

MINUTES

TENNESSEE BOARD OF DENTISTRY SPECIAL MEETING

CONSIDERATION OF CONSENT ORDER IN LIEU OF SUMMARY SUSPENSION

Date: March 20, 2024

Location: Microsoft Teams- Virtual Meeting

Members Present: Phillip Kemp, DDS- President
Greg Kemp, DDS
Edward Moody, DDS
Maricela Rodriguez, DDS
Steven Zambrano DDS
Christopher Acree
Suzanne DuVall, RDH

Staff Present: Ailene Macias, Director
Ashley Fine, Senior Associate General Counsel
Gerard Dolan, Senior Associate General Counsel

MINUTES

The board meeting began at 12:00 p.m., with the formalities necessary for an electronic meeting being reviewed by Ms. Macias. A roll call vote verified that Dr. Greg Kemp, Dr. Steven Zambrano, Dr. Maricela Rodriguez, Dr. Edward Moody, Dr. Phillip Kemp, Mr. Christopher Acree, and Ms. Suzanne DuVall were in attendance. Each board member verified that they could hear all other responses of the other people present in the electronic meeting.

The special meeting of the Board was convened to discuss the proposed agreed order of discipline, which was signed by Dr. Jessica Tucker, DDS (License #10766) in lieu of a hearing regarding a possible summary suspension action against her license. The meeting had been properly sunshined and all board members received all relevant documents before the meeting took place. Per statute, it was required to establish that the following criteria were met to determine that an electronic meeting was necessary. The requirements per statute are:

- The subject matter requires timely action.
- The physical presence of all members was not possible considering the period of time required for action, and
- The participation by some or all members of the board by electronic or other means is necessary.

The need for timely action for the matter was for the following reasons: the respondent's conduct represents an immediate threat to the public health, safety, or welfare that imperatively requires

emergency action as dentists are entrusted to provide safe and effective healthcare to the public when they are most vulnerable.

A motion was made by Mr. Acree to move forward with the electronic meeting. Dr. Rodriguez seconded the motion, and the motion carried after a roll call vote.

Ms. Macias reviewed the statutory requirements for an electronic meeting to be held, and requested a motion and a second, if the board members agreed that those requirements were met for the electronic meeting to proceed. Mr. Acree made a motion that the statutory requirements were met in this case, and Dr. Zambrano seconded the motion. The motion carried following a roll call vote.

The meeting was turned over to Dr. Phillip Kemp for the meeting to begin.

Ms. Fine went over a few reminders for the board members, that during an electronic meeting it was necessary for all motions and business to be conducted by roll call vote, and each person should introduce themselves before speaking to ensure the record of the meeting was accurate. Mr. Dolan stated the meeting was originally going to be an emergency summary suspension hearing for Dr. Tucker's license, but a consent order was signed that morning by Dr. Tucker, so the suspension hearing was no longer needed. The consent order was to be reviewed in lieu of the board needing to consider suspending the license.

The facts listed in the consent order were reviewed by Mr. Dolan. In June of 2020 Dr. Tucker entered into a voluntary 5-year monitoring agreement with the Tennessee Dental Wellness Foundation (TDWF), and she had obtained their advocacy. From September 2020 to November 2023, Dr. Tucker practiced as a pediatric dentist in East Tennessee Children's Hospital (ETCH) in Knoxville, TN. Around December 2023, Dr. Tucker was referred by ETCH to the TWDF for a forensic evaluation to determine her fitness to practice in relation to a health condition unrelated to a substance use disorder. Dr. Tucker obtained medical leave from ETCH and had the forensic evaluation on December 18, 2023. The evaluation determined she was not fit to safely practice dentistry at that time due to a health condition unrelated to a substance use disorder. It was requested that Dr. Tucker be assessed by a program that treated that health condition and follow whatever level of care was determined as appropriate for the condition. Upon completion of the treatment, she would then be required to be reassessed for her fitness to practice dentistry.

In January 2024, Dr. Tucker completed an assessment by a treatment program for her medical condition, and she enrolled in a treatment program which was not residential or inpatient. Following this, the TWDF notified the Department that it had withdrawn its advocacy for Dr. Tucker, because she had not obtained inpatient/residential treatment as recommended under the forensic evaluation. As of the date of the drafting of the consent order, Dr. Tucker had not regained the TDWF's advocacy, but she has been provided the conditions which were needed to do so.

Since January 9, 2024, Dr. Tucker has been enrolled in and actively participating in the treatment program for her medical condition, as recommended by the treatment program. Since taking medical leave from ETCH, Dr. Tucker has not returned to practice dentistry in any capacity.

With the signing of the consent order, Dr. Tucker agreed to the suspension of her dentist license. As part of the order, Dr. Tucker will be required to at least a 5- year monitoring contract with the TWDF and

regains their advocacy. Once that is completed, she can petition the board for an Order of Compliance to stay the suspension. She must personally appear before the board at the time they will be considering the petition. Should the board issue an order staying the suspension of the license, Dr. Tucker will have her license placed immediately on probation for the period of her monitoring agreement with the TDWF or at least 5-years, whichever is longer. During that period, she must maintain compliance with the TWDF and the terms of that monitoring contract. Should those terms not be met, the license would be placed immediately back in a suspended status. Once the probationary period is successfully completed, Dr. Tucker must petition the board to request the probationary status be lifted from her license. This will require that Dr. Tucker appear before the board for the petition to be considered.

Dr. Tucker's attorney, Mr. Nate Gorman, was present during the meeting and provided some additional information. Mr. Gorman spoke about the progress of Dr. Tucker since starting the treatment program, and her next assessment which will be completed in the near future.

Dr. Zambrano had a question regarding the proposed consent order being considered. He was concerned about how close together the dates were which were listed on the order, for the treatment recommendations, assessments, and starting of a treatment program for Dr. Tucker. Dr. Zambrano stated he was confused about those dates, because it appeared that Dr. Tucker entered into treatment after the assessment. Mr. Gorman stated that there were different findings by a therapist and the other assessment program, where there were different opinions for treatment needed for Dr. Tucker's eating disorder. The TDWF assessment asked for an inpatient/residential level of care for Dr. Tucker, and another evaluation would allow for a partially virtual treatment program that she could participate in instead.

Mr. Dolan stated that if Dr. Tucker is approved by the TDWF for a non-inpatient treatment program, it would be a pathway towards her obtaining the TWDF advocacy. Dr. Tucker attended the meeting, speaking to the board members about the program that she is in, stating that it will last 8-10 weeks. She stated the program she is attending partially in a virtual format, and she is willing to follow whatever is required of her to complete the treatment plan. Dr. Phillip Kemp spoke to Dr. Tucker, stating the board wishes for her to get well, stay healthy, and be able to return to practice.

Dr. Phillip Kemp asked for a motion to approve the proposed consent order. Mr. Acree seconded the motion. The motion carried following a roll call vote. Mr. Dolan asked if the board members would like to make a motion for the board staff to sign the consent order, on behalf of the board to have the order resolved that same day. Mr. Acree made a motion to allow the board staff to sign the order on behalf of the board. Ms. DuVall seconded the motion, and the motion carried following a roll call vote.

Ms. Macias asked if anyone would like to make a motion to adjourn the meeting. Ms. DuVall made a motion to adjourn, and Dr. Rodriguez seconded the motion. The motion carried following a roll call vote.