

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAY 04 2007

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI DENTAL BOARD,)
P.O. Box 1367)
3605 Missouri Blvd.)
Jefferson City, Missouri 65102)
Petitioner,)

v.) Cause No. 04-1465 DB

JEFFERY W. HOLLOWAY, D.M.D.)
1711 West Ninth Street)
Sedalia, Missouri 65301)
Respondent.)

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, Jeffery W. Holloway, D.M.D., (hereinafter "Licensee") in person and by and through his attorney, Johnny Richardson, 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 he is familiar with the various rights and privileges afforded by operation of law, including the right to a hearing on the charges against him; the right to appear and be represented by counsel; the right to have all

charges against him proved 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 a fair and impartial Administrative Hearing Commissioner concerning the charges pending against him; the right to appeal a decision in favor of the Board, by the Administrative Hearing Commission on the basis if said decision is not supported by substantial and competent evidence. Being familiar with these and other attendant rights provided Licensee, by operation of law, he 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 First Amended Complaint of the Board in the above-styled cause is attached hereto as Exhibit A and made a part hereof by reference.

5. For the purpose of settling this dispute, Licensee admits the allegations contained in the First Amended Complaint of the Board in cause number 04-1465 DB and further admits that said conduct falls within the intendment of Section 332.321

RSMo as applicable to each allegations contained in the First Amended Complaint and further admits that said conduct subjects his license to discipline under the provisions of Section 332.321 RSMo as applicable to the allegations contained in the First Amended Complaint. The admissions of fact and law are made only for the purpose of settling this matter, and may not be used against Licensee in any other proceeding.

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 the First 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.

7. Licensee shall have his license suspended for three (3) years. The imposition of the suspension shall be stayed and Licensee shall be on probation for five (5) years. During Licensee's probation, Licensee shall be allowed to practice dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of this Joint Agreed Disciplinary Order.

8. During the period of probation, Licensee shall keep the Missouri Dental Board apprised at all times in writing of his current home and work addresses and

telephone numbers at each place of employment. Licensee shall notify the Board within ten (10) days of any change in this information.

9. During the period of probation, Licensee shall comply with all provisions of Chapter 332, RSMo, all rules and regulations of the Missouri Dental Board, and all federal and state laws, rules and regulations. "State" here includes the state of Missouri and all other states and territories of the United States.

10. During the period of probation, Licensee shall appear before the Board or one of its representatives for a personal interview upon the Board's request.

11. Pursuant to section 332.321.6, RSMo, if at any time during the period of probation Licensee removes himself from the state of Missouri, ceases to be currently licensed under the provisions of Chapter 332, or fails to keep the Missouri Dental Board advised of his current place of business and residence, the time of his absence, or unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed.

12. During the period of probation, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this agreement.

13. During the period of probation, Licensee shall notify, within 15 days of the effective date of this Joint Agreed Disciplinary 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.

14. Licensee shall take the continuing education course in ethics sponsored by the University of Missouri-Kansas City or its equivalent offered by a Board approved sponsor. This continuing education shall 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 the effective date of this Joint Agreed Disciplinary Order. 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.

15. Within one hundred and eighty (180) days of the beginning of the probation period, Licensee shall take and successfully complete the jurisprudence exam for dentists in the state of Missouri.

16. Licensee shall maintain a contract with the Well Being Program during his probation and follow all recommendations of the Well Being Committee.

17. If treatment for chemical dependency is recommended through the Well Being Program, Licensee shall execute a medical release or other appropriate release that shall remain in effect for the entire period covered by this Joint Agreed Disciplinary Order authorizing the Board to obtain records of Licensee's treatment. Licensee shall not take any action to cancel this release. Licensee shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.

18. If Licensee receives treatment for chemical dependency, then Licensee shall cause a letter of ongoing treatment evaluation for chemical dependency from the treating professional to be submitted to the Board by January 1, April 1, July 1 and October 1 during each year of the disciplinary period beginning the effective date of this Joint Agreed Disciplinary Order.

- (a) The letter shall include an evaluation of Licensee's current progress and status related to the treatment recommendations/plan and Licensee's current prognosis and treatment recommendations/plan.
- (b) The letter shall be sent by the treating professional and/or the Committee addressed to: Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102.

19. If Licensee receives treatment for chemical dependency and, such treatment of Licensee for chemical dependency is successfully completed at any time during the period covered by this Joint Agreed Disciplinary Order, Licensee shall cause the treating professional and/or the Committee to submit a letter of final evaluation/summary that includes a statement that Licensee has successfully completed treatment and indicates whether Licensee should continue a 12-step program. If continuance in a 12-step program is recommended, Licensee shall comply with terms of documentation as outlined in paragraph 20 herein.

20. If attendance is recommended by the Well Being Program or any of Licensee's treatment providers, then Licensee shall submit evidence of weekly (or recommended) attendance at Alcoholics Anonymous, Narcotics Anonymous, or other support groups meetings to the Board by January 1, April 1, July 1 and October 1 during each year of the disciplinary period beginning the effective date of this Joint Agreed

Disciplinary Order. The documentation shall include the date, time, and place of the meeting and shall bear a signature or abbreviated signature of another person verifying attendance.

21. If psychiatric treatment is recommended through the Well Being Program, then Licensee shall continue treatment with a licensed psychiatrist approved by the Well-Being Program. The treating professional shall submit to the Board evidence that he or she is licensed and qualified to provide mental health treatment. Licensee shall show this Joint Agreed Disciplinary Order to the treating professional.

22. If psychiatric treatment is recommended through the Well Being Program, then Licensee shall execute a medical release or other appropriate release that shall remain in effect for the entire period covered by this Joint Agreed Disciplinary Order authorizing the Board to obtain records of Licensee's treatment. Licensee shall not take any action to cancel this release. Licensee shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.

