BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

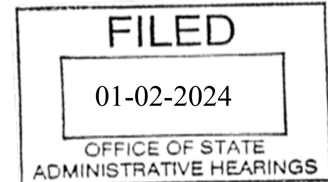
GEORGIA BOARD OF DENTISTRY,
Petitioner,

v.

DR. LONA BIBBS-WALKER, DDS,
Respondent.

Docket No.: 2417393
2417393-OSAH-PLBD-DEN-38-Howells

Agency Reference No.: 2417393



INITIAL DECISION

The Georgia Board of Dentistry ("Board") summarily suspended the license of Respondent Lona Bibbs-Walker, DDS ("Respondent") to practice dentistry. Respondent requested an expedited hearing to contest the Board's order for Summary Suspension. The Board filed its Matters Asserted and Statutes and Rules Involved on November 20, 2023, in which it seeks revocation of Respondent's license to practice dentistry and her sedation permits. The hearing was conducted on December 5, 2023, before the undersigned administrative law judge.[1] Respondent was represented by Kawania James, Esq. and the Board was represented by W. Thomas McNulty, Esq. For the reasons stated below, the Board's decision to sanction Respondent's license is **AFFIRMED**.

Findings of Fact

1.

Respondent is licensed by the Board to practice as a dentist in the State of Georgia. She also holds three Enteral/Inhalation Conscious Sedation Permits.[2] (Ex. P-1.) Respondent also held a Pediatric Advanced Life Support Certification during the time relevant to this matter. (Ex. R-4.)

[1] The parties provided their written closing arguments on December 15, 2023.
[2] Each of the conscious sedation permits is for a particular office location. (Testimony of Respondent.)

The name of Respondent's practice is "A Dental Home 4 Kidz." (Exs. P-1, P-2, P-3.) On November 9, 2023, the Board summarily suspended Respondent's license to practice dentistry. (Matters Asserted and Statutes and Rules Involved ¶ 2; Answer to Matters Asserted and Statutes and Rules Involved ¶ 2.)

2.

Martin Krieger, D.D.S. is a semi-retired pediatric dentist with over 46 years of experience in pediatric dentistry. He served as a peer reviewer for the Board and provided opinion testimony at the hearing. (Testimony of Dr. Krieger.)

Pediatric Patient S.J.

3.

On March 29, 2023, Respondent provided treatment for five-year-old S.J. (Ex. R-1, pp. 15-64.) In her notes, Respondent stated that the x-rays showed "GROSS CARIOUS LESIONS." (Id. at 63.)

4.

Respondent's treatment of S.J. began at 8:01 a.m., which is the time she gave the sedation. (Testimony of Respondent.) For sedation, Respondent gave an intramuscular injection of Ketamine. (Ex. R-1, p. 39.) Respondent's notes state that she gave S.J. 1.28 ccs of Ketamine, but her records do not indicate how many milligrams of Ketamine she gave S.J.[3]

5.

Respondent began the cleaning, x-rays, and procedures at 8:13 a.m. (Ex. R-1, p. 39.) No pre-sedation vital signs were recorded. (Id. at p. 37.) The first set of vital signs were taken at 8:13 a.m. At that time, S.J.'s heart rate was 120, her blood pressure was 121/79, and her blood oxygen

[3] Ketamine is available in three different concentrations: 10mg/ml, 50 mg/ml, and 100mg/ml. (Testimony of Dr. Martin Krieger.) Ketamine is not typically used for pediatric sedation. (Id.)

saturation level, measured by a pulse oximeter, was 96%. (Id.)

6.

Respondent performed the following treatment:

Tooth	Treatment
A[4]	Pulpotomy and placement of stainless steel crown
B	Pulpotomy and placement of stainless steel crown
J	Pulpotomy and placement of stainless steel crown
I	Extraction
K	Pulpotomy and placement of stainless steel crown
L	Pulpotomy and placement of stainless steel crown
S	Pulpotomy and placement of stainless steel crown
T	Pulpotomy and placement of stainless steel crown

(Ex. R-1, pp. 15-18, 40.) According to Respondent's records, the procedure ended at 8:58 a.m. and her treatment of the patient ended at 9:15 a.m. (Id. at p. 39.) The last vital signs recorded were at 8:58 a.m. At that time, S.J.'s heart rate was 136, her blood pressure was 111/61, and her blood oxygen saturation level was 91%. (Id.) No vital signs are recorded after 8:58 a.m. (Id.)

7.

Respondent's narrative notes state that S.J. was admitted to Egleston for observation after sedation. (Ex. R-1, p. 65.) Monica McIntyre, DDS was the dentist who referred S.J. to Respondent. (Id. at p. 25.) Dr. McIntyre's notes reflect that her office received a call from S.J.'s mother on April 4, 2023, stating that S.J. has been in the hospital since Friday after having

[4] Primary or "baby teeth" are designated by letters. (Testimony of Dr. Krieger.) Adult or permanent teeth are designated by numbers. (Id.)

treatment at "A dental home for kidz. (Ex. P-6, p. 3.) S.J.'s mother reported that S.J. cannot eat, drink, or talk. (Id.)

8.

On the x-rays, no carries (i.e., cavities) can be observed on teeth A, J, T, or S.[5] If interproximal decay is present in a small area it cannot be observed on the x-rays. Decay is observed on the x-rays in tooth I and tooth J. (Testimony of Dr. Krieger.)

9.

The American Academy of Pediatric Dentistry provides a guide as to what information should be documented in a pediatric patient's record when the patient is sedated. In Dr. Krieger's opinion, Respondent's record keeping fell below the standard of care when she failed to document the actual dose of Ketamine, in milligrams, given to S.J. Additionally, she failed to document vital sign monitoring before giving any sedation or during the recovery period. (Testimony of Dr. Krieger.)

10.

