

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI**

**FILED**  
JUL 09 2008  
ADMINISTRATIVE HEARING  
COMMISSION

MISSOURI DENTAL BOARD,	)	
P.O. BOX 1367	)	
3605 Missouri Blvd.	)	
Jefferson City, Missouri 65102	)	
Petitioner,	)	
	)	
v.	)	CAUSE NO.08-0034 DB
	)	
CARRIE ANN GUTHRIE, R.D.H.,	)	
3657 Fosterburg Road	)	
Alton, IL 62002	)	
Respondent.	)	

**WAIVER OF HEARING, JOINT STIPULATION  
AND REQUEST FOR CONSENT ORDER**

COMES NOW, Petitioner, Missouri Dental Board, by and through its attorney, Nanci R. Wisdom, and Respondent, Carrie Ann Guthrie, R.D.H., appears in person and without counsel, and move, pursuant to the provisions of 4 CSR 20-2.130 and Missouri Revised Statutes Section 536.060 as applicable to this Commission by the provisions of Section 621.135 RSMo, and jointly state that the parties waive their right to a hearing before the Administrative Hearing Commission in the above referenced cause, enter this Joint Stipulation and request that a Consent Order be granted by this Commission consistent with the contents of this document. In support to their motion, Petitioner and Respondent, Carrie Ann Guthrie, R.D.H., hereby stipulate and agree to the following:

1. Respondent, Carrie Ann Guthrie, R.D.H., acknowledges that she is familiar with the various rights and privileges afforded her by operation of law, including the right to a hearing on the charges against her; the right to appear and be represented by counsel; the right to have all charges against her proved 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 the right to appeal a decision in favor of the Petitioner, Missouri Dental Board, by the Administrative Hearing Commission on the basis that said decision is not supported by substantial and competent evidence. Being familiar with these and other attendant rights provided Respondent by operation of law, she knowingly and voluntarily waives each and every one of these rights and fully and freely enters into this "Waiver of Hearing, Joint Stipulation and Request for Consent Order" and consents and agrees to abide by the terms and conditions of this document.

2. Petitioner is an agency of the State of Missouri created and established pursuant to Missouri Revised Statutes Section 332.021 as applicable to this matter for the purpose of administering and enforcing the provisions of Chapter 332, Dentistry.

3. Respondent, Carrie Ann Guthrie, R.D.H., is, and at all times relevant to this cause was, the holder of a current and valid license to practice dental hygiene and certificate of registration issued by Petitioner.

4. Respondent, Carrie Ann Guthrie, R.D.H., admits the allegations contained in the Complaint of Petitioner in Cause No. 08-0034 DB. And further admits that said conduct falls within the intendment of Section 332.321 and Section 332.361 RSMo, as applicable to each allegation contained in the Complaint and further admits that said conduct subjects her license to discipline under the provisions of Section 332.321 RSMo, as applicable to the allegations contained in the Complaint.

5. Based on the foregoing, the parties mutually agree and stipulate that the following terms shall constitute the disciplinary action taken by the Missouri Dental

Board pursuant to the provisions of Section 661.110 RSMo which terms are embodied in this document as part of this Joint Stipulation, to-wit:

Licensee's dental hygiene license shall be placed on PROBATION for a period of one (1) year ("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 this Joint Stipulation.:

## I. EDUCATIONAL REQUIREMENTS

A. Licensee shall take and pass the Board's designated jurisprudence examination within six (6) months of the start of the disciplinary period. 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 she 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 disciplinary period shall constitute a violation of this Order.

B. Licensee shall obtain twenty-four (24) additional hours of continuing education within the first nine (9) months of his disciplinary period. Proof of obtaining said additional hours of continuing education shall be provided to the Board within thirty (30) days of obtaining said continuing education. The additional continuing education required by this paragraph shall not count toward the continuing education required by law for the current or future reporting periods. Said continuing education required by this paragraph must be in class hours. No internet or correspondence courses will be accepted. All continuing education required by this paragraph must be provided by board approved sponsors.

## 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 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 Joint Stipulation by no later than January 1 and July 1 during each year of the disciplinary period.

- C. 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.
- D. 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.
- E. During the disciplinary period, Licensee shall timely renew her 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.
- F. If at any time during the disciplinary period, Licensee removes himself 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 § 332.321.6, RSMo.
- G. 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 Joint Stipulation.
- H. If Licensee fails to comply with the terms of this Joint Stipulation, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Joint Stipulation 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. The terms of discipline apply even if Licensee places her license on inactive status.

