

Before the
 Administrative Hearing Commission
 State of Missouri



MISSOURI DENTAL BOARD,

Petitioner,

vs.

SANDRA K. HIGHSMITH, D.M.D.,

Respondent.

No. 06-1082 DB

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 2006, gives us jurisdiction. On December 7, 2007, Petitioner filed a Request for Leave to File Second Amended Complaint. We grant the motion and deem the Second Amended Complaint filed on December 7, 2007. On the same date, Petitioner filed a dismissal with prejudice of Counts III, IV, V, VI and VII of the Second Amended Complaint. Therefore, those charges are dismissed with prejudice.

On December 7, 2007, 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, RSMo 2000, as alleged in Counts I and II of the Second Amended Complaint. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

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 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of § 621.045.3. RSMo Supp. 2006. 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.

SO ORDERED on December 28, 2007.


 NIMROD T. CHAPEL, JR.
 Commissioner

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

MISSOURI DENTAL BOARD,)
)
 Petitioner,)
)
v.)
)
SANDRA K. HIGHSMITH, DMD,)
)
 Respondent.)

Case No. 06-1082DB

FILED
JAN 08 2008
ADMINISTRATIVE HEARING
COMMISSION

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

COMES NOW Petitioner, Missouri Dental Board, (hereinafter "Board") by and through its attorney, Nanci R. Wisdom, and Respondent, Sandra K. Highsmith, D.M.D., (hereinafter "Licensee") in person and with counsel, Audrey Hanson McIntosh, P.C., and pursuant to the provisions of 4 C.S.R. 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 consistent with the content of this document. In support of their motion, the board and Licensee, hereby stipulate and agree to the following:

1. Licensee, acknowledges that she is familiar with the various rights and privileges afforded 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; the right to appeal a decision in favor of the 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 Licensee, 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. The Board 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. Licensee is and at all times relevant to this cause was, the holder of a current and valid license to practice dentistry and certificate of registration issued by The Board.

4. That the Second Amended Complaint of the Board in the above-styled cause is attached hereto as Exhibit A and made a part hereof by reference.

5. Licensee admits the allegations contained in Count I and II of the Second Amended Complaint of the Board in cause number 06-1082 DB and further admits that

said conduct falls within the intendment of Section 332.321 RSMo as applicable to each allegations contained in Counts I and II of the Second Amended 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 Counts I and II of the Second Amended Complaint. Licensee makes no admission as to any of the other counts in the Second Amended Complaint.

6. Based on the foregoing, the parties mutually agree that this document will be filed with the Administrative Hearing Commission and that the parties request that the Administrative Hearing Commission issue its order finding cause for discipline of the license of Licensee, pursuant to the provisions of Section 332.321 RSMo as alleged in Counts I and II of the Second Amended Complaint heretofore filed in the above-styled cause and further referring this matter to the Missouri Dental Board for discipline.

JOINT AGREED DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under authority of §621.045.3, RSMo Supp.

1. Licensee's license to practice dentistry shall be and the same is hereby censured.

WHEREFORE, based upon the foregoing, the parties mutually request that the Administrative Hearing Commission issue a Consent Order embodying the terms and

conditions of this "Waiver of Hearing, Joint Stipulation, and Request for Consent Order"
in the above-styled cause, and that cause number 06-1082 DB be closed.

Sandra Highsmith, D.M.D.
SANDRA HIGHSMITH, D.M.D.

12/12/07

Date

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Attorney for Petitioner

MISSOURI DENTAL BOARD
BY:

Brian Barnett
BRIAN BARNETT,
EXECUTIVE DIRECTOR

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

MISSOURI DENTAL BOARD,)
P.O. BOX 1357)
3605 Missouri Blvd.)
Jefferson City, Missouri 65102)
Petitioner,)
)

v.) **CASE No: 06-1082DB**
)

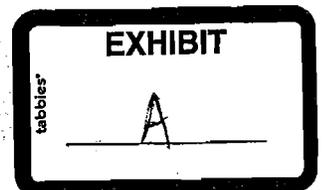
SANDRA K. HIGHSMITH, D.M.D.)
777 S. New Ballas Rd., Suite 323W)
Town & Country, MO 63141-8719)
Respondent.)

