UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:	Deborah Platt Majoras, (Pamela Jones Harbour Jon Leibowitz William E. Kovacic J. Thomas Rosch	Chairm	an
In the Matter of	5. Thomas Rosen		
SOUTH CAROLINA STATE	BOARD OF DENTISTRY)))	Docket No. 9311

DECISION AND ORDER

The Federal Trade Commission ("Commission") having heretofore issued its Complaint charging South Carolina State Board of Dentistry ("the Board"), hereinafter sometimes referred to as "Respondent," with violating Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order ("Consent Agreement"), containing an admission by Respondent of all the jurisdictional facts set forth in the Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(f) 0f the Commission's Rules, 16 C.F.R. § 3.25(f), and the Commission having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 3.25(f), 16 C.F.R. § 3.25, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

- 1. Respondent is organized, exists, and transacts business under and by virtue of the laws of South Carolina, with its principal office at Synergy Business Park, Kingstree Building, 110 Centerview Dr., Columbia, South Carolina 29210.
- 2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

T.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "South Carolina State Board of Dentistry" or "the Board" means South Carolina State Board of Dentistry, its members, officers, directors, committees, representatives, agents, employees, and successors, including, but not limited to, its executive director and investigators; and
- B. "Dental hygienist" means a person who practices dental hygiene, as defined in S.C. Code of Laws § 40-15-80.

II.

IT IS FURTHER ORDERED that Respondent shall provide written notice to the Commission at least (30) thirty days prior to the promulgation of any proposed or final rule, regulation, policy, issuance of a formal complaint in a disciplinary action, or other action of the Board, relating to the provision by dental hygienists of preventive dental services in a public health setting pursuant to S.C. Code Ann. § 40-15-110(A)(10), or any recodification thereof, including, but not limited to, an action concerning a dentist who authorizes, supervises, or bills for, the provision by dental hygienists of preventive dental services in a public health setting.

PROVIDED, HOWEVER, that if protection of the public health prevents Respondent from notifying the Commission thirty days in advance of an action, then Respondent shall provide the notice required by this Paragraph as soon as is reasonably practicable.

III.

IT IS FURTHER ORDERED that Respondent shall:

- A. Within thirty (30) days after the date on which this Order becomes final, distribute by first-class mail or electronic mail a notice in the form set forth in Appendix A of this Order, with a copy of the Order and Complaint attached, to:
 - 1. each Board member;
 - 2. each officer, director, representative, agent, and employee of the Board; and
 - 3. each person licensed to practice dentistry or dental hygiene in South Carolina.
- B. Within thirty (30) days after the date on which this Order becomes final, distribute by first-class mail a notice in the form set forth in Appendix A of this Order, with a copy of

- the Order and Complaint attached, to the superintendent of each school district listed in Appendix B.
- C. Within thirty (30) days after the date on which this Order becomes final, publish a notice in the form set forth in Appendix A of this Order, along with a link to a copy of the Order and Complaint, on the South Carolina State Board of Dentistry website, and maintain these materials on the website for three (3) years from the date this Order becomes final.
- D. Publish a notice in the form set forth in Appendix A of this Order in the first South Carolina State Board of Dentistry newsletter to be published after the date this Order becomes final, and annually thereafter for three (3) years.
- E. For a period of three (3) years after the date this Order becomes final, distribute by first-class mail or electronic mail a notice in the form set forth in Appendix A of this Order, and attaching a copy of the Order and Complaint, to:
 - 1. any person who becomes a member of the Board, within thirty (30) days of the time his or her membership begins;
 - 2. any person who becomes an officer, director, representative, agent, or employee of the Board, within thirty (30) days of the time that he or she assumes such responsibility with the Board; and
 - 3. any person who becomes licensed to practice dentistry or dental hygiene in South Carolina, within thirty (30) days of the time he or she becomes licensed.

IV.

IT IS FURTHER ORDERED that within thirty (30) days after the date this Order becomes final, annually thereafter for three (3) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may by written notice require, the Board shall submit to the Commission a verified written report detailing the manner and form in which the Board has complied and is complying with this Order.

V.

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and upon written request with reasonable notice, Respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours of Respondent and in the presence of counsel, to all facilities to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondent related to compliance with this Order; and

В.	Jpon five (5) days' notice to Respondent and without restraint or interference from					
	Respondent, to interview officers, directors, or employees of Respondent, who may have					
	counsel present, regarding such matters.					

VI.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in the Board's authority to regulate the practice of dentistry and dental hygiene in South Carolina that may affect compliance obligations arising out of this Order, such as the complete or partial assumption of that authority by another governmental entity, or the dissolution of the Board.

VII.

IT IS FURTHER ORDERED that this Order shall terminate ten years after the date on which it is issued.

By the Commission.

Donald S. Clark Secretary

ISSUED: SEAL

APPENDIX A

[date]

NOTICE

The South Carolina State Board of Dentistry has entered into a consent agreement with the Federal Trade Commission. In connection with the Commission's order issued pursuant to that agreement, which became final on [date], the Board is publishing this notice concerning the delivery of preventive dental services in public health settings:

The 2003 amendments to the Dental Practice Act (Act No. 45 of 2003) provide that the Board may not, directly or indirectly, require that a dentist conduct an examination of a patient as a condition of a dental hygienist who is working in a public health setting pursuant to S.C. Code Ann. § 40-15-110(A)(10), which pertains to licensed dental hygienists employed within or contracted through the public health system, or any recodification thereof, performing oral prophylaxis or applying sealants or topical fluoride to that patient.

The Board is in full agreement with the legislative policy set forth in the 2003 amendments as recited above.

President South Carolina State Board of Dentistry

APPENDIX B

<u>Abbeville</u>	<u>Aiken</u>	Allendale	Anderson 1	Anderson 2	Anderson 3
Anderson 4	Anderson 5	Bamberg 1	Bamberg 2	Barnwell 19	Barnwell 29
Barnwell 45	<u>Beaufort</u>	<u>Berkeley</u>	<u>Calhoun</u>	Charleston	Cherokee
<u>Chester</u>	Chesterfield	Clarendon 1	Clarendon 2	Clarendon 3	Colleton
<u>Darlington</u>	Dillon 1	Dillon 2	Dillon 3	Dorchester 2	Dorchester 4
<u>Edgefield</u>	<u>Fairfield</u>	Florence 1	Florence 2	Florence 3	Florence 4
Florence 5	Georgetown	Greenville	Greenwood 50	Greenwood 51	Greenwood 52
Hampton 1	Hampton 2	<u>Horry</u>	<u>Jasper</u>	Juvenile Justice	<u>Kershaw</u>
<u>Lancaster</u>	<u>Laurens 55</u>	<u>Laurens 56</u>	<u>Lee</u>	Lexington 1	Lexington 2
Lexington 3	Lexington 4	Lexington 5	Marion 1	Marion 2	Marion 7
<u>Marlboro</u>	<u>McCormick</u>	<u>Newberry</u>	<u>Oconee</u>	Orangeburg 3	Orangeburg 4
Orangeburg 5	<u>Pickens</u>	Richland 1	Richland 2	<u>Saluda</u>	Spartanburg 1
Spartanburg 2	Spartanburg 3	Spartanburg 4	Spartanburg 5	Spartanburg 6	Spartanburg 7
Sumter 17	Sumter 2	<u>Union</u>	<u>Williamsburg</u>	York 1	York 2
York 3	York 4				