

VIRGINIA:

BEFORE THE BOARD OF DENTISTRY

IN RE: DERRICK M. BROADAWAY, D.D.S.
License No.: 0401-007977

CONSENT ORDER

On November 18, 2011, the Virginia Board of Dentistry ("Board") convened an informal conference pursuant to a Notice of Informal Conference issued to Dr. Broadway on October 4, 2011. Following the informal conference, the Committee referred the matter for a formal administrative hearing. By letter dated February 3, 2012, the Board issued Dr. Broadway a Notice of Formal Hearing.

In lieu of proceeding to a formal administrative hearing, the Board and Dr. Broadway, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Broadway to practice dentistry in Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Derrick M. Broadway, D.D.S., holds license number 0401-007977 issued by the Board to practice dentistry in the Commonwealth of Virginia.
2. Pursuant to a Board Order entered May 29, 2009, Dr. Broadway was required to complete seven (7) continuing education hours in risk management and recordkeeping; forty (40) hours of hands-on endodontics; and forty (40) hours of hands-on fixed and removable prosthodontics. Further, Dr. Broadway's license was placed on indefinite probation, subject to certain terms and conditions.
3. By Order of the Board entered April 27, 2010, Dr. Broadway's license was continued on indefinite probation, subject to certain terms and conditions, and Dr. Broadway was required to complete six (6) continuing education contact hours in periodontal diagnosis and

treatment planning.

4. By Order of the Board entered March 1, 2011, Dr. Broadaway's license was continued on indefinite probation, subject to certain terms and conditions. Further, Dr. Broadaway was required to complete seven (7) continuing education hours in diagnosis and treatment planning and seven (7) hours in radiographic diagnosis and interpretation.

5. After having completed corrective action pursuant to a Board Order entered May 29, 2009, in which he completed forty (40) hours of hands-on fixed and removable prosthodontics on July 10, 2009, Dr. Broadaway violated § 54.1-2706(5) and (11) of the Code in that, on or about December 10, 2009, Dr. Broadaway delivered an ill-fitting crown on Patient A's tooth #30 with open mesial and distal margins.

6. After having completed corrective action pursuant to a Board Order entered May 29, 2009, in which Dr. Broadaway completed seven (7) continuing education hours in risk management and recordkeeping on June 24, 2009, Dr. Broadaway violated § 54.1-2706(4) and (9) of the Code and 18 VAC 60-20-170(4) of the Regulations in that, on or about November 12, 2009 and December 10, 2009, Dr. Broadaway altered Patient A's records subsequent to the actual dates for which treatment was provided. Dr. Broadaway possesses more than one version of treatment notes for November 12, 2009 and December 10, 2009, as evidenced by the fact that he provided Patient A, who requested a copy of her records, with treatment notes containing information that, in comparison to the notes maintained in his office, show additions to the entries, purportedly added after the actual dates of treatment.

7. Dr. Broadaway violated § 54.1-2706(4) and (9) of the Code and 18 VAC 60-20-

170(1) of the Regulations in that his office billed Doral Dental insurance for treatment provided to Patients G and H on or about December 23, 2009 and October 15, 2009, respectively, using the name and identification number of a participating provider employed in his practice, purportedly to collect payment, despite the fact that Dr. Broadaway, a non-participating provider, actually treated the patients.

8. After having completed corrective action pursuant to a Board Order entered May 29, 2009, in which Dr. Broadaway completed forty (40) continuing education hours of hands-on endodontics on July 11, 2009, forty (40) hours of hands-on fixed and removable prosthodontics on July 10, 2009, and a Board-approved regional examination in endodontics and prosthodontics, on June 5 and 6, 2009, Dr. Broadaway violated § 54.1-2706(5) and (11) of the Code during his treatment of Patient I. Specifically:

- a. On or about March 4, 2010, while performing root canal therapy, Dr. Broadaway failed to completely fill the canals in tooth #14.
- b. On or about May 20, 2010, Dr. Broadaway delivered an ill-fitting crown on tooth #14 with an open margin.
- c. On or about March 4, 2010, Dr. Broadaway failed to diagnose, treat, or refer the patient when Dr. Broadaway perforated the patient's root during root canal therapy of tooth #14. Further, despite the fact that the root was perforated, Dr. Broadaway cemented a crown on tooth #14, on or about May 20, 2010.

