

SBDE NO. 2016-01357

IN THE MATTER OF	§	BEFORE THE EXECUTIVE COMMITTEE
CLINTON F. HERZOG, DDS	§	OF THE TEXAS STATE BOARD OF
TEXAS DENTAL LICENSE 20239	§	DENTAL EXAMINERS

ORDER OF TEMPORARY SUSPENSION

On the 29 day of April, 2016, an Executive Committee of the State Board of Dental Examiners (Executive Committee) met in an emergency meeting to hear evidence and information in the above-styled case pursuant to section 263.004 of the Texas Occupations Code.

The Executive Committee heard evidence and information that the continued practice of dentistry by Clinton F. Herzog, D.D.S., License No. 20239, would constitute a clear, imminent or continuing threat to a person's physical health or well-being.

The Executive Committee finds, based on the evidence and information presented and the factual and legal bases stated in the Petition for Temporary Suspension, attached and incorporated herein, that the continued practice of dentistry by Clinton F. Herzog, D.D.S., would constitute a clear, imminent or continuing threat to a person's physical health and well-being.

IT IS, THEREFORE ORDERED that the license issued to Clinton F. Herzog, D.D.S., is hereby temporarily suspended pursuant to Section 263.004 of the Texas Occupations Code. This Order is final and effective as of the date of signing.

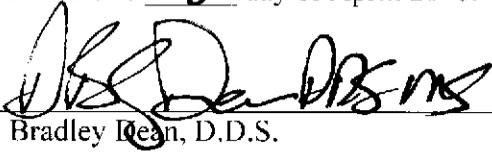
This matter shall be set for a hearing before the State Office of Administrative Hearings not later than the 30th day after the date the license is suspended by the Order. At that time, the State Board of Dental Examiners will present evidence to show that the license of Clinton F. Herzog, D.D.S. should remain suspended.

During the suspension period referred to above, Respondent SHALL NOT practice dentistry as defined under Section 251.003, Texas Occupations Code, and is prohibited from performing those acts, procedures, and treatments specified under Section 251.003(a)(1)-(10), Texas Occupations Code, in effect at the time of ratification of this Order and any amendments thereafter. Section 251.003(a)(1) and (4) are excepted from this requirement.

Respondent, during this emergency suspension period, may perform only administrative tasks limited exclusively to: opening mail, referring patients, and accepting payments on accounts. During the period of suspension, Respondent SHALL NOT delegate any clinical tasks to any employee or auxiliary and SHALL NOT allow any employee or auxiliary, if any, to practice outside the scope of their permitted duties as defined by the Dental Practice Act and rules and regulations of the Board.

STATE BOARD OF DENTAL EXAMINERS

SIGNED this 28 day of April, 2016.

A handwritten signature in black ink, appearing to read 'D. Bradley Dean', written over a horizontal line.

D. Bradley Dean, D.D.S.

Committee Chair

Texas State Board of Dental Examiners

SBDE NO. 2016-01357

IN THE MATTER OF § **BEFORE THE EXECUTIVE COMMITTEE**
§
CLINTON F. HERZOG, DDS § **OF THE TEXAS STATE BOARD OF**
§
TEXAS DENTAL LICENSE 20239 § **DENTAL EXAMINERS**

PETITION FOR TEMPORARY SUSPENSION

Now comes the Staff of the State Board of Dental Examiners (SBDE) and files this Petition for Temporary Suspension (Petition) against Clinton F. Herzog, DDS (Respondent), Texas Dental License No. 20239, based on alleged violations of the Dental Practice Act (the Act), Tex. Occ. Code §§ 251.001 *et seq.* and Board Rules, 22 Tex. Admin. Code §§ 101.1 *et seq.*

In support of this Petition and based upon reasonable information and belief, Staff states the following:

JURISDICTION

1. The SBDE has authority and jurisdiction over Respondent's dental license pursuant to Tex. Occ. Code §§ 251.001 *et seq.* and 22 Tex. Admin. Code §§ 101.1 *et seq.*
2. Respondent's dental license was in full force and effect at all dates and times material and relevant to this Petition.
3. Section 263.004 of the Act requires the SBDE or an executive committee of the SBDE to temporarily suspend a person's license if it determines that the continued practice of dentistry by the person would constitute a clear, imminent, or continuing threat to the person or another person's physical health or well-being.

FACTUAL ALLEGATIONS

SBDE Staff has received information and based on that information believes that Respondent has engaged in conduct in violation of the Act and SBDE Rules. SBDE Staff further believes that this conduct shows that this petition and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas. Based on such information and belief, SBDE Staff alleges:

1. Respondent is addicted to or habitually intemperate in the use of alcoholic beverages or drugs.
2. Specifically, during the time period from July 9, 2015, through July 16, 2015, Respondent submitted to an evaluation by the Professional Recovery Network (PRN), a peer assistance program subject to Chapter 467 of the Texas Health and Safety Code. The evaluation determined that Respondent had a substance use disorder and was only safe to practice dentistry if he entered a monitoring agreement with PRN. (Confidential Exhibit 1)

3. On April 7, 2016, Respondent failed to comply with his monitoring agreement with PRN and was discharged from the program. A screening on February 26, 2016 detected a relapse, and Respondent failed to reschedule and comply with additional screenings and psychological testing. As a result, Respondent was discharged from PRN. (Confidential Exhibit 2)

LEGAL AUTHORITY

1. The conduct described above constitutes a violation of Tex. Occ. Code § 263.002(a)(10), (11); and 22 Tex. Admin. Code §§ 108.9(3), (4)(B), (6), (7).
2. Section 263.004 of the Act authorizes the Board to temporarily suspend a person's license.

PRAYER

Staff requests that the Executive Committee of the SBDE determine that Respondent has engaged in conduct that shows that the continued practice of dentistry by Respondent would constitute a clear, imminent, or continuing threat to a person's health or well-being. Staff further requests that the Executive Committee enter an *Order of Temporary Suspension* suspending Texas Dental License No. 20239, pursuant to Section 263.004 of the Texas Occupations Code.

Filed this 28th day of April, 2016.

Respectfully submitted,

TEXAS STATE BOARD OF
DENTAL EXAMINERS



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