

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND JAMES R. DYE, D.D.S.**

James R. Dye, D.D.S. (“Licensee” or “Respondent”) and the Missouri Dental Board (“Board”) enter into this settlement agreement (“Board Settlement Agreement”) for the purpose of resolving the question of whether Licensee’s license, number 012493, as a dentist will be subject to further discipline. Licensee enters this Board Settlement Agreement for the purposes of settlement only and to avoid the additional expense of litigation.

Pursuant to the terms of § 324.042, RSMo, the parties hereto waive the right to a hearing by the Board regarding the probation violation complaint filed June 23, 2015, case number DB-15-001-PV, to determine whether or not Licensee has violated the terms of his probation per the Board’s Orders entered May 14, 2010, and November 2, 2011, and whether additional discipline, if any, should be imposed by the Board under §§ 324.042, and 332.321.3, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by the Missouri Dental Board concerning the charges pending against him and, subsequently, the right to present evidence in mitigation of discipline; and the right to recover attorney’s fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into the Board Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the probation violation complaint, investigative report, and other documents relied upon by the Board in determining there was cause to discipline his 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 herein are true and stipulates with the Board that Licensee's license, number 012493, is subject to disciplinary action by the Board in accordance with the provisions of § 324.042, RSMo., and Chapter 332, RSMo.

Joint Stipulation of Facts 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. Respondent is licensed by the Board as a dentist, License No. 012493. Respondent's license is, and was at all times relevant herein, current and active, with the exception of a suspension from November 12, 2009, through January 21, 2010, due to failure to file state tax returns and/or pay state tax liabilities, a 2-week suspension period, and a 30-day suspension period from November 17, 2011, to December 17, 2011.

3. Jurisdiction and venue are proper before the Board under sections 324.042 and 332.321, RSMo, which authorize the Board to determine if Licensee has violated the terms of the Board's Orders entered May 14, 2010, and November 2, 2011, and whether additional discipline, if any, should be imposed upon Licensee's dental license.

4. On January 20, 2002, Respondent executed a Settlement Agreement with the Board. As part of the Settlement Agreement, Respondent and the Board executed a Joint Agreed Disciplinary Order, placing Respondent's License No. 012493 on probation for five years.

5. On October 18, 2003, a hearing was held on charges that Respondent had violated the terms of his discipline. The Board issued Findings of Fact, Conclusions of Law and Order on December 11, 2003, finding that Respondent had violated the terms of his probation and suspending Respondent's License No. 012493.

6. On or about March 21, 2006, Respondent and the Board entered into a Settlement Agreement and Joint Agreed Disciplinary Order, placing Respondent's dental license on probation for a period of five years from May 15, 2005, through May 15, 2010.

7. On April 16, 2010, a hearing was held before the Board on a probation violation complaint against Respondent. Findings of Fact, Conclusions of Law, and Disciplinary Order, were issued on May 14, 2010, suspending Respondent's license for two weeks and placing Respondent's license on probation, with various conditions, for a period of five years (the "2010 Disciplinary Order").

8. On October 21, 2011, the Board took up an additional probation violation complaint against Respondent. Findings of Fact, Conclusions of Law, and Disciplinary Order, were issued on November 2, 2011, finding that Respondent had violated the terms of the 2010 Disciplinary Order and finding that Respondent's license was therefore subject to further disciplinary action (the "2011 Disciplinary Order").

9. With the 2011 Disciplinary Order, Respondent's License No. 012493 was suspended for a period of 30 days, tolling the probationary period of Respondent's license. The probationary period imposed by the 2010 Disciplinary Order ended on July 13, 2015.

10. Among various other conditions, the 2010 Disciplinary Order and the 2011 Disciplinary Order require Respondent to comply with all provisions of the Dental Practice Act, Chapter 332.

11. Between July 18, 2012 and June 9, 2014, the Board received eight separate complaints

against Respondent alleging that Respondent provided substandard care to patients, improperly billing patients, that he used toxic doses of Septocaine, and that he left root tips in patients' mouths when extracting teeth.

12. Following receipt of the eight complaints, the Board initiated an investigation. As part of its investigation, the Board representatives met with Respondent, obtained additional records, conducted an infection control inspection, and conducted interviews with patients and other dentists. Respondent also met with the Board on April 24, 2014.