Dr. Krieger opined that Respondent's sedation of S.J. with the use of injectable Ketamine fell below the standard of care, in that it was beyond the scope of her enteral/inhalation conscious sedation permit.[6] Ketamine is not typically used in pediatric patients, it can cause deep sedation,

[5] Dr. Krieger opined that it was possible that a very small area of occlusal decay could have been detected on physical examination of tooth J. (Testimony of Dr. Krieger.) There is no documentation in Respondent's records that she observed decay on physical examination that was not evident in the x-rays. (Ex. R-1.) At the hearing, Respondent testified that she observed interproximal decay on tooth A. She said nothing about exposure of the pulp on tooth A. With respect to tooth B, Respondent testified that there was decay close to the pulpal tissue. For tooth J, Respondent testified that there was mesial decay on tooth J and that once she removed tooth I, tooth J was dark and brittle. For tooth S and T, Respondent testified that there was interproximal decay, occlusal decay, and pulpal exposure. Respondent testified that she observed decay on the occlusal and mesial surfaces of the tooth. She did not testify that there was any exposure of the pulp. (Testimony of Respondent.) Additionally, Respondent's records do not include these descriptions. Instead, her narrative note states as follows: "Radiographs: GROSS CARIOUS LESIONS, HIGH CARIES INDEX." (Ex. R-1, p. 63.) Her narrative note for March 29, 2023 does not mention any pulpal exposure. (Id.)

[6] At the hearing, Respondent testified that she knows the difference between an enteral conscious sedation permit and a parenteral conscious sedation permit. She acknowledged that an enteral conscious sedation permit allows oral

and giving it intramuscularly makes it difficult to titrate. (Testimony of Dr. Krieger.)

11.

In Dr. Krieger's opinion, Respondent's treatment of S.J. fell below the standard of care in that her performance of pulpotomies and placement of stainless steel crowns on teeth A, B, J, K, and T was excessive given the minimal (or in some cases unobservable) decay. These teeth, if they did have decay, could have been treated with filings or resins, or if any decay was near the pulp, which he did not see, Respondent could have used an indirect pulp cap and a filing. In his opinion, pulpotomies and crowns were not justified. (Testimony of Dr. Krieger.)

Pediatric Patient N.B.

12.

On June 21, 2023, Respondent provided treatment for 5-year-old N.B. (Ex. R-2, p. 74.) Prior to sedation, N.B.'s blood pressure was 99/56, her heart rate was 78, and her blood oxygen saturation, as measured by a pulse oximeter, was 99%. (Id. at p. 73.) Respondent's treatment of N.B. began at 10:00 a.m. which is the time she received oral doses of Versed and Vistaril.[7] At 10:11, Respondent began the treatment procedures. Respondent performed the following treatment:

Tooth	Treatment
A	Composite resin filling
B	Composite resin filling
I	Composite resin filling

medications and a parenteral conscious sedation permit allows injections. (Testimony of Respondent.) Nevertheless, Respondent asserted that her appearance on the Injectable Pharmacologics Registry allowed her to use injections for sedation and that injectable pharmacologics were not only for aesthetic purposes. She further asserted that she has seen a list which allowed her to use Ketamine based on her Injectable Pharmacologics registration. (Testimony of Respondent; Ex. R-7.) Respondent did not produce any such list.

[7] Respondent's narrative note states, "1 carp of septo." (Ex. R-2, p. 40.) Presumably this was the local anesthetic that was used; however, no time of administration was documented.

J	Composite resin filling
N	Extraction[8]
O	Extraction
P	Extraction
Q	Extraction
K	Pulpotomy and placement of stainless steel crown
L	Pulpotomy and placement of stainless steel crown
S	Pulpotomy and placement of stainless steel crown
T	Pulpotomy and placement of stainless steel crown

(Ex. R-2, pp. 35-36, 40.) At 10:24 a.m., N.B. was given an intramuscular injection of dexmedetomidine in her right arm. There is no indication in Respondent's records as to how many micrograms of dexmedetomidine N.B. received or the concentration of the liquid injected.[9] (Id. at pp. 40, 74, 76, 77.) According to Respondent's records, the procedure ended at 11:11 a.m. and her treatment of the patient ended at 11:20 a.m. (Id. at p. 74.) The last vital signs recorded were at 11:11 a.m. At that time, S.J.'s heart rate was 81, her blood pressure was 120/80, and her blood oxygen saturation level was 95%. (Id.) No vital signs are recorded during the recovery period. (Id.) At some point during the procedure or in recovery, N.B. lost control of her bladder. (Testimony of Respondent.) N.B. was discharged at 11:20 a.m. (Id.)

[8] The extraction of N.B.'s N, O, P, and Q teeth were purportedly due to overcrowding and the eruption of two permanent teeth. (Testimony of Dr. Krieger.)

[9] Respondent testified that she gave N.B. 2.2 ccs of dexmedetomidine; however, on one page of her records, the volume is documented as 4 ccs and on the following page it is documented as 2.2 ccs. (Ex. R-2, pp. 76, 77.) During the hearing, when asked how many micrograms of dexmedetomidine she gave N.B., Respondent could not answer the question. Instead, she repeated the volume of the liquid she gave N.B. in ccs. (Testimony of Respondent.)

13.

N.B.'s mother called 911 around 3:00 p.m., when N.B. was unresponsive. (Ex. P-7, pp. 5, 6.) EMS gave N.B. Narcan with minimal response and manually bagged her due to decreased respirations and decreased oxygen levels. (Id. at p. 6.) N.B. was initially taken to Childrens at Hughes Spalding. The chief complaint was "Poisoning/Overdose – Unintentional Med OD." (Id. at pp. 4, 5.) N.B.'s mother reported that N.B. had a dental appointment around 10:30 a.m. "for which she reportedly received versed, Atarax, and nitrous oxide." (Id. at p. 6.) N.B.'s mother further reported that N.B. was discharged from the dentist's office before she returned to her "normal baseline." (Id.)

14.

While at Childrens at Hughes Spalding, N.B. received frequent doses of Narcan with brief results, three doses of Romazicon with similar responses, Narcan via an IV drip, IV fluids, and high flow oxygen via a nasal cannula. (Id. at pp. 6, 9-11.) En route to Childrens at Scottish Rite, N.B. continued to receive the Narcan IV drip, IV fluids, and high flow oxygen via nasal cannula. (Id. at pp. 6, 11-12.) From the time N.B. was at Childrens at Hughes Spalding until she arrived at Childrens at Scottish Rite, her respirations went from shallow to normal, and her responsiveness increased from responding to noxious stimuli to responding to gentle verbal stimuli. (Id. at pp. 7, 8, 12.) Based on the available medical records, N.B.'s final diagnosis was "Altered mental status, unspecified." (Id. at p. 1.)

