



STATE BOARD OF DENTAL EXAMINERS
333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701-3942

April 23, 2018

Thomas Lee Schiller, DDS
101 S. Coit Rd., Suite 36-251
Richardson, TX 75080

CM/RRR #91 7199 9991 7031 5106 6092

Dear Dr. Schiller:

Enclosed is a copy of the ***Order of the Board on Default*** ratified at its April 20, 2018 meeting. This letter and the enclosures are notice of the Order in accordance with Texas Government Code § 2001.142. Pursuant to Texas Occupations Code § 263.009, you may appeal the Board's decision as described by the Administrative Procedure Act (Tex. Gov't Code Chapter 2001).

Sincerely,

Tyler Vance
Interim Executive Director

Enclosure (as stated)

SOAH DOCKET NO. 504-18-1638
SBDE NOS. 2017-00971; 2017-01002; 2018-00338

TEXAS STATE BOARD of DENTAL EXAMINERS, Petitioner	§ § § § § § § § §	BEFORE THE STATE BOARD OF DENTAL EXAMINERS
v.		
THOMAS LEE SCHILLER, DDS LICENSE NUMBER 18566, Respondent		

ORDER OF THE BOARD ON DEFAULT

TO: THOMAS LEE SCHILLER, DDS
101 S. COIT RD., SUITE 36-251
RICHARDSON, TX 75080

At the regularly scheduled public meeting on April 20, 2018, the Texas State Board of Dental Examiners (Board) considered the following items in the above-captioned matter: (1) Notice of Final Hearing on the Merits and Formal Complaint; (2) Order No. 2 Conditional Order of Default Dismissal and Remand, issued by the State Office of Administrative Hearings; and (3) Board Staff's recommendation that the Board revoke the Dental License of Thomas Lee Schiller, DDS (Respondent).

The Board makes and adopts the Findings of Fact, Conclusions of Law, and Order of the Board, as set out below. This Order will be properly served on Respondent, and Respondent shall be given an opportunity to file a motion for rehearing requesting the Order of the Board on Default be set aside.

FINDINGS OF FACT

1. Respondent, Thomas Lee Schiller, DDS, holds Texas Dental License No. 18566, initially issued on March 15, 1996. Respondent's license is in suspended status. Respondent's license was in full force and effect at all dates and times material and relevant to this Order.
2. On February 26, 2018, Board Staff filed a Notice of Final Hearing on the Merits and Formal Complaint with the State Office of Administrative Hearings (SOAH), noticing a final hearing against Respondent's Dental License No. 18566, to be held at SOAH on March 5, 2018, at 9:00 a.m. Board Staff served Respondent with the Notice of Final Hearing on the Merits and Formal Complaint at Respondent's addresses of record, as required by 22 Tex. Admin. Code § 107.17.
3. The Notice of Final Hearing on the Merits and Formal Complaint contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the factual matters asserted; as required by Tex. Gov't. Code § 2001.052.
4. On March 5, 2018, a hearing was held at SOAH before Administrative Law Judge (ALJ) Henry D. Card. Staff attorney Helen Kelley represented the Board and presented evidence to support a default. Respondent did not appear and was not represented at the hearing. The ALJ found that notice was adequate and granted Staff's oral motion for default.
5. On March 7, 2018, the ALJ issued Order No. 2 Granting Motion to Dismiss and Remand, conditionally dismissing the case from the SOAH docket on a default basis in accordance with 1 Tex. Admin. Code § 155.501(d) and returning it to the Board for informal disposition in accordance with Tex. Gov't. Code § 2001.056.
6. Respondent entered into an agreed settlement order with the Board on September 22, 2017. On or about December 11, 2017, Respondent became non-compliant with the terms of the

agreed settlement order dated September 22, 2017. Respondent's practice of dentistry while in violation of the terms of his September 22, 2017, agreed settlement order constitutes a clear, imminent, and continuing threat to a person's physical health or well-being.