6. If the Missouri Dental Board, in its sole discretion, determines upon a proper showing, that Respondent has violated a term or condition of the suspension of her license, the terms of her probation as set forth herein, or has otherwise failed to comply with the provisions of Chapter 332 RSMo, which violation would be actionable in a proceeding before the Administrative Hearing Commission, or in a Circuit Court, the Missouri Dental Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this “Waiver of Hearing, Joint Stipulation and Consent Order”, in its selection of remedies concerning such violation.

7. It is specifically understood and agreed by the parties hereto that, in the event the Missouri Dental Board proceeds under paragraph six (6) above, of this Joint Stipulation, the Board shall not be bound by the type of, nor the duration of discipline specified in this document, but the Board shall have all the rights and powers granted to it by law with respect to disciplinary action to which Respondent may be subject.

8. It is specifically agreed an understood by the parties hereto that the dates of suspension contained in this document shall not commence until this document has been approved by the Administrative Hearing Commission.

WHEREFORE, based upon the foregoing, the parties mutually request the Administrative Hearing Commission to issue an order based upon the consent of all parties finding that the allegations in the Complaint heretofore filed in the above styled cause by Petitioner are true and that as a result thereof, Petitioner has the right to subject the license of Respondent to discipline pursuant to the provisions of Section 332.321 as set forth herein, and that this cause be closed.

Carrie Ann Guthrie R.D.H.  
Carrie Ann Guthrie, R.D.H.

7-7-08  
Date

MISSOURI DENTAL BOARD:

BY: Brian Barnett  
Brian Barnett  
Executive Director

7/8/08  
Date

NANCI R. WISDOM  
ATTORNEY AT LAW  
P.O. BOX 983  
107 W. FOURTH STREET  
SALEM, MISSOURI 65560  
(573) 729-8630  
FAX (573) 729-8640

BY: Nanci R. Wisdom  
Nanci R. Wisdom #39359  
Attorney for Petitioner

07-07-08  
Dated

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI DENTAL BOARD,

Petitioner,

vs.

CARRIE ANN GUTHRIE,

Respondent.

No. 08-0034 DB

**CONSENT ORDER**

Petitioner filed a complaint. Section 621.045, RSMo Supp. 2007, gives us jurisdiction.

On July 9, 2008, the parties filed a "Waiver of Hearing, Joint Stipulation and Request for Consent Order." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 332.321.2(3), (5) and (6), RSMo 2000. We make the following findings of fact and conclusions of law.

Findings of Fact

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000,<sup>1</sup> for the purpose of executing and enforcing the provisions of Chapter 332, RSMo, as amended.

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<sup>1</sup>Statutory references are to RSMo 2000 unless otherwise noted.

2. Respondent Carrie Ann Guthrie (“Guthrie”) was licensed by the Board as a dental hygienist, license number 2002005184. Guthrie’s Missouri license was at all times relevant herein current and active until November 30, 2006, when her license lapsed.

3. On Guthrie’s 2004-2006 renewal application, she swore and affirmed under penalty of law that she had completed thirty hours of board-approved continuing education during the period of December 1, 2002, through November 30, 2004.

4. The Board renewed Guthrie’s license based upon the before mentioned application.

5. On or about March 4, 2005, the Board conducted a random audit of dental hygienists to verify that their continuing education hours had been completed. Guthrie was one of the dental hygienists audited by the Board.

6. By a letter dated March 4, 2005, the Board contacted Guthrie, informing her that she had been selected for a random audit of her continuing education hours. She was to respond to this audit by April 11, 2005. The Board received no response from Guthrie.

7. In a second letter dated May 5, 2005, sent by the Board via certified mail, the Board again informed Guthrie of the audit and requested that she respond to the audit within ten days of receiving the letter. Guthrie signed for this letter on May 13, 2005.

8. On May 16, 2005, Guthrie telephoned the Board stating that she would be sending the documentation verifying that she had completed the mandatory continuing education hours.

9. On June 21, 2005, the Board records show that no documentation had been received by the Board from Guthrie.

10. The Board telephoned Guthrie on June 21, 2005. Guthrie stated in this conversation that she would remit the documentation to the Board immediately.