15.

On the x-rays taken by Respondent's office, no carries (i.e., cavities) can be observed on teeth A, B, or K. (Testimony of Dr. Krieger.) Some decay is apparent on the distal surface of tooth L. (Id.) Tooth S has some decay. (Id.) No decay is observed on tooth T, but there could be

a slight area of decalcification. (Id.) The x-ray images of teeth I and J are too poor to make a determination of whether there was or was not decay.[10] (Id.)

16.

In Dr. Krieger's opinion, Respondent's record keeping fell below the standard of care when she failed to document the actual dose of dexmedetomidine in micrograms given to N.B. Additionally, she failed to document vital sign monitoring during the recovery period. (Testimony of Dr. Krieger.)

17.

Dr. Krieger opined that Respondent's sedation of N.B. with the use of injectable dexmedetomidine fell below the standard of care, in that it was beyond the scope of her enteral/inhalation conscious sedation permit and it can cause deep sedation. (Testimony of Dr. Krieger.)

18.

In Dr. Krieger's opinion, Respondent's treatment of N.B. fell below the standard of care in that her decision to perform pulpotomies and employ stainless steel crowns on teeth K, S, and T was excessive given the minimal (or in some cases unobservable) decay.[11] (Testimony of Dr. Krieger.) These teeth did not require pulpotomies and stainless steel crowns. (Id.) While tooth S did have some decay, it could have been treated with a filing. (Id.) It did not require a pulpotomy

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[10] Respondent's records show that x-rays were taken on April 14, 2023. (Ex. R-2, pp. 39, 63.) Respondent's narrative notes for the April 14, 2023 visit and the June 21, 2023 procedure do not document what Respondent observed on the x-rays. (Id. at pp. 39, 40.) At the hearing, Respondent implied that she observed deep occlusal grooves on her examination of teeth A and B. As to teeth K, S, and T, Respondent testified that her treatment of these teeth was justified because she observed interproximal lesions encroaching on pulpal tissue on each tooth. (Testimony of Respondent.) These observations are not documented in Respondent's records. (Ex. R-2.)

[11] Dr. Krieger also testified that he did not observe any carries on the x-rays of teeth A and B, but he did not specifically opine that Respondent's treatment of filings on those teeth was inappropriate. Rather, he testified that some teeth required no treatment and other teeth required less treatment. He characterized Respondent's treatment of N.B. as overtreatment. (Testimony of Dr. Krieger.)

and a stainless steel crown. (Id.) Teeth K and T did not require pulpotomies and stainless steel crowns, as tooth K had no decay and, even if tooth T may have had some decalcification in the surface of the enamel, it certainly did not require a pulpotomy and crown. (Id.) Finally, Dr. Krieger testified that he did not observe crowding of the teeth in the area of teeth N, O, P, and Q. (Id.) He acknowledged that he could not discern from an x-ray whether the permanent teeth had, in fact, erupted. (Id.) However, even if they had erupted, it was not appropriate to remove teeth N and Q, because once the two permanent teeth did erupt in that area, there would not be anything to restrict them and they would begin to spread apart. (Id.)

Pediatric Patient L.W.

19.

On March 26, 2021, Respondent provided treatment for 10-year-old L.W. Based on Respondent's "Dental Service History" and "Statement of Account" for L.W., Respondent provided the following treatment:

Tooth	Treatment
2	Composite resin filling
3	Composite resin filling
14	Composite resin filling
15	Composite resin filling
18	Composite resin filling
30	Composite resin filling
31	Composite resin filling

(Ex. R-3, pp. 31, 42.) A review of the Statement of Account shows that Respondent billed and

was paid for fillings on the above listed seven teeth. (Id. at p. 31.) However, according to Respondent's narrative notes, on March 26, 2021, she provided the following treatment:

Tooth	Treatment
2	Composite resin filling
15	Composite resin filling
18	Composite resin filling
31	Composite resin filling

(Ex. R-3, p. 141.)

20.

Dr. Krieger testified that he could not observe any fillings on the February 28, 2022 x-rays for teeth 2, 3, 31, and 30. (Testimony of Dr. Krieger.) However, he acknowledged that the resolution of the x-rays made it difficult to discern if restoration had been completed. (Testimony of Dr. Krieger; Ex. R-3, pp. 25, 154-56.) At the hearing, Respondent testified that Respondent's Exhibit 3B, showed restorations on teeth 14, 15, 18, and 19; however, no date was associated with that x-ray.[12] (Testimony of Respondent.) She also testified that Respondent's Exhibit 3E showed restorations on the teeth in the February 28, 2022 x-ray. The teeth are labeled as 2, 3, 30, and 31.[13] (Ex. R-3E.)

21.

Respondent provided care for L.W. again on March 8, 2022. At that time, L.W. was 11 years old. Respondent provided the following treatment:

[12] Respondent's exhibits 3B, 3C, 3D, and 3E are screenshots of x-rays from a computer screen. The contrast has either been enhanced or it is more readily apparent when shown on the computer screen as opposed to the printed copies of the x-rays in Respondent's records.
[13] Restorations appear apparent as to teeth 3 and 30. (Ex. R-3E.)

Tooth	Treatment
3	Composite resin filling
14	Composite resin filling
18	Composite resin filling
19	Composite resin filling
30	Composite resin filling
31	Composite resin filling

(Ex. R-3, pp. 32, 94, 143.) Dr. Krieger testified that he could not observe any caries on teeth 18, 19, 30 or 31. (Testimony of Dr. Krieger.) However, he also acknowledged that because of the resolution of the February 28, 2022 x-rays it was difficult for him to discern whether there were any caries. (Id.)

22.

On March 8, 2022, pre-sedation vitals were recorded as follows: blood pressure 102/64, heart rate 54, and blood oxygen saturation 99%. (Id. at p. 92.) It is unclear when Respondent's treatment of L.W. began. The time treatment began is documented as 11:22 a.m.; however, the start time of sedation is documented as 11:16 a.m.[14] (Id. at p. 93.)

23.