13. The Board's investigation revealed that Respondent is providing substandard care to his patients, has insufficient record keeping practices, and is otherwise violating Chapter 332, particularly the provisions cited below, all in violation of the 2010 Disciplinary Order and the 2011 Disciplinary Order.

14. As part of the Board's investigation, the Board interviewed dentists who worked with and for Licensee including Drs. Hughes and Parker.

15. The Board's investigation revealed that Dr. Hughes quit her employment with Respondent after six days due to Respondent's office conditions and dental procedures. Dr. Hughes stated that the office was not run appropriately and that he saw "numerous" patients that Licensee had seen where there were caries that were not diagnosed, undiagnosed periodontal disease, partial dentures made before the extractions and restorations were complete and numerous root tips left in a patient's mouth after extraction of teeth.

16. Dr. Parker stated that he removed "numerous root tips" left by Respondent following extractions.

17. As part of the Board's investigation, the Board reviewed the records of patients K.W., K.G., G.B., S.O., K.J., P.M., N.V., S.T., and M.B. Generally, the Board's investigation revealed the

following practices far below the proper standard of care and in violation of § 332.052, RSMo, with regard to record keeping: lack of overall diagnosis; lack of adequate informed consent; lack of periodontal exam, diagnosis, or treatment alternatives when the records indicated periodontal issues were present; the writing and recording of Schedule III prescriptions in violation of the law; and poor recording of impression type, occlusal record type, and tooth selection in the process of denture fabrication.

18. The Board's investigation and review of the patient records revealed that all of Respondent's records lacked an overall diagnosis, adequate informed consent, including a lack of discussion of findings or options, no periodontal examination and no treatment alternatives when the records indicated periodontal issues were present. All of the records also demonstrated that the impression type, occlusal record type and tooth selection were not recorded in the record in the process of dental fabrication. All of these failings are far below the standard of care and, again, in violation of § 332.052, RSMo.

19. Additionally, many records indicated that patients had high blood pressure and many were on several medications in attempt to control blood pressure. For these patients, Licensee did not record blood pressure and no physician consult was made or documented regarding use of local anesthetics or fitness for surgical procedures. Yet many patients received numerous carpules of anesthetic and multiple extractions. There are some cases where antibiotic premedication was not given when it should have been or given incorrectly. Several patients had root tips left after extractions and this was not disclosed to the patient. There were many cases where comprehensive diagnosis and a treatment plan not provided and treatment sequences are out of order causing unnecessary loss of additional teeth and unnecessary additional work. All well below standard of care as recognized by any competent dentist and, again, in violation of § 332.052, RSMo.

20. Patient K.W.'s records revealed that on January 14, 2013, Respondent extracted multiple teeth. K.W. later complained of a retained root tip which was not documented or noted to K.W. at the time of treatment. Additionally, K.W. stated she had a history of heart murmur which she listed in her patient health history. The notes in K.W.'s chart state that "Dye says can start antibiotics after extractions cause she was on some 6 days previous." This is below the standard of care in that it is contrary to American Heart Association protocol for providing treatment for a patient with a history of heart murmur. Moreover, K.W. reported a history of high blood pressure and medications for high blood pressure but her patient record did not contain any reference to a physician consult or any blood pressure readings done prior to surgery. This is also below the standard of care. Finally, K.W. received 20 Vicodin, a controlled substance, with no documentation in the record as to who prescribed it and the use of local anesthesia was not documented in the record.

21. Patient K.G. also had multiple extractions and upper and lower removable dentures under the care of Respondent. On May 17, 2013, Dye extracted teeth but made impressions for metal removable partial dentures before the extractions -- Licensee took impressions for removable partial dentures prior to extracting the teeth which is not the standard of care. K.G. also had severe periodontal disease and decay on several of the retained teeth can be clearly seen on panorex x-ray but there was no treatment plan for the perio disease or decay and no documentation of the periodontal disease and decay or completion of treatment except prophylaxis on same date. Teeth numbers 3, 18 and 28 all needed restorations and/or extractions which compromised the removable partial dentures after Licensee made them. K.G. also has history of high blood pressure and medications for high blood pressure, however no consult with K.G.'s physician or blood pressure readings were done prior to surgery even though multiple carpules of local anesthetic obviously given but Licensee failed to record them in K.G.'s patient record. None of Licensee's care of K.G. was even close to the standard

of care.

