

**BEFORE THE MISSOURI DENTAL BOARD**

MISSOURI DENTAL BOARD	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2010-005075
	)	2010-005342
	)	
SAMUEL L. HEDGEPEETH, DDS	)	
	)	
Respondent.	)	

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

At its scheduled meeting on April 15, 2011, and pursuant to notice described in the Findings of Fact, the Missouri Dental Board (Board) took up the probation violation complaint alleging that Samuel L. Hedgepeth, DDS (Licensee) has failed to comply with the terms of his probation.

The Board appeared at the hearing through Attorney Tina Crow Halcomb, Attorney at Law. Licensee was present at the hearing but was not represented by counsel. Division of Professional Registration Senior Legal Counsel Earl Kraus 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. 2009, 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. Licensee Samuel L. Hedgepeth holds dentist license number 2009006604 issued by the Board. Licensee's license was current and active at all relevant times. Licensee's license is currently on probation.
3. On or about March 16, 2009, the Board issued Licensee an Order for Probated License (2009 Order), placing Licensee's dental license, license number 2009006604 on probation for three years as a result of Licensee's failure to comply with the guidelines of the

Centers for Disease Control (CDC) and Occupational Safety and Health Administration (OSHA) to prevent the transmission of infectious diseases in violation of §332.321.2(5) and (13), RSMo.

4. The 2009 Order allowed Licensee to practice as a dentist in the state of Missouri provided he adhered to all of the terms and conditions contained in the 2009 Order.

5. Page 6, General Requirements (of Probation), paragraph D of the 2009 Order, required Licensee to comply with all provisions of the Dental Practice Act, Chapter 332, all applicable federal and state drug laws, rules, and regulations, and all federal and state criminal laws.

6. Page 6, General Requirements, paragraph C of the 2009 Order required Licensee to keep the Board apprised of his current home and work addresses and telephone numbers and to inform the Board within 10 days of any such change in address or telephone number.

7. Page 5, Requirements regarding Continuing Education, paragraphs A, B, C and D of the 2009 Order required Licensee to complete eight in-classroom education hours in OSHA infection control and aseptic technique, complete all continuing education hours in the first twelve months of the disciplinary period, complete an ethics course approved by the Board, with the stipulation that all these hours are in addition to those hours required by law for renewal.

8. Page 6, General Requirements, Paragraph B required Licensee to provide the Board with reports stating he was in compliance with the terms of the 2009 Order on January 1 and July 1 of each year.

9. On August 30, 2010, the Board sent correspondence to Licensee at the address on file with the Board in Shawnee Mission, Kansas. The United States Post Office returned the letter to the Board on or about September 27, 2010 because the forwarding time had expired. The return stamp from the Post Office stated an address in Belton, Missouri. Licensee never provided the Board with a change of address to the address in Belton, Missouri.

10. A Board inspector travelled to the forwarding address in Belton, Missouri. The Board's investigator learned that Licensee was working in Licking, Missouri. Licensee never

provided the Board with a change of address to an address in Licking, Missouri. Licensee admitted at the hearing that he failed to report his address changes to the Board.

11. Licensee never provided the Board with a July 2010 compliance report. Licensee admitted at the hearing that he has provided no compliance reports to the Board.

12. Licensee never provided the Board with proof of attendance and completion of the required eight hours of in-classroom continuing education in OSHA infection control and aseptic techniques by March 16, 2010. Licensee admitted at the hearing that he has not taken any courses regarding infection control and aseptic techniques as required in the 2009 Order.

13. Licensee did not timely provide the Board with proof of attendance and completion of the required continuing education course in Ethics by March 16, 2010. Licensee admitted at the hearing that he did not know when he provided the Board with proof of completion of an ethics course as required in the 2009 Order.

14. A Board investigator travelled to Licensee's last known place of employment on file with the Board. The employer informed the investigator that they had terminated Licensee in November 2009 for failure to comply with required infection control guidelines, in particular, failure to wear a mask.

15. The Board investigator contacted Licensee in Licking, Missouri. Licensee worked in Licking as a dentist as an independent contractor for a staffing company for which Licensee had been employed for almost a year.

16. During an infection control inspection conducted by a Board investigator at the Licking location, the investigator observed Licensee treating a patient without wearing a mask or covering his forearms in violation of CDC guidelines.

17. The Board investigator asked Licensee to demonstrate his procedures using gloves. Licensee's demonstration omitted washing of his hands either before or after wearing gloves or between patients. Licensee confirmed to the investigator that he does not wash his hands before or after placing on surgical gloves.

18. While engaged in the practice of dentistry in Licking, Licensee failed to display a current, valid license required by § 332.181.3, RSMo. Licensee admitted at the hearing that he failed to display his license.