For the March 8, 2022 treatment, L.W. was given an intramuscular injection of Ketamine in her right arm.[15] (Id. at pp. 93, 96.) The actual dose in milligrams is not documented. Rather,

[14] For the other two patients, Respondent testified that the earlier time documented as the "Time TX Began was the time the sedation was given and that the later time documented as the "Start Time" was when the procedures began. Here, the earlier time of 11:16 a m. is documented as the "Start Time" and the later time of 11:22 a m. is documented as the "Time TX Began." Based on Respondent's testimony regarding the other two patients, it would appear that she began the procedures before giving the patient sedation.

[15] Respondent's narrative note states, "1 carp of septo." (Id. at p. 143.) Presumably this is the name and amount of the local anesthetic used; however, the note does not state what time it was administered.

the injection is documented as “1.54.” No units are documented. At the hearing, Respondent testified that the reference to 1.54 is the volume in ccs. (Testimony of Respondent.)

24.

The vital signs during the procedure are documented via a printout of a strip from a machine.[16] (Ex. R-3, p. 92.) The first set of vital signs appear to be recorded at 11:16 a.m. and includes a blood pressure of 115/88 and a heart rate of 88. (Id.) No blood oxygen saturation was recorded at that time. The next set of vital signs appear to be recorded at 11:26 or 11:28 a.m. and includes a blood pressure of 133/95, a heart rate of 94, and a blood oxygen saturation of 99%. (Id.) The next set of recorded vital signs appears to be at 11:36 a.m. or some other time beginning with 11 and ending with 6. Those include a blood pressure of 146/102 and a heart rate of 128. No blood oxygen saturation is recorded. (Id.)

25.

The “Stop Time” is recorded as 11:28 a.m. (Id.) The “Time TX Ended” is recorded as 11:36 a.m. (Id.) No vital signs are recorded during the recovery period. (Id.)

26.

L.W. returned to Respondent on May 2, 2023 with complaints of pain when she chews on her lower left side. (Ex. R-3, p 146.) Periapical x-rays were completed. Respondent stated in her narrative note that L.W. had deep recurrent decay on tooth 19 and deep decay on tooth 18. (Id.) At that time, Respondent gave the parent the options of either a root canal or extraction.[17] (Id.)

[16] The strip is very light, difficult, and sometimes impossible, to read. The undersigned used a magnifying glass to read some of the strip; however, the time stamps for two of the entries were illegible. (Ex. R-3, p. 92.)
[17] It is not clear from Respondent’s notes whether the options were for both teeth 18 and 19. (Id.) On the x-ray, Dr. Krieger did not see any decay in tooth 18. (Testimony of Dr. Krieger.)

27.

L.W. returned to Respondent for treatment on May 31, 2023. (Id.) Respondent attempted to provide treatment for L.W. using a local anesthetic and nitrous oxide, but L.W. was very apprehensive and Respondent was not able to complete the treatment. (Id.) Respondent recommended that LW.'s parent take her to an endodontist to evaluate tooth 19. (Id.) L.W.'s mother stated that her insurance would not cover the cost of an endodontist. (Id.)

28.

Respondent provided treatment for L.W. again on June 19, 2023. At that time, L.W. was 12 years old. Respondent provided the following treatment:

Tooth	Treatment
18	Pulpal debridement and placement of stainless steel crown
19	Extraction

(Ex. R-3, pp. 33-34, 111.)

29.

According to Respondent's notes, the June 19, 2023 treatment began at 1:19 p.m., which is when L.W. received the oral Versed and Vistaril. (Id. at p. 110.) At 2:09 p.m., L.W. received an intramuscular injection of dexmedetomidine. The dose in micrograms is not documented in Respondent's records. (Id. at pp. 110-16, 147.) The volume of the intramuscular dexmedetomidine is documented as 5.18 ccs in Respondent's narrative note and as 7.18 ccs in Respondent's sedation records. (Id. at pp. 112-14, 147.) The sedation "Start Time" is documented as 2:11 p.m. and the sedation "Stop Time" is documented as 2:39 p.m. (Id. at p. 110.) The time treatment ended is documented as 2:46 p.m. (Id.)

30.

For the June 19, 2023 treatment, prior to sedation, L.W.'s blood pressure was 109/63, her heart rate was 56, and her blood oxygen saturation, as measured by a pulse oximeter, was 100%. (Id. at 110.) The vital signs during the procedure are documented by a strip printed from a machine.[18] They were as follows:

Time	Blood Pressure	Heart Rate	O_2 Saturation
1:52 p.m.	134/71	81	None documented
2:11 p.m.	11_/59	114	98%
2:22 p.m.	143/82	89	93%
2:37 p.m.	136/72	Illegible	96%
2:39 p.m.	136/72	None documented	None documented

(Id.) No vital signs are documented during the recovery period.

31.

Later in the day, on June 19, 2023, L.W.'s parents drove her to Piedmont Newnan Hospital because she was unresponsive.[19] (Ex. P-8, p.10.) When she arrived at Piedmont, her Glascow coma scale was 9, she was somnolent, borderline hypotensive, and bradycardic. (Id. at p. 149.) She was given Narcan and had a brief response. (Id.) A Narcan drip was started prior to her being transferred via helicopter to CHOA at Egleston. (Id.) She remained at CHOA until the evening of the following day. (Id. at p. 15.) Her diagnoses included altered mental status, foreign body in

[18] In some instances, the numbers are very difficult to read or they are illegible. (Id.)

[19] It is unclear whether L.W. became alert prior to leaving Respondent's office or whether she was still unresponsive at the time she left the office. The records from Children's Health Care of Atlanta ("CHOA") contain two different accounts. (See Ex. P-8, pp. 10, 149.) In the first account, it is reported that L.W. remained unresponsive at 3:30 p m., but with the dentist's reassurance, L.W.'s mother took her home. (Id. at p. 10.) In the other account, it is reported that although L.W. had to be aroused extensively, she was alert when she went home, but then became somnolent and difficult to arouse. (Id. at p. p. 149.)

stomach, and respiratory acidosis, among others.[20] (Id. at pp. 15, 148-49.)

32.

In Dr. Krieger's opinion, Respondent's record keeping fell below the standard of care when she failed to document the actual dose of Ketamine, in milligrams, given to L.W. during the March 8, 2022 treatment, and the actual dose of dexmedetomidine, in micrograms, given to LW. During the June 19, 2023 treatment. (Testimony of Dr. Krieger.) Additionally, she failed to document vital sign monitoring during the recovery period for both the March 8, 2022 treatment and the June 19, 2023 treatment. (Id.)

