

FILED DATE **SEP 04 2013**

Department of Health

By *Michael Sanders*  
Deputy Agency ClerkSTATE OF FLORIDA  
DEPARTMENT OF HEALTH

IN RE: The Emergency Suspension of the License of  
Michael Addair Tarver, D.M.D.  
License Number: DN 18670  
Case Numbers: 2013-12498 & 2013-09493

**ORDER OF EMERGENCY SUSPENSION OF LICENSE**

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the Emergency Suspension of the License of Michael Addair Tarver, D.M.D. ("Dr. Tarver"), to practice as a dentist in the State of Florida. Dr. Tarver holds license number DN 18670. His address of record is 1371 SW 43rd Place, Ocala, Florida 34471. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Tarver's license to practice as a dentist in the State of Florida.

**FINDINGS OF FACT**

1. The Department of Health ("Department") is the state agency charged with regulating the practice of dentistry pursuant to Chapters 20, 456, and 466, Florida Statutes (2011-2012). Section 456.073(8), Florida Statutes (2012), empowers the State Surgeon General to summarily suspend Dr. Tarver's license to practice as a dentist in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2012).

2. At all times material to this Order, Dr. Tarver was licensed to practice as a dentist in the State of Florida, pursuant to Chapter 466, Florida Statutes (2011-2012), and was a Board Certified Pediatric Dentist.

3. At all times material to this order, Dr. Tarver owned and operated Polliwog Dental ("Polliwog"), doing business at 225 SE 17th Street, Ocala, Florida 34471. The dentists at Polliwog practice pediatric dentistry.

Facts Specific to R.R.

4. On or about April 17, 2012, R.R., a four-year-old female patient, presented to Polliwog for a tooth extraction. R.R. was sedated with Versed prior to the procedure.

5. Versed is the brand name for the drug midazolam, a sedative commonly prescribed to provide sedation prior to a medical procedure. According to Section 893.03(4), Florida Statutes (2011-2012), midazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of midazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

6. During the procedure, Polliwog staff members noted that R.R. had stopped breathing and had turned blue. Dr. Tarver administered Narcan to reverse the sedation and ordered a dental technician to retrieve a resuscitation bag from the crash cart.

7. Narcan is the brand name for naloxone, a drug commonly used to counter the effects of opiate overdose. While naloxone is a legend drug, it is not a controlled substance under Section 893.03, Florida Statutes (2011-2012).

8. Dr. Tarver performed cardiopulmonary resuscitation ("CPR") for a brief time, after which R.R. regained consciousness. Dr. Tarver recorded the incident in the patient record as a period of "brief apnea."

9. Dr. Tarver instructed Polliwog staff members to make no mention of the incident and admonished them that he would terminate and sue any staff member who mentioned the incident. No one informed R.R.'s parents that R.R. had stopped breathing and been resuscitated.

#### Facts Specific to A.R.

10. On or about June 4, 2013, Dr. Tarver performed a dental procedure on A.R., a four-year-old female patient. A.R.'s mother gave Dr. Tarver explicit instructions to not administer general anesthesia on A.R.

A.R.'s mother believed that she had consented to local anesthesia only. Dr. Tarver placed A.R. under general anesthesia for the procedure.

11. At the conclusion of the procedure, A.R. had lacerations on her cheek and inside her mouth. A.R. also had bruises on her neck and shoulders and had urinated on herself.

### General Facts

12. On or about July 31, 2013, a Department investigator presented to Polliwog with a subpoena in order to obtain medical records. Polliwog staff told the investigator that Dr. Tarver was out of the office. After consulting with Dr. Tarver telephonically, Polliwog staff complied with the Department's subpoena and provided the requested patient records.

13. Several hours after the records request, Dr. Tarver contacted a Polliwog staff member. Dr. Tarver asked this staff member to invite Dr. Tarver to a chat room on MYPC.com. Dr. Tarver used this interface to log into the patient records database. Dr. Tarver altered several patient records, including records for R.R. and A.R. Dr. Tarver made no indication in the patient records that the records had been altered and provided no justification for altering the records.