7. On or about December 2, 2016, Respondent voluntarily surrendered his clinical privileges with the Tomah Veterans Affairs Medical Center due to credible evidence that Respondent used his own inadequately sterilized personal dental equipment on patients during the performance of his clinical duties as a dentist, thereby placing his patients at risk of infection.
8. In Board Staff's Formal Complaint, Staff sought the revocation of Respondent's Dental License No. 18566.

CONCLUSIONS OF LAW

1. The Board is authorized to enter a default order pursuant to Tex. Gov't. Code § 2001.056 and 22 Tex. Admin. Code § 107.26. Pursuant to 22 Tex. Admin. Code § 107.26, if the ALJ dismisses a case from the SOAH docket and returns the case to the agency for informal disposition on a default basis in accordance with Tex. Govt. Code § 2001.056, the Board may issue a final order deeming the following:
 - a. Respondent admits all of the allegations in the Notice of Final Hearing on the Merits and Formal Complaint;
 - b. Respondent waives the opportunity to show compliance with the law;
 - c. Respondent waives the opportunity for a hearing on the allegations in the notice of final hearing on the merits and formal complaint; and
 - d. Respondent waives objection to the recommended sanctions in the Notice of Final Hearing on the Merits and Formal Complaint.
2. Respondent has admitted all of the allegations in the Notice of Final Hearing on the Merits and Formal Complaint, included herein as Finding of Fact Nos. 6 & 7.
3. Respondent has waived the opportunity to show compliance with the law.

4. Respondent has waived the opportunity for a hearing on the allegations in the Notice of Final Hearing on the Merits and Formal Complaint.
5. Respondent has waived objection to the recommended sanctions in the Notice of Final Hearing on the Merits and Formal Complaint.
6. The conduct described in Finding of Fact No. 6, constitutes a violation of Tex. Occ. Code § 263.002(a)(3), (7), (10), (11); and 22 Tex. Admin. Code §§ 108.1(1), 108.9(4)(B)-(C), (6), (7).
7. The conduct described in Finding of Fact No. 7 constitutes a violation of Tex. Occ. Code § 263.002(a)(4), (9), (10); and 22 Tex. Admin. Code §§ 108.7(1), (8), (13), 108.21, 108.24(a).
8. Pursuant to Tex. Occ. Code §§ 251-267 and 22 Tex. Admin. Code §§ 100-125, and based on the Findings of Fact and Conclusions of Law, the Board is authorized to discipline Respondent's Dental License as ordered below.


IT IS THEREFORE ORDERED THAT Dental License No. 18566, issued to THOMAS LEE SCHILLER, DDS, in the State of Texas, is hereby REVOKED.

STATE BOARD OF DENTAL EXAMINERS

Entered this 20th day of April, 2018.



David Tillman, D.D.S., Presiding Officer
State Board of Dental Examiners



Jorge Quirch, D.D.S., Board Secretary
State Board of Dental Examiners

Attachments:

*Notice of Final Hearing on the Merits and Formal Complaint
Order No. 2 Conditional Order of Default Dismissal and Remand*

SOAH DOCKET NO. 504-18-1638
SBDE NOS. 2017-00971, 2017-01002, 2018-00338

**TEXAS STATE BOARD of
DENTAL EXAMINERS,
Petitioner**

v.

**THOMAS LEE SCHILLER, DDS
TEXAS DENTAL LICENSE
NUMBER 18566,
Respondent**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF FINAL HEARING ON THE MERITS

In accordance with Texas Government Code §§ 2001.051 *et seq.*, NOTICE is hereby given in the above-captioned cause of action that a final hearing on the merits will be held before an Administrative Law Judge with the State Office of Administrative Hearings (SOAH) at the William P. Clements Building, 300 West 15th Street, 4th Floor, Austin, Texas, on March 5, 2018, beginning at 9:00 A.M.