33.

Dr. Krieger opined that Respondent's sedation of L.W. with the use of injectable Ketamine on March 8, 2022 and dexmedetomidine on June 19, 2023, fell below the standard of care, because use of those injectable medications is considered parenteral sedation, for which Respondent does not have a permit. (Testimony of Dr. Krieger.)

34.

In Dr. Krieger's opinion, Respondent's treatment of L.W. fell below the standard of care because her performance of a pulpal debridement and placement of a stainless steel crown on L.W.'s tooth 18 was not warranted as there was no observable decay on the x-ray. (Testimony of Dr. Krieger.) Furthermore, if there was decay, which he did not observe, then she should have done a root canal in addition to the pulpal debridement because the only way to have long term preservation of a tooth that has undergone pulpal debridement is to do a root canal. (Id.)

[20] The CT scan at Piedmont showed a sharp foreign body in L.W.'s abdomen, which was thought to be a drill bit or a sewing needle. (Id. at p. 149.) An attempt to remove the foreign object by endoscopy was unsuccessful because the object could not be visualized in the stomach. (Id. at p. 150.)

Conclusions of Law

1.

The trier of fact determines the credibility of witnesses and the weight to be given their testimony, and is not obligated to accept a witness's testimony, even if it is uncontradicted, and may accept or reject all or part of the testimony. O.C.G.A. § 24-6-620; Tate v. State, 264 Ga. 53, 56 (1994); State v. Betsill, 144 Ga. App. 267 (1977). In non-jury cases that determination lies with the judge. See Mustang Transp., Inc. v. W.W. Lowe & Sons, Inc., 123 Ga. App. 350, 352 (1971).

2.

To resolve the direct conflict in the sworn testimonies of the witnesses, the undersigned considered all the facts and circumstances of record in this matter. The undersigned considered the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they have testified, the nature of the facts to which they have testified, the probability or improbability of their testimony, their interest or want of interest and their personal credibility. See O.C.G.A. § 24-14-4.

Summary Suspension

3.

The Board summarily suspended Respondent's license to practice dentistry pursuant to Georgia Code Section 50-13-18(c)(1), which requires notice and an opportunity to be heard before the suspension of a license, except where "[t]he agency finds that the public health, safety, or welfare imperatively requires emergency action . . . ." O.C.G.A. § 50-13-18(c)(1); see also O.C.G.A. § 43-11-47(b) (adopting and incorporating the emergency action and summary suspension provisions in the Georgia Administrative Procedures Act). In this case the Board's

summary suspension of Respondent's license is supported by the evidence. Respondent's use of parenteral sedation of pediatric patients via intramuscular injections of Ketamine and dexmedetomidine was beyond the scope of Respondent's enteral sedation permits. The use of these drugs can result in deep sedation and intramuscular injections are difficult to titrate. Furthermore, two of the three pediatric patients reviewed by the Board, N.B. and L.W., were admitted to the hospital the same day as Respondent treated them because their parents found them to be unresponsive.[21] Both received diagnoses of altered mental status. For these reasons, the undersigned concludes that summary suspension was appropriate.

Disciplinary Action

4.

Georgia Code Section 43-11-47 provides the Board with the authority to sanction a dentist's license upon a finding that the licensee has engaged in certain conduct. O.C.G.A. § 43-11-47(a). Relevant to this matter, Section 43-11-47(a), provides that the Board may sanction a licensed dentist when that dentist has acted as follows:

> (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct . . . [is] of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person . . .; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing dental practice;[22]
>
> * * *
>
> (10) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of dentistry, when the licensee

[21] S.J. was also admitted to the hospital subsequent to having treatment by Respondent. However, the hospital records were not tendered into evidence. Therefore, the date, time, and circumstances of her admission are unknown.

[22] Likewise, Georgia Code Section 43-1-19(a)(6) provides the Board with the authority to sanction a licensed dentist upon a finding that the dentist has engaged in unprofessional conduct which is of a nature likely to jeopardize the public interest and which includes the departure from or failure to conform to the minimum reasonable standards of acceptable and prevailing practice of dentistry. O.C.G.A. § 43-1-19(a)(6).

> or applicant knows or should know that such action is violative of such statute, law, or rule; . . .;[23]
>
> * * *
>
> (14) Engaged in the excessive prescribing or administering of drugs or treatment . . . which are detrimental to the patient as determined by the customary practice and standards of the local community of licensees; . . . .

O.C.G.A. § 43-11-47(a)(6), (10), (14).

5.

Board Rule 150-8-.01 states that unprofessional conduct is defined to include the violation of statutes and rules regulating the practice of dentistry, as well as the departure from, or the failure to conform to the minimum standards of prevailing dental practice. Ga. Comp. R. & Regs. 150-8-.01(d), (h). The rule includes guidelines to be used in defining the minimum standards of dental practice. Id. at (h). With regard to defining the minimum standards of acceptable and prevailing dental treatment, the Board should consider the following: "Use of medications and other modalities based on generally accepted and approved indications, with proper precautions to avoid adverse physical reactions . . . ." Id. at (h)(2). Regarding record keeping, the guidelines provide that the Board should consider, in pertinent part, the following: "Maintenance of records to furnish documentary evidence of the course of the patient's medical/dental evaluation, treatment and response." Id. at (h)(4).

6.

The Board alleged that Respondent's record keeping, sedation, and diagnosis and treatment, fell below the minimum acceptable and prevailing standards of dental practice, as to

[23] Georgia Code Section 43-1-19(a)(8) also provides the Board with the authority to sanction a licensed dentist upon a finding that the dentist violated a statute, law, rule, or regulation which regulates the practice of dentistry when the dentist knew or should have known that her action violated the statute, law, rule or regulation. O.C.G.A. § 43-1-19(a)(8).

each of the three patients reviewed, and therefore amounted to unprofessional conduct. Within those broad categories, the Board made specific allegations.

Record Keeping

7.