22. Patient S.O. did not receive any treatment options from Licensee. Licensee completed multiple extractions when the maxillary teeth were very salvageable. Moreover, there were no periodontal records made but S.O. received teeth and was billed for a prophylaxis the same day as the extractions, all of which is far below the standard of care. Licensee also failed to complete a medical consultation prior to surgery when S.O. had hypothyroid disease and was on a thyroid medication. Licensee also failed to take S.O.'s blood pressure prior to surgery. In addition to the indication for a medical consult related to the thyroid condition, a medical consult was also indicated because S.O. listed multiple medications in her history that appear to be for severe mental illness. The notes in the chart state that a doctor did call in pain medications for S.O. but the prescription was not documented correctly and S.O. was never a patient of record for the doctor who called in the prescription. Additionally, Licensee's records for S.O. did not contain an exam or diagnosis for which the prescription was appropriate or warranted. Licensee's care of S.O. was below the standard of care.

23. Patient K.J.'s patient record medical history demonstrated K.J. had anemia, asthma, emphysema, COPD and high blood pressure. However, Licensee failed to document a medical consultation or blood pressure reading prior to surgery. Additionally, Licensee completed multiple extractions subject to eight carpules of the local anesthetic Septocaine. This is below the standard of care because pursuant to the manufacturer's recommendation and that of all accepted medical experts, seven carpules is the maximum recommended dose for the average size healthy person and less should be given to medically compromised patients. Licensee's care of K.J. was below the standard of care.

24. Patient P.M.'s patient record medical history revealed a heart murmur but failed to identify what type and included reference to a stroke but failed to identify when. The record also failed to include a blood pressure reading prior to surgery or a medical consult. P.M. had multiple extractions under six carpules of Septocaine local anesthesia. As detailed above, seven carpules is the maximum dosage for a healthy individual with no medically compromising conditions. Licensee's care of P.M. was below the standard of care.

25. Patient N.V.'s radiographs show obvious advanced periodontal disease yet Licensee did not document a periodontal examination or provide a treatment plan to address the periodontal problems. Moreover, N.V.'s medical history shows high blood pressure but Licensee failed to document a blood pressure reading prior to extracting multiple teeth. Licensee extracted multiple teeth and made upper and lower partials but failed to record the amount and type of local anesthetic. Finally, Licensee failed to remove or disclose a root tip left after extraction. A subsequent dentist later removed the root tip. Licensee's care of N.V. was below the standard of care.

26. Patient S.T.'s record indicated S.T. had "heart problems" but the record contained no explanation as to what type of problem or when she had the problem. S.T.'s record also indicated S.T. was on Synthroid but did not specifically identify that she had a thyroid problem. Additionally, Licensee extracted S.T.'s teeth without recording the following in S.T.'s chart: blood pressure, anesthetic or medical consult. Licensee's care of S.T. was below the standard of care.

27. Patient M.B. had a medical history positive for heart attack and high blood pressure. There was no blood pressure or medical consultation recorded in the patient's record. Patient M.B. had multiple extractions with seven total carpules of local anesthetic. A subsequent treating found and removed a root tip that Licensee left and failed to disclose to M.B. Licensee's care of M.B. was below the standard of care.

28. Per the terms of the 2010 Disciplinary Order and the 2011 Disciplinary Order, Licensee's dental license was placed on probation and is subject to, but not limited to, the following terms and conditions:

a. Licensee was entitled to engage in the practice of dental hygiene under Chapter 332, RSMo, provided that Licensee adhered to all of the terms and conditions of the Order.

b. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RMSO; all applicable federal and state drug laws, rules, and regulations, and all federal and state criminal laws.

c. Licensee was to comply with the terms of the Order and any failure to do so could subject his license to additional or other discipline, including revocation.

29. On June 23, 2015, a probation violation complaint was filed in case number DB-15-001-PV.

30. Licensee's actions as described in paragraphs 11 through 27 above constitute incompetency, misconduct, misrepresentation, and/or gross negligence in the functions and duties of a licensed dentist in that Licensee provided care below the standard of care of a licensed dentist.

31. Licensee's actions as described in paragraphs 11 through 27 above constitute violation of a professional trust or confidence in that Licensee provided care below the standard of care of a licensed dentist.

32. Licensee's actions as described in paragraphs 11 through 27 above constitute a failure to maintain an adequate and complete patient record for each patient as required by Section 332.052, RSMo.

