

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND KAREN A. COWSERT, R.D.H.**

Come now Karen A. Cowsert, R.D.H. ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a dental hygienist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against her and, subsequently, the right to a disciplinary hearing before the Board at which time she may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her license. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to her.

Licensee acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline her license, along with citations to law and/or regulations the Board believes were violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered

¹ All statutory references are to Missouri Revised Statutes, as amended, unless otherwise indicated.



003352 is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Karen A. Cowser, R.D.H is licensed by the Board as a dental hygienist, License No. 003352. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. On or about June 20, 2011, the Board received a complaint regarding Licensee. The complainant, Dr. E.W., D.D.S., a licensed dentist in Missouri, alleged that Licensee took certain information from his patient files and contacted his patients to get them to change to her new employer.

4. On or about May 1, 2012, Board Investigator Kevin Davidson travelled to the practice location of Dr. J.H., D.D.S., Licensee's new practice location. Investigator Davidson informed Licensee the Board received a complaint about her and needed to speak with her about it. Licensee stated she had been a dental hygienist for 16 years after receiving her training at University of Missouri at Kansas City and graduating in 1995. She stated she had been a dental assistant for Dr. H from 1990-1993. She stated after graduating she worked as a hygienist for Dr. H for one year and then for Dr. E.W. from 1996 through 2011. She stated she returned to Dr. H's office because Dr. E.W. was "moody" and because of his "unethical behavior." She stated she witnesses him throw dental instruments in the office, hit a fax machine with his fist and kick and put his foot through a wall. She stated Dr. H hired her back and she "decided to send 'Thank You' cards to her clients for lettering her treat them." She stated she "went through the telephone book and got the addresses for the names of the people that she could remember and sent them a card thanking them and telling them if they had any questions they could reach her at Dr. H's office." She stated that "she did not take any records from Dr. E.W." nor did she "try to talk anyone into following her to Dr. H's." She stated she got a letter from Dr. E.W.'s attorney saying they believed



she had taken certain patient information from his practice and had used that information to try and get patients to change dentists. She reiterated that she did not take any records or other information from Dr. E.W.. She stated she would send a copy of the letter from Dr. E.W.'s attorney as well as some of her cards she wrote to her clients to Investigator Davidson.

5. On or about May 9, 2012, the Board received a copy of the June 16, 2011 letter from Dr. E.W.'s attorney to Licensee, a copy of Licensee's June 25, 2011 letter responding to Licensee's attorney, a list of approximately 75 names of former patients, some with addresses, and several copies of the cards she sent to her clients. In several cards, Licensee stated "I have decided to broaden my career and am now practicing with Dr. H, DMD, in _____. If there is anything I can do for you in the future, please don't hesitate to contact me." She also stated "you are not going to like this but I am not at Dr. E.W.'s office anymore. I decided to broaden my career and am now practicing with Dr. Jeffrey H in Sedalia. It was a tough decision – It was my patients like you that kept me there."

6. Regulation 20 CSR 2110-2.111(5) states:

No duly registered and currently licensed dental hygienist in Missouri who has or is about to change employers shall be permitted to contact the patients of the employer s/he is leaving or has left for the purpose of soliciting those persons to become patients of the employer s/he is joining or has joined.

7. Licensee's actions as described above in paragraphs 3 through 5 constitute misconduct, misrepresentation or dishonesty in the performance of the functions and duties of a dental hygienist, violation of a lawful regulation, regulation 20 CSR 2110-2.111(5), adopted pursuant to Chapter 332, RSMo and violation of a professional trust or confidence and therefore constitute cause to discipline Licensee's Missouri dental hygienist license.

8. Cause exists for the Board to take disciplinary action against Licensee's license under §332.321.2(5), (6) and (13), RSMo, which state in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

...



(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions and duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

...

(13) Violation of any professional trust or confidence[.]

Joint Agreed Disciplinary Order

9. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §§ 621.045.1 and 621.045.4, RSMo.

10. The terms of discipline shall include that Licensee's dental hygiene license shall be placed on **PROBATION** for a period of two (2) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of dental hygiene under Chapter 332, RSMo, provided she adheres to all of the terms of her Settlement Agreement.

I. EDUCATION REQUIREMENT

Jurisprudence Examination

A. Licensee shall take and pass the Board's jurisprudence examination within the first twelve (12) months of Licensee's period of probation. Licensee shall contact the Board office to request a current law packet and permission to sit for the jurisprudence examination no less than thirty (30) days prior to the date Licensee desires to take the examination. Licensee shall submit the required re-examination fee to the Board prior to taking the examination. Failure to take and pass the examination during the first twelve (12) months of the disciplinary period shall constitute a violation of the Board Settlement Agreement.

II. GENERAL REQUIREMENTS

A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.



- B. Licensee shall keep the Board apprised of her current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- C. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Licensee shall timely renew her license and timely pay all fees required for licensing and comply with all other board requirement necessary to maintain Licensee's license in a current and active state.
- E. If at any time during the disciplinary period, Licensee removes herself from the state of Missouri, ceases to be currently licensed under the provisions of Chapter 332, or fails to advise the Board of her current place of business and residence, the time of her absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.9, RSMo.
- F. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor her compliance with the terms and conditions of this Order.
- G. If Licensee fails to comply with the terms of this Order, in any respect, the Board may impose such additional or other discipline that it deems appropriate, including revocation following a hearing before the Board.
- H. This Order does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document.

III. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow her license to lapse.
 - B. Licensee shall notify, within 15 days of the effective date of this Order, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.
11. The parties to this Agreement understand that the Missouri Dental Board will maintain this Agreement as an open record of the Board as provided in Chapters 332, 610 and 324, RSMo.
12. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed



by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

13. Licensee, together with her heirs and assigns, and her attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

14. If no contested case has been filed, Licensee understands that she has the right, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

15. If Licensee has requested review, Licensee and the Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

16. If Licensee does not request review by the Administrative Hearing Commission, the agreement goes in to effect fifteen (15) days after the document is signed by the Executive Director.



LICENSEE

Karen A. Cowsert, RDH
Karen A. Cowsert, RDH

Date July 15, 2013

BOARD

Brian Barnett
Brian Barnett
Executive Director
Missouri Dental Board

Date 7/17/13