The Board alleged and proved that Respondent's record keeping for patient S.J. fell below the minimum standards of acceptable and prevailing dental practice in that Respondent failed to document the actual dose of Ketamine given to S.J. and Respondent's records failed to document that any vital signs were taken during the recovery period.[24] The American Academy of Pediatric Dentistry provides a guide as to what information should be documented in the record when a pediatric patient receives sedation. Dr. Krieger testified that the minimum standard of care requires the dentist to document the dose of the sedative. In other words, Respondent was required to document the actual dose of Ketamine S.J. received, in milligrams, and this she did not do. Dr. Krieger also testified that Respondent was required to document vital signs during the recovery period. Respondent did not do so. Dr. Krieger's testimony was not contradicted.[25] Therefore, the Board proved that Respondent's record keeping for S.J. fell below the minimum standards of acceptable and prevailing dental practice and amounted to unprofessional conduct in violation of Georgia Code Sections 43-11-47(a)(6) and 43-1-19(a)(6).

8.

The Board alleged and proved that Respondent's record keeping for patient N.B. fell below

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[24] In the Matters Asserted, the Board also alleged that Respondent's record keeping fell below the standard of care because her records indicate a date of generation of September 15, 2023, which made it unclear if the notes were contemporaneous with the treatment. The Board presented no evidence of, and therefore failed to prove, this allegation.

[25] In closing argument, Respondent's counsel asserted that Respondent knew the concentration of the sedation she was giving by intramuscular injection, and therefore she knew the dose she was giving. The misapprehends the purpose of record keeping, which is "Maintenance of records to furnish documentary evidence of the course of the patient's medical/dental evaluation, treatment and response." Ga. Comp. R. & Regs. 150-8-.01(h)(4).

the minimum standards of acceptable and prevailing dental practice in that Respondent failed to document the actual dose of dexmedetomidine given to N.B., in micrograms, or the concentration of the liquid injected, and Respondent's records failed to document that any vital signs were taken during the recovery period.[26] Dr. Krieger testified that the minimum standard of care requires the dentist to document the dose of the sedative. In other words, Respondent was required to document the actual dose of dexmedetomidine N.B. received, in micrograms, and this she did not do. Dr. Krieger also testified that Respondent was required to document vital signs during the recovery period. Respondent did not do so. Dr. Krieger's testimony was not contradicted. Therefore, the Board proved that Respondent's record keeping for N.B. fell below the minimum standards of acceptable and prevailing dental practice and amounted to unprofessional conduct in violation of Georgia Code Sections 43-11-47(a)(6) and 43-1-19(a)(6).

9.

The Board alleged and proved that Respondent's record keeping for patient L.W. fell below the minimum standards of acceptable and prevailing dental practice in that Respondent failed to document the actual dose of Ketamine given to L.W. on March 8, 2022, Respondent's records include an incomplete monitoring record for the March 8, 2022 sedation procedure, Respondent failed to document the actual dose of dexmedetomidine given to L.W. on June 19, 2023, and Respondent's monitoring print-out for the June 19, 2023 procedure is incomplete.[27] Dr. Krieger

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[26] In the Matters Asserted, the Board alleged that Respondent's record keeping for N.B. also fell below the minimum standards and therefore amounted to unprofessional conduct because Respondent failed to note what local anesthetic was used or in what amount it was used. The Board failed to prove this allegation. There is a reference to the name of the local anesthetic and the amount in Respondent's narrative note. The Board also alleged that Respondent's record keeping for N.B. fell below the minimum standards because the records indicated July 20, 2023 as the date of completion, making it unclear if the notes were made contemporaneously with Respondent's treatment of N.B. The Board presented no evidence of and therefore failed to prove this allegation.

[27] In the Matters Asserted, the Board also alleged that Respondent's record keeping for L.W. fell below the minimum standards and therefore amounted to unprofessional conduct because Respondent failed to note what local anesthetic was used, or its amount, during the March 8, 2022 procedure. The Board failed to prove this allegation. There is a reference to the name and amount of the local anesthetic used in Respondent's narrative note. The Board also alleged that Respondent's record keeping for L.W. was deficient because her narrative states that she used 30% nitrous oxide

testified that the minimum standard of care requires the dentist to document the dose of the sedative. In other words, Respondent was required to document the actual dose of Ketamine L.W. received, in milligrams, during the March 8, 2022 procedure, and the actual dose of dexmedetomidine L.W. received, in micrograms, during the June 19, 2023 procedure. Respondent did not document the actual dose of the injectable sedation she gave for either procedure. Dr. Krieger also testified that Respondent was required to document vital signs during the recovery period. Respondent did not do so for the March 8, 2022 or June 19, 2023 procedure. Dr. Krieger's testimony was not contradicted. Therefore, the Board proved that Respondent's record keeping for L.W. fell below the minimum standards of acceptable and prevailing dental practice and amounted to unprofessional conduct in violation of Georgia Code Sections 43-11-47(a)(6) and 43-1-19(a)(6).

Sedation

10.

The Board alleged that Respondent's treatment of all three patients fell below the minimum standards of acceptable and prevailing dental practice and violated a statute and regulation regulating the practice of dentistry when she administered parenteral sedation in the form of intramuscular injections of Ketamine or dexmedetomidine to all three patients reviewed.[28]

11.

There are two major categories of sedation permits for dentists: conscious sedation permits and deep sedation (or general anesthesia) permits. Ga. Comp. R. & Regs. 150-13-.01; Ga. Comp.

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and oxygen at 100%, and this cannot be accurate with contemporary flowmeters. The Board presented no evidence of and therefore failed to prove this allegation.

[28] The Board also alleged that Respondent did not meet the requirement of having a certification in Pediatric Advanced Life Support (PALS). Respondent failed to prove this allegation. Respondent presented evidence of her PALS certification.

R. & Regs. 150-13-.02. Georgia Code Section 43-11-21(a) provides that no dentist licensed and practicing in Georgia may provide conscious sedation to patients unless she has a permit issued by the Board. O.C.G.A. § 43-11-21(a).

12.

Conscious sedation permits are divided into two categories: Moderate Enteral Conscious Sedation permits and Moderate Parenteral Conscious Sedation permits.[29] Ga. Comp. R. & Regs. 150-13-.01(3), (4). With a Moderate Enteral Conscious Sedation permit the dentist is allowed to provide conscious sedation through drugs that are absorbed through the gastrointestinal tract or oral mucosa. Id. at (2), (4). The drugs must be administered orally, rectally, or sublingually. Id. Respondent holds three enteral conscious sedation permits; one for each of her offices. Injectable sedation is not allowed under an enteral conscious sedation permit. Id. Consistent with the rule, Dr. Krieger testified that sedation by intramuscular injection of Ketamine or dexmedetomidine is considered parenteral sedation and that Respondent's sedation of the three patients in this manner was not allowed under her enteral conscious sedation permit. For that reason, he opined that her treatment (i.e., sedation) of the three patients using intramuscular injections of Ketamine or dexmedetomidine fell below the minimum acceptable and prevailing standards of dental practice.