33. Section 332.052, RSMo, states, in relevant part:

1. Dentists shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record-keeping format is capable of being printed for review by the board.

34. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (6), and (13), RSMo, which states 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 the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, 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;

35. Licensee's conduct, as described in paragraphs 11 through 27 above, constitutes cause to take further discipline of Licensee's license pursuant to the 2010 Disciplinary Order, 2011 Disciplinary Order and § 324.042, RSMo.

36. Section 324.042, RSMo, states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a

licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the probation violation order entered by the Board in this matter under the authority of § 324.042, RSMo. The terms of discipline shall include that Licensee's dental license, license number 012493, be **SUSPENDED FOR TWO (2) YEARS** during which time Licensee shall not be entitled to engage in the practice of dentistry under Chapter 332, RSMo. The period of suspension shall begin five (5) days following the Board's execution of this Agreement. Following the period of suspension, Licensee's license shall then immediately be placed on **PROBATION** for a period of five (5) years ("disciplinary period").

During Licensee's probation, and subject to the conditions below, Licensee shall be entitled to practice dentistry and shall adhere to all of the terms of the Board Settlement Agreement including the completion of the following:

I. RETURN TO PRACTICE REQUIREMENTS

- A. Upon completion of the Suspension period and prior to returning to the clinical practice of dentistry, Licensee shall successfully pass a Board approved clinical competency skills test.
- B. Prior to returning to the practice of dentistry, Licensee shall submit to the Board for its prior approval a notice of his intent to return to the practice of dentistry. The notice shall include an explanation of the location where Licensee intends to practice and the names of his potential employers and other licensed dentists working at that location. Should the Board grant approval, Licensee shall keep the Board apprised of any change in this information. In the event that Licensee ceases to be employed at the approved location, Licensee shall notify the Board

of the end of employment and shall seek Board approval before commencing employment with another employer.

- C. Licensee shall take and pass the Board's jurisprudence examination prior to returning to the practice of dentistry. Licensee shall contact the Board office to request a current law packed 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.

II. GENERAL REQUIREMENTS

- A. During the disciplinary period, Licensee shall not own or operate a solo or private dental practice. Licensee shall only practice dentistry as an employee and shall not be involved in the billing, bookkeeping, or management of a dental practice. This provision does not prohibit Licensee from providing contract dental services.
- B. 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.
- C. Licensee shall submit reports to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri, 65102, stating truthfully whether he has complied with all the terms and conditions of the this Board Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.
- D. Licensee shall keep the Board apprised of his 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.
- E. 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.
- F. During the disciplinary period, Licensee shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- G. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his 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 § 332.321.6, RSMo.

- H. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of the Board Settlement Agreement.
- I. If Licensee fails to comply with the terms of the Board Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, including revocation.
- J. The Board Settlement Agreement 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 his license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Board Settlement Agreement, 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.

The parties to this Board Settlement Agreement understand that the Board will maintain this Board Settlement Agreement as an open record of the Board as provided in Chapters 332, 610, 324, RSMo.

The terms of the Board Settlement Agreement are contractual, legally enforceable, and binding, not merely recitals. Except as otherwise provided herein, neither the Board 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.

Licensee, together with his heirs and assigns, and his 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 Board Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Board Settlement Agreement, in that it survives in perpetuity even in the event that any court of law deems the Board Settlement Agreement or any portion thereof to be void or unenforceable.

LICENSEE

James R. Dye DDS
James R. Dye, D.D.S.

Date Jan / 13 / 2016

BOARD

Brian Barnett
Brian Barnett,
Executive Director
Missouri Dental Board

Date 1/27/2016

**BEFORE THE MISSOURI DENTAL BOARD
STATE OF MISSOURI**

MISSOURI DENTAL BOARD)	
)	
Petitioner,)	
)	
v.)	No. 2011-001598
)	
JAMES R. DYE, DDS)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER**

At its scheduled meeting on October 21, 2011 at approximately 2:00 p.m., and pursuant to notice, the Missouri Dental Board (Board) took up the probation violation complaint alleging that James R. Dye, DDS (Dye) has failed to comply with the terms of his probation.

The Board appeared at the hearing through Attorney Tina Crow Halcomb, Attorney at Law. Dr. Dye was present at the hearing but was not represented by counsel. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the Board's legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The Board is an agency of the state of Missouri created and established pursuant to § 332.021, RSMo Cum. Supp. 2010, for the purpose of licensing all persons engaged in the practice of dentistry in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapter 332, RSMo (as amended).