CONSENT

Derrick M. Broadaway, D.D.S., by affixing his signature hereon, agrees to the following:

1. He has been advised specifically to seek the advice of counsel prior to signing this document;
2. He is fully aware that without his consent, no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq of the Code of Virginia;
3. He has the following rights, among others:
 - a. the right to a formal hearing before the Board;
 - b. the right to appear in person or by counsel, or other qualified representative before the agency; and
 - c. the right to cross – examine witnesses against me.
4. He waives all rights to a formal hearing;
5. He admits the truth of the above Findings of Fact contained herein and agrees not to contest the Findings of Fact and Conclusions of Law in any future judicial or administrative proceeding where the Board is a party; and
6. He consents to the following Order affecting his license to practice dentistry in the Commonwealth of Virginia.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact, Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that Derrick M. Broadaway, D.D.S., shall be assessed a MONETARY PENALTY of twenty thousand dollars (\$20,000), said penalty to be paid to the Board by certified check or money order within eighteen (18) months from June 25,

2012. Failure to pay the full monetary penalty within the timeframe stipulated shall constitute grounds for an administrative proceeding.

It is further ORDERED that, effective June 25, 2012, Dr. Broadaway's license is SUSPENDED for a period of sixty (60) days. Thereafter, his license shall be reinstated and CONTINUED on INDEFINITE SUSPENSION, with said suspension STAYED, subject to the following terms and conditions:

1. Dr. Broadaway shall be prohibited from performing any endodontics procedures and fixed prosthodontics procedures on molars.
2. Dr. Broadaway's practice shall be the subject of an annual review of a random sample of ten (10) complete patient records for patients who receive fixed prosthodontic treatment subsequent to entry of this Consent Order. These records, to include pre and post-prosthodontic treatment x-rays, shall be obtained by an inspector/investigator of the Department of Health Professions and shall be reviewed by a special conference committee. The records shall be obtained during normal business hours, and Dr. Broadaway shall make his patient records available to the inspector/investigator. In the event that any review reveals a possible violation of the laws or regulations pertaining to the practice of dentistry in Virginia, or Chapter 34 of Title 54.1 (§§ 54.1-3400 et. seq.) of the Code of Virginia (1950), as amended, the Board specifically reserves the right to conduct further proceedings in this matter.
3. Dr. Broadaway is solely responsible for the payment of a three hundred and fifty dollar (\$350) fee to be paid to the Board within thirty (30) days of each such record audit. In the event that any such audit reveals a possible violation of the laws or regulations pertaining to the

practice of dentistry in Virginia, or Chapter 34 of Title 54.1 (§§ 54.1-3400 et seq) of the Code of Virginia (1950), as amended, the Board specifically reserves the right to conduct further proceedings in this matter.

4. Dr. Broadaway shall not petition the Board for modification of or release from these terms and conditions for a period of two (2) years from June 25, 2012. Any such petition following two years will result in an administrative proceeding before a special conference committee of the Board of Dentistry. At such a proceeding, the burden will be on Dr. Broadaway to provide evidence that he is safe and competent to resume endodontics procedures and fixed prosthodontics procedures on molars without restriction.

Dr. Broadaway shall maintain a course of conduct in his practice of dentistry commensurate with the requirements of Title 54.1, Chapter 27 of the Code, the Regulations of the Board of Dentistry and all laws of the Commonwealth.

Any violation of this Consent Order or any statute or regulation governing the practice of dentistry in the Commonwealth of Virginia may constitute grounds for the suspension or revocation of the license of Derrick M. Broadaway, D.D.S. and an administrative proceeding may be convened to determine whether further action is warranted.

Pursuant to § 54.1-2400.2 of the Code of Virginia, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:

CERTIFIED TRUE COPY

BY: *[Signature]*
BOARD OF DENTISTRY

Sandra K Reen
Sandra K. Reen
Executive Director
Virginia Board of Dentistry

ENTERED: June 11, 2012

EFFECTIVE: June 25, 2012

SEEN AND AGREED TO:

[Signature]
Derrick M. Broadaway, D.D.S.

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Henrico

Subscribed and sworn to before me, a Notary Public in and for the city/county of chesterfield, this 16th day of June, 2012, by Derrick M. Broadaway, D.D.S.



Kimberly Gilbert Beasley
Notary Public

My Commission Expires: 8/31/2013