13.

At the hearing, Respondent testified that her appearance on the Injectable Pharmacologics Registry allowed her to use injections for sedation. She asserted that injectable pharmacologics were not only for aesthetic purposes. She further asserted that there was a list that allowed her to use injectable Ketamine. She did not produce any such list.

[29] "Moderate Conscious Sedation is defined as a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained." Ga. Comp. R. & Regs. 150-13-.01(3).

14.

In contrast to Respondent's assertions, Board Rule 150-14-.04 states, in pertinent part, as follows:

> (a) For purposes of this rule, the term below shall have the following meaning.
>
> "Injectable pharmacologic" means any medication classified as a neurotoxin, adjuvant or therapeutic agent including, but not limited to, hyaluronic acid (such as Restylane), fillers (such as collagen), Botulinum Toxin Type A (such as Botox) or similar products that have been approved by the Federal Food and Drug Administration.
>
> * * *
>
> (c) Administration of an injectable pharmacologic for the functional or cosmetic enhancement of the gums, cheeks, jaws, lips, the oral cavity and associated tissues is a procedure which can be performed by a dentist in connection with a dental procedure in a dental treatment setting.
>
> * * *
>
> (f) In order to obtain Board approval for a course on injectable pharmacologics, a course provider shall submit a course outline, including course content and objectives and the curriculum vitae of the instructor(s), for Board review and approval. The course outline shall indicate whether the training is visual, hands-on or lecture. An approved course shall be at least 21 hours in length and shall include advanced instruction in the following:
>
> **1.** Anatomy of head and neck;
> **2.** Neurophysiology, including facial tissues, parasympathetic, sympathetic and peripheral nervous systems relative to peri-oral tissue, and facial architecture;
> **3.** Patient selection, including indications and contraindications;
> **4.** Pharmacological effects and contraindications, including potential drug interactions; and
> **5.** Management of complications.

Ga. Comp. R. & Regs. 150-14-.04(a), (c), (f). Reading these provisions together, it is clear that a dentist who is registered to give injectable pharmacologics is allowed to use substances such as Botox, Restylane, and fillers for the purpose of improving the function or cosmetic appearance of the gums, cheeks, lips, the oral cavity, and associated tissues. Being registered to administer injectable pharmcologics has nothing to do with the administration of an intramuscular injection

in a patient's arm for the purpose of sedation. Respondent's testimony on this issue was simply not credible.

15.

The Board's allegations in the Matters Asserted reference deep sedation, but they also state that the use of injectable Ketamine and the use of injectable dexmedetomidine are considered parenteral conscious sedation.[30] Additionally, the Board cited Georgia Code Section 43-11-21, which governs conscious sedation for dentists and Board Rule 150-13-.01, which governs conscious sedation permits for dentists. The Matters Asserted also state that Respondent holds three enteral conscious sedation permits. Thus, the allegation that Respondent's use of injectable Ketamine and dexmedetomidine for sedation was outside the scope of her permit is fairly contained within the Matters Asserted and Rules and Statutes Involved. Moreover, Dr. Krieger repeatedly testified that Respondent's use of *parenteral* sedation through the use of injectables was beyond the scope of her permit because she held an *enteral* sedation permit. At no time was there an objection to this testimony. The pleadings can be considered to have been amended by the evidence presented. See O.C.G.A. § 9-11-15(b) ("When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.")

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[30] For example, as to Respondent's treatment of S.J., the Board alleged that her care and treatment departed from and failed to conform to the minimum standards of acceptable and prevailing dental practice in the following requirements:

> As to deep sedation without meeting the proper requirements:
>
> Respondent's use of injectable Ketamine is considered parenteral conscious sedation and the use of injectable Ketamine would place the patient in deep sedation, which Respondent did not hold a permit to perform.

(Matters Asserted and Statutes and Rules Involved, ¶ 5.) At the hearing, Dr. Krieger could not say that the patients were actually deeply sedated, but he did testify that both injectable Ketamine and dexmedetomidine *can* cause deep sedation.

16.

Respondent knew or should have known that her enteral conscious sedation permit did not allow her to use intramuscular injections of Ketamine and dexmedetomidine for sedation. For these reasons, the undersigned concludes that Respondent violated O.C.G.A.§ 43-11-21 and Board Rule 150-13-.01(2). In turn, such violations amount to unprofessional conduct in violation of O.C.G.A. §§ 43-11-47(a)(6) and 43-1-19(a)(6), as well as Board Rule 150-8-.01(d).

Diagnosis and Treatment

17.

The Board alleged multiple incidences in which Respondent's diagnosis and treatment of the three patients reviewed fell below the minimum standards of acceptable and prevailing dental practice. It proved some allegations and did not prove others.

18.

With regard to S.J, the Board proved that Respondent's treatment fell below the standard of care in that her decision to perform pulpotomies and employ stainless steel crowns on teeth A, B, J, K, and T was excessive given the minimal (or in some cases unobservable) decay.[31] These teeth could have been treated with fillings or resins, or if any decay was near the pulp, which Dr. Krieger did not see, Respondent could have used an indirect pulp cap and a filing. The pulpotomies and crowns on these teeth were not justified. Accordingly, the Board proved that Respondent's diagnosis and treatment of the teeth addressed above amounted to unprofessional conduct in violation of O.C.G.A. §§ 43-1-19(a)(6) and 43-11-47(a)(6) and was excessive treatment in violation of O.C.G.A. § 43-11-47(a)(14).

[31] The Board failed to prove the remaining allegations regarding Respondent's diagnosis and treatment, as to the specific teeth of S.J. raised in the Matters Asserted.

19.

