

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Wendy Schmitt, Dental Hygienist

Petition No. 2008-0115-013-001

CONSENT ORDER

WHEREAS, Wendy Schmitt of Madison, Connecticut (hereinafter "respondent") has been issued license number 005007 to practice dental hygiene by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 379a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges and respondent admits that:

1. Respondent obtained controlled substances by forging prescriptions and abused or used controlled substances to excess.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-126o, including, but not limited to:
 - a. §20-126o(a)(2); and/or
 - b. §20-126o(a)(9).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department of Public Health (hereinafter "the Department"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-2(7), 19a-14, and 20-126o of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-2(7), 19a-14, 19a-17, and 20-126o of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of four years under the following terms and conditions:

- a. Respondent shall participate in regularly scheduled, monthly therapy at her own expense with a licensed or certified therapist pre-approved by the Department (hereinafter "therapist").
- (1) Respondent shall provide a copy of this Consent Order to her therapist.
 - (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.
 - (4) The therapist shall submit quarterly reports of treatment for the duration of probation. Said reports shall address, but not necessarily be limited to, respondent's ability to practice dental hygiene in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
 - (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the public, or if respondent discontinues therapy and/or terminates his or her services.
- b. During the entire four year probationary period, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. Respondent shall inform said licensed health care professional of respondent's substance abuse history. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.

- (1) For the duration of the probationary period, respondent at her own expense, shall submit to random observed urine screens for alcohol, controlled substances, and legend drugs; in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens'). During the first and last years, respondent shall submit to such screens every week. During the second and third years of the probationary period, respondent shall submit to such screens two times per month. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.
- (2) Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Board and the Department by the testing laboratory. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
- (3) Respondent understands and agrees that if she fails to submit a urine sample when requested by her monitor, such missed screen shall be deemed a positive screen.
- (4) Respondent shall notify each of her health care professionals of all medications prescribed for her by any and all other health care professionals.
- (5) Respondent is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough

or cold medicines or remedies during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.

- b. During the entire four year probationary period, respondent shall attend "anonymous" or support group meetings at least eight times per month, and shall provide quarterly reports to the Department concerning her record of attendance.
- c. Respondent shall not have access to narcotics or other controlled substances in the course of her dental hygienist duties for the duration of the four year probationary period.
- d. Respondent shall provide her employer at each place where respondent practices as a dental hygienist throughout the probationary period with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer for the duration of the probation stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.
- e. Respondent shall obtain written approval from the Department prior to any change in employment.
- f. All prescriptions for treatment of substance abuse and/or for any psychiatric diagnosis shall be managed by a single duly licensed physician, who has been pre-approved by the Department. Said physician shall submit reports quarterly. Said reports shall address, but not necessarily be limited to, respondent's ability to practice as a nursing home administrator in an alcohol and substance free state, safely and competently. Said reports shall continue until the physician determines that therapy is no longer necessary or the period of probation has terminated.

3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
5. Respondent shall comply with all state and federal statutes and regulations applicable to her licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7.a. above to demonstrate to the satisfaction of the Department that she has complied with the terms of this Consent Order or, in the alternative, that she has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, she shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.
 - e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. If, during the period of probation, respondent is not employed as a dental hygienist for a period of thirty days or longer, or practices dental hygiene outside Connecticut, she shall provide written notice to the Department. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the

probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to the practice of dental hygiene in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all terms and conditions contained in paragraph 2 above.

9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of her license before the Department.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.
12. Respondent understands this Consent Order is a public document and evidence of the above violations in any proceeding before the Department in which her compliance with this Consent Order or with §20-126 of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order, except for a civil penalty, shall be reported to the National Practitioner Data Bank.
13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that she may have under the laws of the State of Connecticut or of the United States.
15. This Consent Order is a revocable offer of settlement, which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
16. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.

17. Respondent understands and agrees that she is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which she is away from her residence.
18. Respondent has the right to consult with an attorney prior to signing this document.
19. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
20. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

* * * * *

I, Wendy Schmitt, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Wendy Schmitt

Wendy Schmitt

(u)

Subscribed and sworn to before me this Aug 12th day of Aug 2009.

[Signature]

Notary Public or person authorized by law to administer an oath or affirmation

Commissioner of Superior Court

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 2nd day of September 2009, it is hereby accepted.

Jennifer Filippone

Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch

~~The above Consent Order having been presented to the designee of the Commissioner of the Department of Public Health on the _____ day of _____ 2009, it is hereby ordered and accepted.~~

~~Commissioner's Designee~~

[Signature]