19. On or about March 18, 2011 the Board sent Licensee a letter notifying him of the probation violation complaint filed against his Licensee. The Board sent the letter, as well as a copy of the probation violation complaint and a notice of hearing to Licensee at 211 S. Main Street, Licking, Missouri. The Board sent the letter by certified mail. On March 23, 2011, a Board investigator called Ozark Family Dentistry, the practice located at 211 S. Main Street where Licensee had last been working. The office's administrator stated that the office received the correspondence from the Board and signed for the letter. The administrator stated she personally handed the Board's correspondence to Licensee and witnessed him reading the information.

#### **Conclusions of Law**

20. The Board has jurisdiction in this proceeding, pursuant to the 2009 Order to determine whether Licensee has violated the terms and conditions of the 2009 Order.

21. The Board also has jurisdiction pursuant to § 324.042, RSMo to determine whether Licensee has violated the terms and conditions of the 2009 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.

22. Licensee's failure to provide the Board an updated home and work address gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

23. Licensee's failure to provide the Board with his July 2010 compliance report gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

24. Licensee's failure to provide the Board proof of attendance and completion of eight hours of in-classroom continuing education in OSHA infection control and aseptic techniques by March 16, 2010 gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

25. Licensee's failure to provide the Board proof of attendance and completion of a Board-approved continuing education course in the area of ethics by March 16, 2010 gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

26. Licensee's treating patients in violation of CDC guidelines, specifically not wearing a mask or covering his forearms gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

27. Licensee's failure to maintain infection control procedures, specifically, washing his hands between patients and before or after putting on surgical gloves gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

28. Licensee's failure to display a current and valid license while engaged in the practice of dentistry gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the 2009 Order and § 324.042, RSMo.

29. The 2009 Order and § 324.042 allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the 2009 Order.

30. The Board has determined that this Order is necessary to ensure the protection of the public.

#### **Decision and Order**

It is the decision of the Board that Licensee has violated the terms of the 2009 Order, and that his license is, therefore, subject to further disciplinary action.

The Board orders that the dental license of Licensee, license number 2009006604, shall be **REVOKED**. Licensee shall be precluded from re-applying for a Missouri dental license for **ONE YEAR** from the date of this Order.

Licensee shall return all indicia of licensure to the Board immediately.

This Order will be maintained as an open record of the Board as provided in Chapters 332, 610, 324, RSMo.

SO ORDERED this 22<sup>nd</sup> day of April 2011.

**MISSOURI DENTAL BOARD**

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

**Brian Barnett,  
Executive Director**

**ORDER OF THE MISSOURI DENTAL BOARD**  
**REGARDING ISSUANCE OF A PROBATED LICENSE TO**  
**SAMUEL L. HEDGEPEETH, D.D.S.**

The Missouri Dental Board (“Board”) hereby issues its ORDER granting a PROBATED license to Samuel L. Hedgepeth, D.D.S. (“Hedgepeth”) pursuant to the provisions of §324.038, RSMo 2000. As set forth in §324.038.2, RSMo, Hedgepeth may submit a written request for a hearing to the Administrative Hearing Commission seeking review of the Board’s decision issuing a probated license to Hedgepeth. Such written request must be submitted to the Administrative Hearing Commission within thirty (30) days of the delivery or mailing of this Order by certified mail.

The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman Building Rm. 604, Jefferson City, MO 65102-1557. If no written request for review is received by the Administrative Hearing Commission within the thirty (30) day period, the right to seek review of the Board’s decision shall be considered waived.

Based upon the foregoing, the Board hereby states:

1. The Board is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 332, RSMo.
2. On or about September 22, 2008, Hedgepeth submitted the necessary fees and application seeking a license to practice dentistry in the state of Missouri (“Application”).
3. Licensee is an employer as that term has been defined by the United States Department of Labor Occupational Safety and Health Administration (“OSHA”).
4. The United States Department of Health and Human Services, Centers for Disease Control and Prevention (“CDC”) publishes guidelines relating to preventing the transmission of infectious agents in healthcare settings.

5. Federal law and Missouri law requires all healthcare providers, including dentists, adhere to CDC guidelines relating to preventing the transmission of infectious agents in healthcare settings.

6. The CDC guidelines are based on the principle that all blood, body fluids, secretions, and excretions may contain transmissible infectious agents.

7. The CDC guidelines include infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which healthcare is delivered, including dental offices.

8. CDC guideline IV.H.1 requires the use of aseptic technique to avoid contamination of sterile injection equipment.

9. CDC guideline IV.B requires the use of personal protective equipment, including gloves, when the nature of the anticipated patient interaction indicates that contact with blood or other potentially contaminated infectious materials could occur. Guideline IV.B.2.b.i requires the healthcare provider to wear disposable medical examination gloves for providing direct patient care, including contact with medical equipment.