The Board proved that Respondent's treatment of N.B. fell below the standard of care in that her performance of pulpotomies and stainless steel crowns on teeth K, S, and T was excessive and unwarranted. None of those teeth required pulpotomies and could have been treated with less invasive treatment. Additionally, her treatment of removing teeth N, O, P, and Q was inappropriate. Dr. Krieger did not observe crowding due to eruption of two permanent teeth; however, even if the two permanent teeth had erupted, it was not appropriate to remove teeth N and Q, because once the permanent teeth did erupt in that area, there would be nothing to restrict them and they would begin to spread apart.[32] Accordingly, the Board proved that Respondent's diagnosis and treatment of the teeth addressed above amounted to unprofessional conduct in violation of O.C.G.A. §§ 43-1-19(a)(6) and 43-11-47(a)(6) and was excessive treatment in violation of O.C.G.A. § 43-11-47(a)(14).

20.

Regarding L.W., the Board proved that Respondent's treatment fell below the standard of care when she performed a pulpal debridement and placed a stainless steel crown on tooth 18, because there was no observable decay in tooth 18 on the x-ray.[33] Furthermore, if there was decay, then Respondent should have performed a root canal in addition to the pulpal debridement because the only way to have long term preservation of a tooth that has undergone pulpal debridement is to do a root canal. Accordingly, the Board proved that Respondent's diagnosis and treatment of L.W.'s tooth 18 amounted to unprofessional conduct in violation of O.C.G.A. §§ 43-1-19(a)(6)

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[32] The Board failed to prove any remaining allegations regarding Respondent's diagnosis and treatment, as to the specific teeth of N.B. raised in the Matters Asserted

[33] The Board failed to prove the remaining allegations in the Matters Asserted as to the treatment of specific teeth for L.W. While Dr. Krieger testified that he did not see certain restorations that purportedly had been completed, he also acknowledged that the resolution of the x-rays was so poor that it was difficult for him to discern what treatment had been completed. Similarly, due to the poor quality of the x-rays, he could not discern whether there were caries on teeth 18, 19, 30, or 31, which were later treated with restorations.

and 43-11-47(a)(6).

Sanction

21.

When the Board finds that a dentist should be disciplined, it has the authority to take any one or more of the following actions:

> (1) Refuse to grant or renew a license to an applicant;
>
> (2) Administer a public or private reprimand, . . .;
>
> (3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;
>
> (4) Limit or restrict any license as the board deems necessary for the protection of the public;
>
> (5) Revoke any license;
>
> (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or licensee's submission to such care, counseling, or treatment as the board may direct;
>
> (7) Impose a fine not to exceed $500.00 for each violation of a law, rule, or regulation relating to the licensed business or profession; or
>
> (8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the . . . board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding.

O.C.G.A. § 43-1-19(d); see also O.C.G.A. §§ 43-11-7(7), 43-11-47(d).

22.

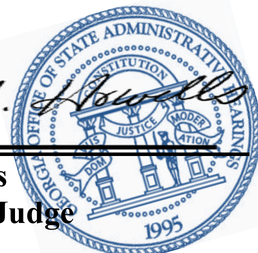
Here the Board proved multiple serious instances of unprofessional conduct and violations of statutes and Board Rules pertaining to Respondent's record keeping, sedation, and diagnosis and treatment of S.J., N.B., and L.W. While record keeping violations may seem to be innocuous, the failure to record the dose of intramuscular sedative given to a pediatric patient, who

subsequently is admitted to the hospital is not to be minimized. This was highlighted at the hearing when Respondent could not answer questions about the total dose of sedative each child received. In many instances, Respondent engaged in overtreatment of these patients. Perhaps most egregious was Respondent's use of injectable sedation medications which are beyond the scope of her sedation permits. In fact, Board Rule 150-13-.01(1)(b) warns that "[t]he use of preoperative sedatives for children (age 12 and under) except in extraordinary circumstances must be avoided due to the risk of unobserved respiratory obstruction during transport by untrained individuals." Ga. Comp. R. & Regs. 150-13-.01(1)(b). The rule further warns that "[c]hildren can become moderately sedated despite the intended level of minimal sedation" and if this occurs the practitioner should follow the "American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures." Id. This warning underscores Respondent's failure to document vital signs during the recovery period of the procedures she performed. For these reasons, the undersigned concludes that the appropriate sanction is revocation of Respondent's license to practice dentistry and her sedation permits.

Decision

For the above and foregoing reasons, Respondent's license to practice dentistry and her sedation permits are hereby **REVOKED**.

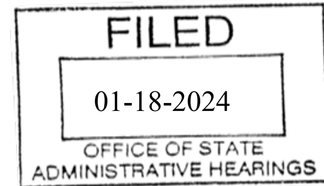
SO ORDERED, this 2nd day of January, 2024.



Stephanie M. Howells
Administrative Law Judge

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

GEORGIA BOARD OF DENTISTRY, **Petitioner,** **v.** **DR. LONA BIBBS-WALKER, DDS,** **Respondent.**	**Docket No.: 2417393** **2417393-OSAH-PLBD-DEN-38-Howells** **Agency Reference No.: 2417393**



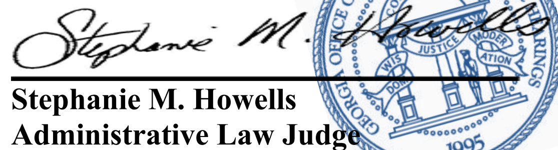
ORDER DENYING MOTION FOR RECONSIDERATION

The Respondent has moved for reconsideration of the Initial Decision entered in this matter. Petitioner opposes Respondent's motion.

In determining whether to grant a motion for reconsideration, the Court must consider whether the movant has set forth facts or law showing the discovery of new evidence, an intervening development or change in the controlling law, or the need to correct a clear error or prevent a manifest injustice. Ga. Comp. R. & Regs. 616-1-2-.28(4); see also Patel v. Epps, 317 Ga. App. 214, 218 (2012) (citing Ga. Ct. App. R. 37(e)); Pres. Endangered Areas of Cobb's History v. U.S. Army Corps of Eng'rs, 916 F. Supp. 1557, 1560 (N.D. Ga. 1995) (reconsideration granted "in certain limited situations, namely the discovery of new evidence, an intervening development or change in the controlling law, or the need to correct a clear error or prevent a manifest injustice").

In this case, the motion does not set forth adequate grounds for reconsideration. Therefore, the motion is **DENIED**.

SO ORDERED, this 18th day of January, 2024.



Stephanie M. Howells
Administrative Law Judge