The proceedings will be governed by the rules of State Office of Administrative Hearings, found in Title 1, Chapter 155 of the Texas Administrative Code. **PARTIES THAT ARE NOT REPRESENTED BY AN ATTORNEY MAY OBTAIN INFORMATION REGARDING CONTESTED CASE HEARINGS ON THE PUBLIC WEBSITE OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AT WWW.SOAH.TEXAS.GOV, OR IN PRINTED FORMAT UPON REQUEST TO SOAH.**

The purpose of the hearing is to determine whether evidence supports the imposition of an ENFORCED SUSPENSION of the dental license of Thomas Lee Schiller, DDS (Respondent), until such time as Respondent complies with the requirements of the Professional Recovery Network, as set out in the FORMAL COMPLAINT attached to this NOTICE OF FINAL HEARING ON THE MERITS and incorporated herein for all purposes. This hearing is noticed under the authority of Texas Occupations Code §§ 263.003 and 263.004 (the Dental Practice Act), Texas Government Code §§ 2001.001 *et seq.* (the Administrative Procedure Act), 22 Tex. Admin. Code §§ 101.1 *et seq.* (the Rules of the State Board of Dental Examiners), and 1 Tex. Admin. Code Ch. 155 (the Rules of the State Office of Administrative Hearings). **All requests for continuances must be submitted to the Administrative Law Judge.**

You have the right to be present at the hearing and to be represented by legal counsel. **FAILURE TO APPEAR AT THE HEARING IN PERSON, BY LEGAL REPRESENTATIVE, OR THROUGH OTHER MEANS AUTHORIZED BY THE ADMINISTRATIVE LAW JUDGE, REGARDLESS OF WHETHER AN APPEARANCE HAS BEEN PREVIOUSLY ENTERED, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL COMPLAINT BEING**

**ADMITTED AS TRUE AND THE PROPOSED RECOMMENDATION OF
STAFF GRANTED BY DEFAULT.**

If it is determined that the Formal Complaint is substantiated, then any prior disciplinary action that has been taken against your license will be considered when determining the appropriate sanction for these violation(s).

Filed this 26th day of February, 2018.

Respectfully submitted,

TEXAS STATE BOARD OF
DENTAL EXAMINERS

ALEX M. PHIPPS III
Litigation Manager



Helen Kelley, Staff Attorney-in-Charge
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**SOAH DOCKET NO. 504-18-1638
SBDE NOS. 2017-00971, 2017-01002, 2018-00338**

TEXAS STATE BOARD of DENTAL EXAMINERS, Petitioner	§ § § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
v. THOMAS LEE SCHILLER, DDS TEXAS DENTAL LICENSE NUMBER 18566, Respondent		

FORMAL COMPLAINT

Now comes staff of the Texas State Board of Dental Examiners (Board) and files this Formal Complaint against THOMAS LEE SCHILLER, DDS (Respondent), based on alleged violations of the Texas laws and rules applicable to dentistry.

In support of this Formal Complaint, pursuant to 1 Tex. Admin. Code § 155.301, and based upon reasonable information and belief, the Board states the following:

Jurisdiction

Board staff has jurisdiction to discipline Respondent's license pursuant to Tex. Occ. Code § 263.002. Respondent holds Texas Dental License No. 18566, which is in suspended status at the time of this pleading.

Procedural Background

1. On January 5, 2018, an executive committee of the Board voted to suspend Respondent's Texas dental license pursuant to Tex. Occ. Code § 263.004.
2. On February 1, 2018, a hearing was held at the State Office of Administrative Hearings to show probable cause for the continued suspension of Respondent's Texas dental license.
3. On February 20, 2018, ALJ Card issued Order No. 1, which continued the temporary suspension and set the final hearing on the merits for March 5, 2018.

Applicable Law

1. Section 254.0065 of the Texas Occupations Code prohibits the Board from disclosing the participation of a licensee in a peer assistance program or the nature of a licensee's impairment or condition that resulted in disciplinary action, but does permit

the Board to disclose a disciplinary action taken pursuant to Tex. Occ. Code § 263.002(a)(1), (7), or (11).