2. Dr. Dye holds dentist license number 012493 issued by the Board. Dye's license was current and active at all relevant times. Dye's license is currently on probation.

3. Dye is subject to a Disciplinary Order issued by the Board May 14, 2010. The cause for discipline was based on violations of § 332.321.2(5), (6), (10), (13), and (15), RSMo. The effective date of the Disciplinary Order was June 13, 2010.

4. During the disciplinary period, Dye was entitled to engage in the practice of dentistry pursuant to Chapter 332, RSMo, provide he adhered to all of the terms and conditions of the Disciplinary Order. Dye's license was placed on five years probation.

5. The Disciplinary Order, page 10, paragraph A, required Dye to take and pass the Board's jurisprudence examination within the first six months of his disciplinary period.

6. The Disciplinary Order, page 11, paragraph II.D., required Dye to comply with all provisions of the Dental Practices Act, Chapter 332, RSMo; all state and federal drug laws, rules and regulations and all federal and state criminal laws.

7. The Disciplinary Order required Dye to take and pass the jurisprudence examination by December 13, 2010. Dye failed to take and pass the jurisprudence examination by December 13, 2010. After being reminded by the Board's inspector of the requirement, Dye took and passed the examination on February 16, 2011.

8. On or about July 20, 2010, patient G.W. filed a complaint against Dye. G.W. alleged that she paid Dye \$600 to have a partial plate made but she never received her partial plate. G.W. is a 77-year old resident of Independence, Missouri. On July 15, 2010, G.W. went to Dye's office at 4240 Blue Ridge Blvd, Suite 216 in Kansas City,

Missouri. When G.W. arrived there, G.W. learned that Dye was no longer at that location. G.W. went to a second location in the Kansas City area and Dye was not at that location either. G.W. also attempted to contact Dye by Dye's cell phone but Dye did not respond to G.W.'s calls.

9. On or about September 2, 2010 the Board provided Dye with a copy of G.W.'s complaint. On September 23, 2010, the Board received correspondence from Dye. Dye stated that he had been working in Springfield, Missouri the last three weekends. Dye stated that he contacted G.W. and would see her on September 27, 2010 regarding the partial plate. On October 30, 2010, the Board spoke with G.W. again. She stated Dye had contacted her, come to her home and was working on getting the partial made. On January 24, 2011, the Board received additional correspondence from Dye. Dye stated that G.W. received the partial on November 21, 2010 but that she needed teeth 6 and 7 extracted but the partial still fits. Dye stated G.W. needs to see a dentist in Kansas City because he was practicing in Springfield. On March 9, 2011, after several requests for G.W.'s records, Dye contacted the Board and stated he would send the Board G.W.'s records later that week. On April 5, 2011, G.W. contacted the Board. G.W. stated that Dye came to her home about three weeks prior and said he would give her a \$600 refund and that G.W. would need to call the Board and inform the Board of the refund. G.W. stated she never received the refund and had not heard from Dye since that day. On April 6, 2011, the Board spoke with Dye. Dye again stated he would get the Board G.W.'s records that weekend and send them to the Board. Dye stated he had talked to G.W. about a refund but he stated he was trying to get another dentist to extract teeth 6 and 7. Dye also stated he would give G.W. her refund over the weekend when he

returned to the Kansas City area. On April 11, 2011, the Board received correspondence from Dye. Dye stated he would be refunding the \$600 to G.W. "this weekend." Dye stated it was for the upper immediate partial to replace teeth 6 and 7. Dye stated that "since she is 80 years old she is unable to travel to Springfield for me to finish the case." Dye stated he would get her an appointment with another dentist in Kansas City. On June 9, 2011, the Board spoke with G.W. G.W. stated Dye refunded her \$100 but never came back with the remaining \$500. On September 18, 2011, the Board received G.W.'s records. G.W.'s records reflect that G.W. paid Dye \$600 for the upper partial on March 22, 2010, Dye took an impression for the partial on December 21, 2010, gave her the partial on February 13, 2011 and refunded her \$100 on April 18, 2011.