11. The Board has not, as of January 7, 2008, received documentation from Guthrie concerning her completed continuing education hours.

12. Guthrie had a duty to respond to the Board's audit by providing documentation of her completed continuing education hours to the Board in a timely manner upon the Board's request.

13. Guthrie had a duty to maintain documentation of her completed continuing education hours.

#### Conclusions of Law

Under § 332.261, RSMo Supp. 2006, and 20 CSR 2.110-2.240, every board-licensed dental hygienist must obtain thirty hours of continuing education in dental hygiene for each renewal period. Per board rules, a renewal period is a two-year period from December 1 of even-numbered years, and runs through November 30 of even-numbered years.

Under 20 CSR 2.110-2.240(2)(A), each licensed dental hygienist is required to maintain complete records of all approved continuing education credits earned. These records must verify completing the appropriate number of continuing education hours for each renewal period and must be kept a minimum of six (6) years.

Pursuant to 20 CSR 21 10-2.240(2)(A), the Board may conduct an audit of licensed dental hygienists to verify that the mandatory number of continuing education hours have been completed.

Pursuant to 20 CSR 21 10-2.240(2)(A), at the Board's request, a licensed dental hygienist must provide documentation verifying that the continuing education hours have been completed.

Guthrie's failure to maintain documentation and provide that documentation in a timely manner to the Board at the Board's request constitutes misconduct, fraud, misrepresentation,

dishonesty, unethical or unprofessional conduct, or any combination of these, in the performance of the functions, duties, or both, of a dental hygienist.

Guthrie's failure to maintain documentation of continuing education hours and provide that documentation in a timely manner to the Board at the Board's request, while continuing to engage in the practice of dental hygiene, constitutes the unauthorized practice of dental hygiene.

Guthrie was in violation of 20 CSR 2110-2.240.

Based upon the above mentioned facts, cause exists to discipline Guthrie's dental hygienist license pursuant to § 332.321.2(3), (5), and (6), 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:

\* \* \*

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

\* \* \*

(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[.]

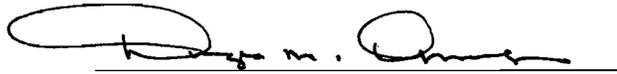
The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide;

that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo Supp. 2007.

No statute authorizes us to determine whether the agency has complied with the provisions of § 621.045.4. RSMo Supp. 2007. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

We certify the record to the licensing agency under § 621.110, RSMo Supp. 2007.

SO ORDERED on July 15, 2008.

A handwritten signature in black ink, appearing to read "Douglas M. Ommen", is written over a horizontal line.

DOUGLAS M. OMMEN  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

JAN 07 2008

ADMINISTRATIVE HEARING  
COMMISSION

MISSOURI DENTAL BOARD,  
3605 Missouri Boulevard  
P.O. Box 1367  
Jefferson City, Missouri 65102-1367

Petitioner,

v.

CARRIE ANN GUTHRIE,  
3657 Fosterburg Road  
Alton, Illinois 62002  
(618) 462-4926

Respondent.

No. \_\_\_\_\_

RECEIVED

JAN 09 '08 00 00

MISSOURI DENTAL BOARD

COMPLAINT

Petitioner, by and through the Attorney General of the State of Missouri, states the following for its cause of action against Respondent:

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000,<sup>1</sup> for the purpose of executing and enforcing the provisions of Chapter 332, RSMo, as amended.

2. Respondent Carrie Ann Guthrie ("Guthrie") was licensed by the Board as a dental hygienist, license number 2002005184. Guthrie's Missouri license was at all times relevant herein current and active until November 30, 2006, when her license lapsed.

<sup>1</sup> All references are to the 2000 Missouri Revised Statutes, unless otherwise stated.

3. Under § 332.261, RSMo (Cum. Supp. 2006), and 20 CSR 2.110-2.240, every Board licensed dental hygienist must obtain thirty (30) hours of continuing education in dental hygiene for each renewal period. Per Board rules, a renewal period is a two-year period from December 1 of even-numbered years, and runs through November 30 of even-numbered years.

4. Under 20 CSR 2.110-2.240(2)(A), each licensed dental hygienist is required to maintain complete records of all approved continuing education credits earned. These records must verify completing the appropriate number of continuing education hours for each renewal period, and must be kept a minimum of six (6) years.