2. The Board is authorized to discipline licensees for dishonorable conduct under Tex. Occ. Code § 263.002(a)(3). The Board has defined dishonorable conduct to include misconduct involving drugs or alcohol, refusal to comply with a Board rule or order, and inability to practice in a manner that is safe for the licensee's dental patients. 22 Tex. Admin. Code § 108.9(4), (6), (7).
3. Section 263.002(a)(4) of the Texas Occupations Code authorizes the Board to discipline a licensee who fails to treat a patient according to the standard of care in the practice of dentistry. The Board's standard of care rules require that each dentist conduct his practice in a manner consistent with that of a reasonable and prudent dentist under the same or similar circumstances; safeguard patients against avoidable infections as required by this chapter; and abide by sanitation requirements as required by this chapter. 22 Tex. Admin. Code § 108.7(1), (8), (13).
4. The Board's sanitation and infection control rules require that a dentist shall use properly sterilized instruments and clean supplies. 22 Tex. Admin. Code § 108.21.
5. Sterilization is required for all surgical and other instruments that may be used intraorally or extraorally, where these instruments may be used invasively of in contact with or penetration of soft tissue, bone, or other hard tissue. 22 Tex. Admin. Code § 108.24(a).
6. Section 263.002(a)(7) of the Texas Occupations Code authorizes the Board to discipline a licensee who is addicted to drugs or alcohol, or has improperly obtained, possessed, or used habit-forming drugs or narcotics.
7. Section 263.002(a)(9) of the Texas Occupations Code authorizes the Board to discipline a licensee who fails to use proper diligence in the person's practice or fails to safeguard the person's patients against avoidable infections.
8. Section 263.002(a)(10) of the Texas Occupations Code authorizes the Board to discipline a licensee who violates or refuses to comply with a law relating to the regulation of dentists. The Board's professional responsibility rule prohibits a licensee from attempting to circumvent any Board rule or order. 22 Tex. Admin. Code § 108.1(1).
9. Section 263.002(a)(11) of the Texas Occupations Code authorizes the Board to discipline a licensee who is physically or mentally incapable of practicing in a manner that is safe for the person's dental patients.

Complaint I

Respondent entered into an agreed settlement order with the Board on September 22, 2017. On or about December 11, 2017, Respondent became non-compliant with the terms of the agreed settlement order dated September 22, 2017. Respondent's practice of dentistry while in violation of the terms of his September 22, 2017, agreed settlement order constitutes a clear, imminent, and continuing threat to a person's physical health or well-being.

The conduct described above constitutes a violation of Tex. Occ. Code § 263.002(a)(3), (7), (10), (11); and 22 Tex. Admin. Code §§ 108.1(1), 108.9(4)(B)-(C), (6), (7).

Complaint II

On or about December 2, 2016, Respondent voluntarily surrendered his clinical privileges with the Tomah Veterans Affairs Medical Center due to credible evidence that Respondent used his own inadequately sterilized personal dental equipment on patients during the performance of his clinical duties as a dentist, thereby placing his patients at risk of infection.

The conduct described above constitutes a violation of Tex. Occ. Code § 263.002(a)(4), (9), (10); and 22 Tex. Admin. Code §§ 108.7(1), (8), (13), 108.21, 108.24(a).

Aggravating Factors

In accordance with the Board's Disciplinary Matrix and 22 Tex. Admin. Code § 107.203(a)(5), (8)-(10), the Board will present evidence of the following aggravating factors:

1. Respondent's conduct has an increased potential to cause harm to the public;
2. Respondent's conduct is of the same nature as prior violations,
3. Respondent was subject to prior disciplinary action by the Board; and
4. Respondent's conduct is a violation of Respondent's Board order entered on September 22, 2017.

Notice

NOTICE IS GIVEN that the Board Disciplinary Matrix will be applied to the evidence and offered in support of the recommended sanction in this matter.

NOTICE IS GIVEN that all statutes and rules cited in this Formal Complaint are incorporated as part of this pleading and can be found at the Board's website, www.tsbde.state.tx.us.