SECOND AMENDED COMPLAINT

ALLEGATIONS COMMON TO ALL COUNTS

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney Nanci R. Wisdom and for its Second Amended Complaint in the above-referenced matter states and alleges as follows:

1. The Petitioner Missouri Dental Board is an agency of the State of Missouri, created and established pursuant to Missouri Revised Statute sections 332.021 to 332.061 for the purpose of executing and enforcing the provisions of Chapter 332 Dentistry.
2. Respondent Sandra K. Highsmith, D.M.D. is and at all times herein relevant, has been a licensed and certified dentist in the State of Missouri.
3. This Commission has jurisdiction to hear this Complaint pursuant to the provision in the Missouri Revised Statute section 621.045.



COUNT I

4. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

5. On or about April 21, 2005, Respondent treated patient K.D.

6. On or about April 21, 2005, Respondent performed an oral examination, x-rays and cleaning that included debridement and use of a periodontal rinse on patient K.D. The periodontal rinse was a prescription rinse that was then supposed to be taken home and used daily, with a follow-up exam to rule out periodontal disease. Dr. Highsmith did not obtain a written consent to the debridement and did not explain fully to the patient the charges that would be incurred because the treatment was more than a routine examination and as a result of the prescription rinse.

7. Patient K.D. left the practice of Respondent without the bottle of periodontal rinse.

8. Patient K.D. was presented a bill for the debridement and periodontal rinse by Respondent.

9. Patient K.D. refused to pay for the bottle of periodontal rinse.

10. Respondent billed the patient for the bottle of periodontal rinse between April 21, 2005 and July, 2005.

11. Respondent should have had a better procedure in place to inform patient K.D. about the charges that would be incurred because the treatment was more than a routine examination and involved a prescription rinse and should have obtained a written

consent to the debridement. This was a violation of the patient's trust or confidence in Respondent.

12. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

13. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

14. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count I or, in the alternative, this matter be set for an evidentiary hearing.

COUNT II

15. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

16. Respondent first treated patient S.D. on or about February 1, 1999.

17. Respondent treated periodontal disease on tooth #30 among other work.

18. Respondent noted a moderate generalized hemorrhage throughout the mouth of patient S.D. on February 16, 1999.

19. Respondent placed a two surface "DO Surefil" on tooth #30 on or about May 26, 1999.

20. On or about June 3, 1999, Respondent performed a periapical x-ray on tooth #30 and noted a possible fracture. She recommended that this be watched and rechecked at the next visit.

21. On January 30, 2000, Respondent performed a periapical x-ray on tooth #30 and noted a radicular abscess.

22. After an endodontist performed a root canal on tooth #30, Respondent performed a crown prep and build-up on tooth #30 on February 7 and 17, 2000.

23. On December 20, 2001, Respondent replaced crown on tooth #30.

24. Respondent replaced crown on tooth #30 on February 28, 2002.

25. After a periodontist recommended crown lengthening, Respondent treated patient S.D. for another tooth on March 8, 2003.

26. The patient, K.D., complained that her phone calls to Respondent to discuss her bill were never returned and that she had called to talk to Respondent and only spoke to the receptionist who could not help her regarding patients K.D.'s concerns over her billing on tooth #30. Therefore, patient K.D. believed Respondent refused to discuss the billing.

27. Respondent failed to have an office policy in place for her receptionist during this time about returning phone calls regarding billing issues of patients. It was a violation of professional trust and confidence for Respondent not to address patient

K.D.'s concerns about billing and answer all questions regarding her treatment on tooth #30.

28. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

29. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

30. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count II or, in the alternative, this matter be set for an evidentiary hearing.

COUNT III

31. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

32. On or about April 9, 2002, Respondent Sandra K. Highsmith, D.M.D. treated patient P.K. performing filling and x-rays.

33. During treatment of patient P.K., Respondent Sandra K. Highsmith, D.M.D. called patient P.K. a “big baby”, and told patient P.K. she was immature and needed to grow up.

34. Also during the lengthy treatment of patient P.K., Respondent Sandra K. Highsmith, D.M.D. screamed at patient P.K. telling patient P.K. that Respondent Sandra K. Highsmith, D.M.D. had not told patient P.K. to close her mouth.

35. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

36. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

37. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count IV or, in the alternative, this matter be set for an evidentiary hearing.

