The practice also began keeping spore testing logs in binders and securing those binders in the sterilization room. Group staff trainings, that were regularly conducted at the time Dr. Castenson joined the practice in 2012, continue to date. Those trainings include mock emergency trainings, and a periodic review of the location of emergency equipment such as oxygen tanks. In addition, the practice provides training by Occupational Safety and Health Administration (“OSHA”) consultants.

In an effort to ensure that the practice adopted the best practices and procedures available, Dr. Hunt and Dr. Castenson retained the services of Dr. Howard J. Pactovis, DMD (“Dr. Pactovis”), Managing Director of Safety, Compliance and Training for Dynamic Dental Safety. Dr. Pactovis has consulted with hundreds of dental practices in 20-25 states on issues related to compliance with regulatory requirements.

Dr. Pactovis graduated from Tufts University in 1975 and graduated from Boston

⁵ During his testimony, Dr. Hunt described the following remedial measures implemented by the practice: 1) termination of the previous spore testing company and the hiring of a Texas firm; 2) the purchase of an additional autoclave; 3) the purchase of pediatric AED pads; 4) provision of staff trainings twice a year; 5) strategically located written emergency protocols in the office library/consultation room; and 5) commencement of daily meetings with staff to review cases.

University School of Graduate Dentistry in 1977 specializing in pediatric dentistry. Although Dr. Pactovis was once suspended from the practice of dentistry in MA, he is currently licensed to practice dentistry in MA as well as in the State of New Jersey. He is a member of the American Dental Association of MA. In the early 1990's, Dr. Pactovis trained at an OSHA training facility in Des Plaines, IL on issues related to regulatory compliance as they apply to dental practices. He has lectured and advised various companies on those regulatory compliance issues since 1992. As Dr. Castenson had once enrolled in one of Dr. Pactovis' courses, when the practice was cited for violations during the 2013 inspection, Dr. Castenson recommended Dr. Pactovis as a consultant for the practice. Dr. Pactovis reviewed procedures at the practice particularly those procedures that related to infection control. Dr. Pactovis suggested that the practice begin utilizing check lists to ensure that appropriate procedures were completed in a timely manner, required equipment was properly maintained, and expiration dates for equipment and materials were strictly observed.

Professional and Community Activities

Dr. Castenson is a member of the American Dental Association, the Valley District Dental Society, the Hampshire Dental Society ("HDS"), and the Massachusetts Dental Society ("MDS"). Since 2014, he has served as a committee member of the MDS and treasurer of the HDS. Dr. Castenson's community activities are primarily those associated with the pre-school and elementary school that his children attend. He serves on the boards of those schools and participates in the various activities sponsored by the schools.

Closing

In his closing statement, Dr. Castenson asserted that he does not believe that he bears any responsibility for missing spore testing results prior to January 16, 2012. According to Dr. Castenson in 2011 when the practice failed to conduct numerous spore tests, Dr. Piech was still a partner in the practice and Dr. Castenson had not yet joined the practice. Dr. Castenson stated that his situation is, therefore, significantly different from that of Dr. Piech with respect to the 2011 spore testing violations. According to Dr. Castenson, Dr. Piech ultimately resolved his case with the Board in this matter by way of non-disciplinary sanction of Stayed Probation.

Counsel for Respondents Hunt and Castenson asserted that each Respondent has demonstrated contrition for the lapses in the practice. According to Counsel, both Respondents acted immediately to rectify the violations. Counsel also maintains that both Respondents have demonstrated a level of responsibility and professionalism in addressing these violations that the Board should consider in arriving at an appropriate sanction. Counsel maintains that both Respondents have excellent reputations as dentists and are well-respected in the Amherst community. Lastly, Counsel for Respondents contends that an appropriate sanction in this matter would be a non-disciplinary sanction such as Stayed Probation.