NOTICE IS ALSO GIVEN that Staff will seek **REVOCATION** of Respondent's license. Staff will present evidence in support of the recommended disposition of this matter pursuant to Tex. Occ. Code § 263.002(a).

Filed this 26th day of February, 2018.

Respectfully submitted,

TEXAS STATE BOARD OF
DENTAL EXAMINERS

ALEX M. PHIPPS III
Litigation Manager



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CERTIFICATE OF SERVICE

By my signature, I certify that on February 26, 2018, a copy of the *Notice of Final Hearing on the Merits* and *Formal Complaint* were served as follows:

Thomas Lee Schiller, DDS
101 S. Coit Rd., Suite 36-251
Richardson, TX 75080

CM/RRR #91 7199 9991 7031 5106 6160
and First Class Mail

State Office of Administrative Hearings
Docketing Division
300 W. 15th St., Suite 502
Austin, TX 78701

E-Filing



Helen Kelley, Staff Attorney-in-Charge
State Board of Dental Examiners

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 504
Austin, Texas 78701
Phone: (512) 475-4993
Fax: (512) 322-2061

DATE: 03/07/2018
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 4
REGARDING: ORDER NO. 2 - CONDITIONAL ORDER OF DEFAULT DISMISSAL AND REMAND
DOCKET NUMBER: 504-18-1638
JUDGE HENRY D CARD

FAX TO:

FAX TO:

HELEN KRILEY (TEXAS STATE BOARD OF DENTAL
EXAMINERS)

(512) 305-9364

THOMAS LEE SCHILLER, DDS

VIA REGULAR MAIL

xc: Docket Clerk, State Office of Administrative Hearings

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT Erin Hurley(ehu) (512) 475-4993

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SOAH DOCKET NO. 504-18-1638
 SBDE NO. 2018-00338

TEXAS STATE BOARD OF DENTAL EXAMINERS, Petitioner	§ § § § § § § § § §	BEFORE THE STATE OFFICE
v.		OF
THOMAS LEE SCHILLER, D.D.S TEXAS DENTAL LICENSE NUMBER 18566, Respondent		ADMINISTRATIVE HEARINGS

ORDER NO. 2
 CONDITIONAL ORDER OF DEFAULT DISMISSAL AND REMAND

This matter was set for hearing on March 5, 2018, before Administrative Law Judge (ALJ) Henry D. Card. Staff Attorney Helen Kelley appeared on behalf of the staff (Staff) of the Texas Board of Dental Examiners (Board). Respondent Thomas Lee Schiller, D.D.S, did not appear and was not represented at the hearing. Upon receiving Staff's evidence showing proof of adequate notice to Respondent,¹ the ALJ found there was adequate notice and granted Staff's oral motion for default.²

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Board for informal disposition on a default basis in accordance with Texas Government Code § 2001.056. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Tex. Administrative Code § 155.501(d). The temporary suspension upheld in Order No. 1 shall remain in effect pending final disposition of this matter, unless otherwise determined by the Board.

¹ Staff Exs. 1-5 and A-B.

² 1 Tex. Admin. Code § 155.501(d). The ALJ reviewed only the adequacy of the notice and not the sufficiency of the factual allegations.

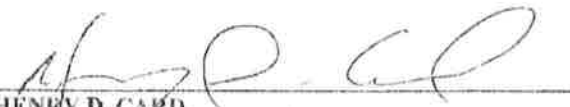
SOAH DOCKET NO. 504-18-1638

ORDER NO. 2

PAGE 2

This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order. Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

SIGNED March 7, 2018.


HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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SERVICE LIST

AGENCY: Dental Examiners, Texas State Board of (SBDE)

STYLE/CASE: THOMAS L. SCHILLER, DDS

SOAH DOCKET NUMBER: 504-18-1638

REFERRING AGENCY CASE:

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE

ALJ HENRY D. CARD

REPRESENTATIVE / ADDRESS

PARTIES

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THOMAS LEE SCHILLER, DDS

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TEXAS STATE BOARD OF DENTAL EXAMINERS