COUNT IV

38. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

39. On January 7, 199, Respondent Sandra K. Highsmith, D.M.D. placed a crown on tooth #30 of patient S.W.

40. On August 8, 2000, Respondent Sandra K. Highsmith, D.M.D. placed a filling on tooth #31 of patient S.W.

41. Both teeth suffered from open margins making patient S.W. subject to infection and requiring a subsequent treating dentist to redo the treatment to teeth #30 and #31.

42. Respondent Sandra K. Highsmith, D.M.D. refused to refund money to patient S.W.

43. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

44. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

45. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count V or, in the alternative, this matter be set for an evidentiary hearing.

COUNT V

46. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

47. On or about March 12, 2001, Respondent Sandra K. Highsmith, D.M.D. performed three crowns on patient W.E.

48. Patient W.E. remained in pain after that treatment.

49. Respondent Sandra K. Highsmith, D.M.D. referred patient W.E. to an endodontist who performed a root canal and sent patient W.E. back to Respondent Sandra K. Highsmith, D.M.D. to replace the crown.

50. Patient W.E. remained in pain after the crown was replaced and Respondent Sandra K. Highsmith, D.M.D. refused to treat patient W.E.'s pain.

51. During a visit with Respondent Sandra K. Highsmith, D.M.D. patient W.E. indicated she was feeling pain as Respondent Sandra K. Highsmith, D.M.D. was drilling a tooth.

52. Patient W.E. requested additional Novocain.

53. Respondent Sandra K. Highsmith, D.M.D. provided the Novocain and immediately began to drill without allowing time for the Novocain to take effect causing additional pain to patient W.E.

54. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

55. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

56. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count VI or, in the alternative, this matter be set for an evidentiary hearing.

COUNT VI

57. Petitioner Missouri Dental Board incorporates by reference and realleges as though set forth fully herein the statements and allegations contained in Petitioner's Allegations Common to All Counts.

58. On or about July 12, 2001, Respondent Sandra K. Highsmith, D.M.D. treated patient Y.B.

59. Respondent Sandra K. Highsmith, D.M.D. recommended patient Y.B. purchase a night guard.

60. Patient Y.B. expressed the desire to speak with her husband before purchasing the night guard.

61. After the appointment on July 12, 2001, Respondent Sandra K. Highsmith, D.M.D. refused to continue to treat patient Y.B. or any of her family members because Y.B. did not purchase a night guard on July 12, 2001.

62. Missouri Revised Statute section 332.321.2 provides that the Missouri Dental Board file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

... (13) Violation of any professional trust or confidence;

63. That as a result of the foregoing, Respondent Sandra K. Highsmith, D.M.D. has failed to comply with Missouri Revised Statute section 332.321.2.

64. That Missouri Revised Statute section 332.321.3 gives Petitioner Missouri Dental Board the authority to take disciplinary action against the dentist licensed to practice dentistry in the State of Missouri for violations enumerated in Missouri Revised Statute section 332.321.2.

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count VII or, in the alternative, this matter be set for an evidentiary hearing.

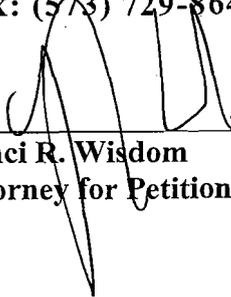
COUNT VII

65. That the foregoing Count I through VI separately and cumulatively demonstrates that the actions of Respondent Sandra K. Highsmith, D.M.D. constitute a

violation of patient trust and confidence in the administration of dental care contrary to Section 332.321.2 (13).

WHEREFORE, based on the foregoing, Petitioner prays this Commission to enter an order finding that it has cause to take disciplinary action against Respondent Sandra K. Highsmith, D.M.D. in Count VII, or, in the alternative, this matter be set for an evidentiary hearing.

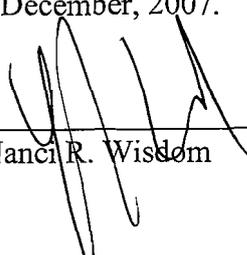
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By: 

Nanci R. Wisdom #39359
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent by regular U.S. mail to Audrey Hanson McIntosh, P.O. Box 1497, Jefferson City, Mo 65102 and by facsimile (573) 636-2564, on this 7 day of December, 2007.



Nanci R. Wisdom