SBDE NO. 2020-00751

IN THE MATTER OF	§	**BEFORE THE EXECUTIVE COMMITTEE**
	§	
MICHAEL CHERRY, DDS	§	**OF THE TEXAS STATE BOARD OF**
	§	
TEXAS DENTAL LICENSE 13314	§	**DENTAL EXAMINERS**

ORDER OF TEMPORARY SUSPENSION

On the 29th day of April, 2020, 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 Michael Cherry, D.D.S., License No. 13314, 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 Michael Cherry, 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, and any and all related permits, issued to Michael Cherry, D.D.S., are 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, and any and all related permits, are suspended by the Order. At that time, the State Board of Dental Examiners will present evidence to show that the license of Michael Cherry, 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 29th day of April, 2020.

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

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MICHAEL CHERRY, DDS	§	**OF THE TEXAS STATE BOARD OF**
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TEXAS DENTAL LICENSE 13314	§	**DENTAL EXAMINERS**

PETITION FOR TEMPORARY SUSPENSION

Now comes the Staff of the State Board of Dental Examiners (Board) and files this Petition for Temporary Suspension (Petition) against Michael Cherry, DDS (Respondent), Texas Dental License No. 13314, 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 Board has authority and jurisdiction over Respondent's dental license and sedation permits 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. Respondent's license is currently in active status. Respondent currently holds a nitrous oxide permit.

3. Section 263.004 of the Act requires the Board or an executive committee of the Board to temporarily suspend a person's license or permits 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

Board Staff has received information and based on that information believes that Respondent has engaged in conduct in violation of the Act and Board Rules. Board 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. Pursuant to Tex. Occ. Code § 254.0065, the Board may not publicly disclose the nature of the impairment or condition that resulted in the Board's action. Based on such information and belief, Board Staff alleges:

From April 21, 2020, through the present, Respondent is addicted to or habitually intemperate in the use of alcoholic beverages or drugs; has violated or refused to comply with a law relating to the regulation of dentists; and is physically or mentally incapable of practicing in a manner that is safe for Respondent's dental patients. Respondent's practice of dentistry constitutes a clear, imminent, and continuing threat to a person's physical health or well-being.

LEGAL AUTHORITY

1. The conduct described above represents grounds for discipline under Tex. Occ. Code § 263.002(a)(3), (7), (10), (11); and 22 Tex. Admin. Code § 108.9(4)(B), (6), (7), (11).

2. Section 263.004 of the Act authorizes the Board to temporarily suspend a person's license or permit.

PRAYER

Staff requests that the Executive Committee of the Board 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. 13314.

Filed this 28th day of April, 2020.

Respectfully submitted,

TEXAS STATE BOARD OF
DENTAL EXAMINERS

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