10. Dye testified at the October 21, 2011 hearing that he had refunded G.W. \$100 after receiving a copy of the complaint. Dye also testified that he made the partial plate and delivered it to G.W. but that he had to wait to make the partial plate until her mouth healed from her teeth extractions. Dye stated he planned to visit G.W. soon to ensure that the partial plate was acceptable to G.W. He stated that G.W. refused the remainder of the refund.

Conclusions of Law

11. The Board has jurisdiction in this proceeding, pursuant to the 2010 Disciplinary Order to determine whether Dye has violated the terms and conditions of the 2010 Disciplinary Order.

12. The Board also has jurisdiction pursuant to § 324.042, RSMo to determine whether Dye has violated the terms and conditions of the 2010 Disciplinary Order. Section 324.042 states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

13. The Board also has jurisdiction pursuant to regulation 20 CSR 2110-2.160(7) to determine if Dye has violated the terms and conditions of the 2010 Disciplinary Order. 20 CSR 2110-2.160(7) states, in pertinent part:

(7) Any violation of a probationary agreement shall constitute grounds for the Missouri Dental Board to impose a further period of probation, a period of suspension, or to revoke the licensee's certificate of registration, license to practice dentistry, or both.

14. Regulation 20 CSR 2110-2.114(1) states, in pertinent part:

(1) Any duly registered and currently licensed dentist in Missouri who moves his/her practice to a location which is inconvenient to his/her active patients or who ceases to practice dentistry or who shares a fee in any patient whose treating dentist moves to an inconvenient location or ceases to practice dentistry, upon request of that patient, or the person responsible for that payment for that patient, shall refund an appropriate portion of the fee received for an unfinished treatment or make arrangements for the treatment to be completed by a dentist acceptable to the patient for no additional fee. Active patients are those who have received care and/or treatment within the previous twelve (12) months.

15. Dye's violation, failure to take and pass the jurisprudence examination within six months of the effective date of the Disciplinary Order, as described in paragraph 7 above, gives cause for the Board to impose further discipline upon Dye's dental license pursuant to the 2010 Disciplinary Order, § 324.042, RSMo, and 20 CSR 2110-2.160(7).

16. Dye's violation, abandoning patient G.W. in violation of 20 CSR 2110-2.114(1), as described in paragraphs 8 through 10 above, gives cause for the Board to

impose further discipline upon Dye's dental license pursuant to the 2010 Disciplinary Order, § 324.042, RSMo, and 20 CSR 2110-2.160(7).

17. The 2010 Disciplinary Order, § 324.042, RSMo and 20 CSR 2110-2.160(7) allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the 2010 Disciplinary Order.

Decision and Order

It is the decision of the Board that Dr. Dye has violated the terms of the 2010 Disciplinary Order, and that his license is, therefore, subject to further disciplinary action.

The Board orders that the dental license of Dr. Dye, license number 012493, shall be **SUSPENDED** for a period of **thirty (30) days** during which time Dr. Dye's probation shall be tolled. Following the **thirty (30) day suspension**, Dr. Dye's license shall then immediately return to being on **PROBATION** for the remainder of the five (5) years ordered in the 2010 Disciplinary Order. The period of probation shall now end July 13, 2015. During the aforementioned probation, Dr. Dye shall be entitled to practice as a licensed dentist subject to the following terms and conditions.

I. GENERAL REQUIREMENTS

- A. Dye 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. Dye shall submit reports to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102, stating truthfully whether he has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.
- C. Dye shall keep the Board apprised of his current home and work addresses and telephone numbers. Dye shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Dye 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.

- E. During the disciplinary period, Dye shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Dye's license in a current and active state.
- F. If at any time during the disciplinary period, Dye removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his 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 § 332.321.6, RSMo.
- G. During the disciplinary period, Dye shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Order.
- H. If Dye 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 imposition of the revocation).
- I. This Order does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Dye not specifically mentioned in this document.

II. ADDITIONAL REQUIREMENTS

- A. Dye shall not allow his license to lapse.
- B. Dye 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 Dye practices or has privileges of Dye's disciplinary status. Notification shall be in writing and Dye 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.

This Order will be maintained as an open record of the Board as provided in

Chapters 332, 610, 324, RSMo.

SO ORDERED this 2nd day of November, 2011.

MISSOURI DENTAL BOARD

A handwritten signature in black ink, appearing to read "Brian Barnett", written over a horizontal line.

**Brian Barnett,
Executive Director**