5. Pursuant to 20 CSR 2110-2.240(2)(A), the Board may conduct an audit of licensed dental hygienists to verify that the mandatory number of continuing education hours have been completed.

6. Pursuant to 20 CSR 2110-2.240(2)(A), at the Board's request, a licensed dental hygienist must provide documentation verifying that the continuing education hours have been completed.

7. On Guthrie's 2004-2006 renewal application, she swore and affirmed under penalty of law that she had completed thirty (30) hours of Board-approved continuing education during the period of December 1, 2002 through November 30, 2004.

8. The Board renewed Guthrie's license based upon the before mentioned application.

9. On or about March 4, 2005, the Board conducted a random audit of dental hygienists to verify that their continuing education hours had been completed. Guthrie was one of the dental hygienists audited by the Board.

10. By a letter dated March 4, 2005, the Board contacted Guthrie, informing her that she had been selected for a random audit of her continuing education hours. She was to respond to this audit by April 11, 2005. The Board received no response from Guthrie.

11. In a second letter dated May 5, 2005 sent by the Board via certified mail, the Board again informed Guthrie of the audit and requested that she respond to the audit within ten days of receiving the letter. Guthrie signed for this letter on May 13, 2005.

12. On May 16, 2005, Guthrie telephoned the Board stating that she would be sending the documentation verifying that she had completed the mandatory continuing education hours.

13. On June 21, 2005, the Board records show that no documentation had been received by the Board from Guthrie.

14. The Board telephoned Guthrie on June 21, 2005. Guthrie stated in this conversation that she would remit the documentation to the Board immediately.

15. The Board has not, as of January 7, 2008, received documentation from Guthrie concerning her completed continuing education hours.

16. Guthrie had a duty to respond to the Board's audit by providing documentation of her completed continuing education hours to the Board in a timely manner upon the Board's request.

17. Guthrie had a duty to maintain documentation of her completed continuing education hours.

18. Guthrie's failure to maintain documentation and provide that documentation in a timely manner to the Board at the Board's request constitutes misconduct, fraud, misrepresentation, dishonesty, unethical or unprofessional conduct, or any combination of these, in the performance of the functions, duties, or both, of a dental hygienist.

19. Guthrie's failure to maintain documentation of continuing education hours and provide that documentation in a timely manner to the Board at the Board's request, while continuing to engage in the practice of dental hygiene, constitutes the unauthorized practice of dental hygiene.

20. Guthrie was in violation of 20 CSR 2110-2.240, which states in pertinent part:

(2) In order to renew a license...each dental hygienist shall submit satisfactory evidence of completion of thirty (30) hours of continuing education during the two (2)-year period immediately preceding the renewal period[.]

(A) For the licensure renewal form due November 30, 2004, and each subsequent renewal period after that, the licensee shall report the number of hours obtained for the two (2)-year period just completed and shall attest to those hours by signing the form. Each licensee shall

retain records documenting his/her completion of the required hours of continuing education for a minimum of six (6) years after the reporting period in which the continuing education was completed. The records shall document licensee's attendance at the continuing education course including, but not limited to, retaining the titles of the courses taken, dates, locations, receipts, course sponsors, agendas and number of hours earned. The Board may conduct an audit of licensees to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.

\* \* \*

- (5) Violation of any provision of this rule shall be deemed by the board to constitute misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional, or any combination of these, in the performance of the functions, duties, or both, of a dentist or a dental hygienist, depending on the licensee's conduct. In addition, a licensee who fails to complete and report in a timely fashion the required hours of continuing education and engages in the practice of dentistry or dental hygiene shall be deemed to have engaged in the unauthorized practice of dentistry or dental hygiene.

21. Based upon the above mentioned facts, cause exists to discipline Guthrie's dental hygienist license pursuant to § 332.321.2(3), (5), and (6), 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:

\* \* \*

- (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

\* \* \*

- (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[.]

WHEREFORE, the Board respectfully requests that this Administrative Hearing Commission conduct a hearing, if necessary, in this case pursuant to §§ 621.015 to 621.205, RSMo, and thereafter issue findings of fact and conclusions of law that the Board may take disciplinary action against the license of Respondent Carrie Ann Guthrie for her violations of Chapter 332, RSMo.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General



SHARIE L. HAHN  
Assistant Attorney General  
Missouri Bar No. 59748

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**ATTORNEYS FOR MISSOURI  
DENTAL BOARD**