Based on the Stipulation of the Parties and the arguments presented at the Sanction Hearing, the Board finds that Respondent Eric Castenson is subject to discipline and appropriate sanction as determined by the Board.⁶

⁶ Pursuant to 801 CMR 1.01(11)(c), the parties have thirty (30) days from the filing of this Tentative Decision to file objections.

Exhibit B

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

_____)
In the Matter of)
Dr. Eric James Castenson)
License No. DN1855884)
Expires March 31, 2106)
_____)

Docket No. DEN-2013-0042

Ruling on Respondent's Objections to Tentative Decision

This matter comes before the Board of Registration in Dentistry ("Board") after the parties filed stipulations with the Administrative Hearings Counsel ("AHC"), Stephanie Carey, on December 10, 2014 and testimony was taken during a hearing held on January 15, 2015 related to sanction. Based on the stipulations and testimony, the AHC issued a Tentative Decision on April 8, 2015. Respondent filed objections on May 7, 2015. Prosecuting Counsel did not file objections or responses to Respondent's objections.

The Board has reviewed and carefully considered the Tentative Decision and the Respondent's Objections thereto. The Board finds that Respondent's objections are without merit.

While the Board is not required to address each of Respondent's objections or provide a specific response for rejecting the objections, *see Arthurs v. Board of Registration in Medicine*, 383 Mass. 299, 315-316 (1981) and *Weinberg v. Board of Registration in Medicine*, 443 Mass. 679, 687 (2005), the Board responds as follows:

Respondent's first objection regards sanction. Respondent argues the Board's offer of a consent agreement for stayed probation to a former owner of the practice is inconsistent with its offer of a consent agreement for probation to him.¹ The AHC has made no recommendation in the Tentative Decision for any type of sanction, thus the objection is not directed to a particular stipulation, finding of fact or ruling of law contained in the Tentative Decision and is without merit. Moreover, it is axiomatic that the Board has "broad discretion to determine the proper sanctions for misconduct" by dentists. *See Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 347 (1996). *See also Levy v. Board of Registration and Discipline in Medicine*, 378 Mass. 519, 527-528 (1979).

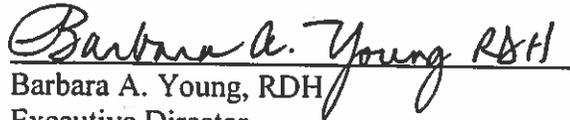
¹ Respondent stipulates he is a co-owner (*see* Tentative Decision at ¶ 2) and argues he shouldn't be responsible for any violations before January 2012, when he joined the dental practice. He argues he became a partner and co-owner of the dental practice on December 31, 2012.

Respondent's second objection is that to the extent the AHC is making a recommendation to the Board for a sanction disciplining his license, he objects. This objection is without merit. Respondent has already stipulated "he is subject to Board discipline based on the above [stipulated] facts and violation of the following regulations."

The Board voted to adopt this Ruling on Respondent's Objections to Tentative Decision at its meeting held on July 1, 2015 by the following vote: In favor: Dr. Stephen DuLong, Dr. Paul Levy, Dr. Cynthia Stevens, Dr. David Samuels, Dr. John Hsu, Ms. Ailish Wilkie, Ms. Jacyn Stultz, RDH, Ms. Lois Sobel, RDH, Kathleen Held, M.Ed., Ward Cromer, Ph.D.; Opposed: none; Abstained: none; Recused: none.

Board of Registration in Dentistry

September 8, 2015
Date Issued


Barbara A. Young, RDH
Executive Director

Notify:

By First Class and Certified Mail:
Jeffrey O'Connor, Esq.
Morrison Mahoney
1500 Main Street
P.O. Box 15387
Springfield, MA 01115

By Hand:
Beth Oldmixon, Esq.
Prosecutor
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, 4th Floor
Boston, MA 02114

By Hand:
Jason Barshak, Esq.
Chief Administrative Hearings Counsel
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, 5th Floor
Boston, MA 02114