



COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Virginia Board of Dentistry

www.dhp.state.va.us/
TEL (804) 662-9900
FAX (804) 662-9943
TDD (804) 662-7197

November 10, 2004

CERTIFIED MAIL

7160 3901 9848 3156 2474

Wayne S. Myles, D.D.S.
3065-A Centre Road
Herndon, VA 20171

Case Nos. 87775 and 89216

Dear Dr. Myles:

Enclosed is a Copy Teste of the final Consent Order that was entered by the Virginia Board of Dentistry on November 10, 2004.

Sincerely,

A handwritten signature in cursive script that reads 'Cheri Emma-Leigh'.

Cheri Emma-Leigh
Operations Manager
Virginia Board of Dentistry

/cel

Enclosure

cc: Cynthia E. Gaines, Senior Adjudication Analyst
Lorraine McGehee, Deputy Director, Administrative Proceedings Division
Emily Wingfield, Assistant Attorney General
Neil Berkowitz, Senior Intake Investigator (#87775 and #89216)
Andrew B. Dahlinghaus, Esq.

TELEPHONE: 804/662-9906

FAX NUMBER: 804/662-7246

E-MAIL: dennha@dhp.state.va.us

VIRGINIA:

BEFORE THE BOARD OF DENTISTRY

IN RE: WAYNE S. MYLES, D.D.S.
License No. 0401-007524

CONSENT ORDER

By letter dated June 30, 2004, the Virginia Board of Dentistry ("Board") noticed Dr. Myles for an informal conference to inquire into allegations that he may have violated certain laws and regulations governing the practice of dentistry in the Commonwealth of Virginia.

In lieu of proceeding to this informal conference, the Board and Dr. Myles, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Myles to practice dentistry in Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Wayne S. Myles, D.D.S., holds license number 0401- 007524 issued by the Board to practice dentistry in the Commonwealth of Virginia. Said license will expire on March 31, 2005, unless renewed or otherwise restricted.

2. Dr. Myles is in violation of § 54.1-2706(4), (5) and (7) [formerly § 54.1-2706.A (4), (5) and (7)] of the Code, and 18 VAC 60-20-180 (F) (2) of the Regulations of the Board of Dentistry, in that, he caused to be published in *Dentalife*, a supplement to the *Washington Post*, an article entitled "*The Failing Amalgam*," which contains the following statements that are false, misleading or deceptive:

- The advertisement title, "The Failing Amalgam"

RECEIVED

NOV 09 2004

VA BD. OF DENTISTRY

Consent Order – Wayne Myles, D.D.S.

- “Next to plutonium, mercury is the second most toxic substance known to mankind.”
- “The amount of mercury emitted from a newly placed, single, large silver filling is substantial enough that if the same amount of mercury was added to a 10-acre lake, the government would condemn the lake and not allow its fish to be eaten.”
- “Over time, this mercury leaks out of the filling. Within 15 years, there is no trace of mercury remaining in the filling having all been released into your body. Mercury shows up in the liver and kidneys, in mother’s milk, and passes through the placental barrier.”
- “.. amalgam scraps removed from patients’ teeth have to be stored in a labeled hazardous-waste container requiring special pickup for its disposal...”
- “It would be highly unlikely that amalgams, if just invented, would be approved today.”
- “Aware of the expansive nature of mercury, why do many dentists place amalgams containing 55% mercury into a brittle tooth, ... In short, this material is perhaps the main culprit in tooth fracture.”

Consent Order – Wayne Myles, D.D.S.

3. Dr. Myles is in violation of § 54.1-2706 (7) [formerly § 54.1-2706.A] of the Code, and 18 VAC 60-20-180 (F) (4) of the Regulations of the Board of Dentistry, in that, he caused to be published in *Dentalife*, a supplement to the *Washington Post*, an article entitled “*The Failing Amalgam*,” where he made a claim of superiority:

- “Less than .01% of practicing dentists have completed this level of advanced training in the United States.”

4. Dr. Myles is in violation of § 54.1-2706.A(7) of the Code, and 18 VAC 60-20-180 (C) of the Regulations of the Board of Dentistry, in that, he acknowledged publishing advertisements in *Dentalife*, in which he offered coupons for prospective patients to “save \$50 on Bleaching” and “5% off initial visit new patients only.” Dr. Myles failed to indicate the full cost of the advertised services.

CONSENT

Wayne S. Myles, 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 an informal fact-finding conference before the Board;

Consent Order – Wayne Myles, D.D.S.

- b. the right to representation by counsel; and
 - c. the right to cross-examine witnesses against him.
4. He waives all rights to an informal conference;
 5. He admits the truth of the above Findings of Fact; and
 6. He consents to the following Order affecting his license to practice dentistry in the Commonwealth of Virginia.
7. He agrees to cease and desist from any advertising in violation of the statutes and regulations of the Board. Specifically, Dr. Myles agrees to: (1) cease publishing the article entitled “The Failing Amalgam” on November 30, 2004, the earliest date upon which Dr. Myles and his publisher could mutually agree to amend Dr. Myles’ existing distribution agreement to cease distribution of the “Failing Amalgam” article; (2) cease publishing the statement that “[l]ess than .01% of practicing dentist have complete this level of advance training in the United States”; and (3) cease offering coupons to prospective patients without disclosing the full cost of the advertised services.

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 Wayne S. Myles, D.D.S., shall be assessed a MONETARY PENALTY of one thousand dollars (\$1000.00), said penalty to be paid to the Board by certified check or money order within thirty (30) days from the date of entry of this Consent Order. If said monetary penalty is not received within the prescribed deadline, an additional one hundred dollar (\$100.00) late fee shall be assessed weekly, up to a maximum of one thousand dollars (\$1000.00). Failure to pay the full monetary penalty plus the additional assessment

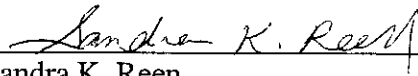
Consent Order – Wayne Myles, D.D.S.

within one hundred (100) days of the date of entry of this Consent Order shall constitute grounds for an administrative proceeding.

Any violation of the foregoing terms and conditions 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 Wayne S. Myles, D.D.S., and an administrative proceeding may be convened to determine whether Dr. Myles' license to practice dentistry in the Commonwealth shall be suspended or revoked.

Pursuant to § 2.2-4023 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.

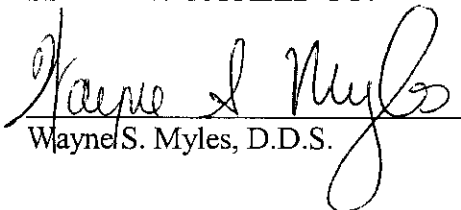
FOR THE BOARD:



Sandra K. Reen
Executive Director
Virginia Board of Dentistry

ENTERED: 11-10-04

SEEN AND AGREED TO:




Wayne S. Myles, D.D.S.

Consent Order – Wayne Myles, D.D.S.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Fairfax

Subscribed and sworn to before me, a Notary Public in and for the city/county of Fairfax, this 5th day of November, 2004, by Wayne S. Myles, D.D.S.


Notary Public

My Commission Expires: 9/30/05