14. Dentists maintain a position of trust in relation to their patients. Dentists often operate on patients who are sedated, and do so in private settings behind closed doors. The potential for abuse is high. This is especially so in the case of minor patients who lack the maturity and knowledge to adequately protect themselves. Dentists, and particularly pediatric dentists, must possess good judgment and even temperament.

15. Dr. Tarver violated this trust in his treatment of R.R. and A.R. Dr. Tarver noticed that R.R. had stopped breathing and subsequently failed to notify R.R.'s parents or the authorities that the incident had occurred. Dr. Tarver also administered general anesthesia to A.R. against her parents' explicit instructions. Dr. Tarver compounded these violations by retroactively altering patient records in order to conceal the violations.

16. A less restrictive sanction would not suffice to protect the public from the danger posed by Dr. Tarver. Dr. Tarver has shown an inability and/or unwillingness to comport with the standard of care required in practicing pediatric dentistry. Dr. Tarver's attempt to conceal his violations by altering patient records indicates that he fails to recognize the import of the laws governing dentistry and indicates that Dr. Tarver is likely to continue to commit violations in the future. Dr. Tarver's attempt to conceal

violations and interfere with the Department's investigation demonstrates that he cannot reasonably be expected to comply with any sanction short of suspension. Accordingly, nothing short of the suspension of Dr. Tarver's license will adequately protect the public from the danger that he poses.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2011-2012), and Chapter 466, Florida Statutes (2011-2012).
2. Section 120.60(6), Florida Statutes (2011-2012), provides that the State Surgeon General is authorized to suspend or restrict a dentist's license upon a finding that the physician presents an immediate, serious danger to the public health, safety, or welfare.
3. Section 466.028(1)(l), Florida Statutes (2011-2012), subjects a dentist to discipline, including suspension, for "[m]aking deceptive, untrue, or fraudulent representations in or related to the practice of dentistry."

4. Dr. Tarver violated Section 466.028(1)(l), Florida Statutes (2011-2012) by retroactively altering medical records without properly indicating the reason for altering those records.

5. Section 466.028(1)(m), Florida Statutes (2011-2012) subjects a dentist to discipline, including suspension, for “[f]ailing to keep written dental records and medical history records justifying the course of treatment of the patient...”

6. Dr. Tarver violated Section 466.028(1)(m), Florida Statutes (2011-2012) by retroactively altering medical records without properly indicating the reason for altering those records.

7. Section 466.028(1)(o), Florida Statutes (2011-2012) subjects a dentist to discipline, including suspension, for “[p]erforming professional services which have not been duly authorized by the patient or client, or her or his legal representative...”

8. Dr. Tarver violated Section 466.028(1)(o), Florida Statutes (2011-2012) by sedating A.R. under general anesthesia against the express instruction of her parents.

9. Section 466.028(1)(mm), Florida Statutes (2011-2012), subjects a dentist to discipline, including suspension, for "violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto."

10. Section 456.0575, Florida Statutes (2011-2012) reads, in pertinent part, "[e]very licensed health care practitioner shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient."

11. Dr. Tarver violated Section 466.028(1)(mm), Florida Statutes (2011-2012), by violating Section 456.0575, Florida Statutes (2011-2012), by failing to notify R.R.'s parents that she had stopped breathing during her dental procedure and had required CPR.

12. Section 456.072(1)(r), Florida Statutes (2011-2012), subjects a licensee to discipline, including suspension, for "[i]mproperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding."

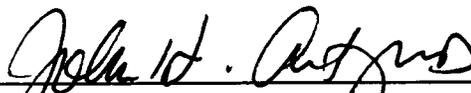
13. Dr. Tarver violated Section 456.072(1)(r), Florida Statutes (2011-2012), by retroactively altering medical records upon learning that he was being investigated by the Department of Health and that the investigation included the subpoena of medical records.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2011-2013), it is **ORDERED THAT**:

1. The license of Michael Addair Tarver, D.M.D., license number DN 17969, is hereby immediately suspended.

2. A proceeding seeking formal discipline of the license of Michael Addair Tarver, D.M.D., to practice as a dentist will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2011-2013).

**DONE and ORDERED** this 4<sup>th</sup> day of September, 2013.

  
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John H. Armstrong, MD, FACS  
Surgeon General and Secretary of Health

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**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.