10. Licensee is also required by both federal law and Missouri law to comply with OSHA regulations.

11. Pursuant to OSHA regulation 29 CFR 1910.1030(d)(1) universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. All body fluids shall be considered potentially infectious materials.

12. Pursuant to OSHA regulation 29 CFR 1910.1030(d)(3)(ii), Licensee shall ensure that his employees use appropriate personal protective equipment, including gloves, when delivering healthcare to patients.

13. Melissa Flowers presented at Licensee's office for removal of three teeth.
14. In preparing the patient for the tooth removal procedure, Licensee in violation of CDC guidelines IV.H.1 and IV.B, failed to practice aseptic technique in that he did not wear gloves.
15. Terri Borrow and her 11 year old daughter ("the daughter") presented at Licensee's office for dental procedures. During both Ms. Burrow's procedure and the daughter's procedure, Licensee failed to use appropriate personal protective equipment, including gloves, when delivering healthcare to the patients.
16. Licensee's conduct constitutes a violation of section 332.321.2(5) and (13) in that he:
  - A. violated OSHA regulations relating to bloodborne pathogens and infection prevention practices;
  - B. violated OSHA regulations relating to requirements that require healthcare provider wear personal protective equipment;
  - C. violated CDC guidelines relating to infection prevention practices;
  - D. violated CDC guidelines relating to aseptic technique;
  - E. violated CDC guidelines relating to personal protective equipment;
  - F. failed to practice aseptic technique in his office;
  - G. failed to practice techniques to prevent the transmission of infectious agents in his office;
17. Licensee failed to use that degree of skill and learning that a dentist ordinarily uses under the same or similar circumstances.
18. At the time of the events alleged herein, Licensee had formed a relationship of professional trust and confidence with the patient in that the patient relied upon the professional

expertise of Licensee to ensure that Licensee practiced techniques to prevent the transmission of infectious agents in his office.

19. Licensee's conduct as alleged herein violated the patient's professional trust and confidence.

20. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5) 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;

(13) Violation of any professional trust or confidence;

....

21. Pursuant to section 324.038.I, RSMo, whenever a board within or assigned to the division of professional registration, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

22. Pursuant to § 332.321, RSMo the Board may refuse to issue any certificate of registration or authority, permit or license required pursuant to Chapter 332 for one or any combination of causes stated in subsection 2 of this section.

23. The Board hereby issues this ORDER in lieu of denial of Hedgepeth's request for a license to practice dentistry in Missouri.

### TERMS AND CONDITIONS

Licensee shall be issued a license to practice dentistry in the State of Missouri subject to **THREE (3) YEARS PROBATION** ("disciplinary period"). Licensee shall be entitled to engage in the practice of dentistry, provided he adheres to the terms of this Order. The terms of the disciplinary period shall be:

#### **I. REQUIREMENTS REGARDING CONTINUING EDUCATION**

- A. Licensee shall complete eight (8) in-classroom continuing education hours in OSHA<sup>1</sup> infection control and aseptic technique.
- B. All continuing education hours shall be completed in the first twelve (12) months of the disciplinary period.
- C. These hours are in addition to those hours required by law for renewal and must be in-classroom/out of office hours. NO correspondence or internet courses will be accepted by the Board. These additional continuing education hours cannot carry over into the next reporting period. Licensee shall provide the Board with proof of attendance of the continuing education hours no later than thirty (30) days after attending the course. Failure to attend the required continuing education programs and/or submit the required documentation to the Board will be a violation of the terms of discipline.

#### **Ethics Course**

- D. Licensee shall take the continuing education course in ethics sponsored by the University of Missouri-Kansas City or its equivalent. This continuing education shall

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<sup>1</sup> OSHA stands for the United States Department of Labor Occupational Safety and Health Administration.

be in addition to the continuing education required by law for licensure renewal by the Board. This course must be taken within the first twelve (12) months of Licensee's period of probation. Licensee shall provide the Board with proof of attendance from the sponsor of the program no later than thirty (30) days after attending the course. Failure to obtain the required additional continuing education hours and/or submit the required documentation to the Board will result in a violation of the terms of discipline.

## **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 Settlement Agreement 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 his 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.
- 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 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 § 332.321.9, RSMo.
- G. 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 this Order.
- H. 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.

- I. 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 his license to lapse.
- B. The terms of discipline apply even if Licensee places his license on inactive status.
- C. 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.

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2. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 324, 332, 610, and 620, RSMo.

3. Upon the expiration of said discipline period, Licensee's dental license in Missouri shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that the Licensee has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing before the Board, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee.

4. No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

5. If the Board determines that Licensee has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing

Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

SO ORDERED EFFECTIVE THIS 16<sup>th</sup> DAY OF MARCH 2009.

MISSOURI DENTAL BOARD

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

Brian Barnett  
Executive Director