23. If psychiatric treatment is recommended through the Well Being Program, then Licensee shall cause a letter of ongoing treatment evaluation from the treating psychiatrist to be submitted to the Board by January 1, April 1, July 1 and October 1 during each year of the disciplinary period beginning the effective date of this Joint Agreed Disciplinary Order.

- (a) The letter shall include an evaluation of Licensee's current progress and status related to the treatment recommendations/plan and Licensee's current prognosis and treatment recommendations/plan.

(b) The letter shall be sent by the treating professional and/or the Committee addressed to: Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102.

24. If Licensee receives psychiatric treatment and, such psychiatric treatment of Licensee is successfully completed at any time during the period covered by this Joint Agreed Disciplinary Order, then Licensee shall cause the treating professional and/or the Committee to submit a letter of final evaluation/summary that includes a statement that Licensee has successfully completed treatment and indicates whether Licensee should continue a 12-step program. If continuance in a 12-step program is recommended, then Licensee shall comply with terms of documentation as outlined in paragraph 20 herein.

25. Within ninety (90) days of the effective date of this Joint Agreed Disciplinary Order, Licensee shall undergo a neuropsychological evaluation at Licensee's cost and follow all recommendations of the evaluator. Within fifteen (15) days of the date of the evaluation, Licensee shall cause a report of the evaluation to be sent to the Board.

26. If neuropsychological treatment is recommended through the Well Being Program, then Licensee shall execute a medical release or other appropriate release that shall remain in effect for the entire period covered by this Joint Agreement Disciplinary Order authorizing the Board to obtain records of Licensee's treatment. Licensee shall not take any action to cancel this release. Licensee shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.

27. If Licensee receives neuropsychological treatment, then Licensee shall cause a letter of ongoing treatment evaluation from the treating neuropsychological professional to be submitted to the Board by January 1, April 1, July 1 and October 1

during each year of the disciplinary period beginning the effective date of this Joint Agreed Disciplinary Order.

- (a) The letter shall include an evaluation of Licensee's current progress and status related to the treatment recommendations/plan and Licensee's current prognosis and treatment recommendations/plan.
- (b) The letter shall be sent by the treating professional and/or the Committee addressed to: Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102.

28. If Licensee receives neuropsychological treatment, and such neuropsychological treatment of Licensee is successfully completed at any time during the period covered by this Joint Agreed Disciplinary Order, then Licensee shall cause the treating professional and/or the Committee to submit a letter of final evaluation/summary that includes a statement that Licensee has successfully completed treatment and indicates whether Licensee should continue a 12-step program. If continuance in a 12-step program is recommended, then Licensee shall comply with terms of documentation as outlined in paragraph 20 herein.

29. During the period of probation, Licensee shall abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a testing sample shall constitute a violation of Licensee's discipline.

30. During the period of probation, Licensee shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless that use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Licensee has a bona fide relationship as a patient. Licensee shall forward to the Board written documentation of any such

prescription within ten (10) days of issuance of the prescription specifying the medication prescribed, dosage prescribed and the condition for which the substance was prescribed. Upon request, Licensee shall execute a medical release authorizing the Board to access all records pertaining to Licensee's condition, treatment and prescription maintained by the health care professional that prescribed the controlled substance. The presence of any controlled substance whatsoever in a biological fluid and/or hair follicle and/or breath sample for which Licensee does not hold a valid prescription or for a prescription that Licensee has not forwarded documentation to the Board as required herein shall constitute a violation of Licensee's discipline.

31. Licensee shall inform any professional preparing a prescription for Licensee of this Joint Agreed Disciplinary Order.

32. During the period of probation, Licensee shall, at Licensee's costs, submit to biological fluid testing and/or hair follicle testing and/or breath testing as required by the Board. Licensee shall, upon demand and without delay, allow the Board's designated representative to obtain witnessed biological fluid samples and/or hair follicles and/or breath samples and shall cooperate fully and completely with the Board's designated representative in providing such samples. The presence of any controlled substance whatsoever in a biological fluid sample and/or hair follicle and/or breath sample for which Licensee does not hold a valid prescription shall constitute a violation of Licensee's discipline. The Board may in its sole discretion choose the method of obtaining a sample for testing.

33. During the period of probation, Licensee shall not possess a Bureau of Narcotics and Dangerous Drugs registration or Drug Enforcement Agency registration.

34. Licensee shall only see patients between the hours of 8 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 12 p.m. on Saturday. Licensee will only see patients so long as another employee of Licensee other than the patient is present in the dental office. During the probation period, Licensee shall cause each of his employees, other than dental hygienists, to sign an affidavit stating that the employee will not perform dental related services which the employee is not legally qualified to perform, including scaling teeth and using a cavitron. Said affidavits shall be provided to the Missouri Dental Board within ten (10) days of execution of same.

35. Within the first twelve (12) months of the probation period, Licensee shall attend a continuing education course in boundaries offered by Vanderbilt University or Saute Center for Healing or other equivalent course offered by a Board approved sponsor and approved by the Board in advance of Licensee attending the course. If Licensee took this course between February 22, 2005 and the effective date of this Joint Agreed Disciplinary Order, Licensee shall provide proof of attendance to the Board within the first thirty (30) days of his probation period. If this course is taken after the effective date of this Joint Agreed Disciplinary Order, Licensee shall provide proof of attendance to the Board within thirty (30) days of attending the course.

36. The parties to this Joint Agreed Disciplinary Order understand that the Board will maintain this Joint Agreed Disciplinary Order as an open and public record of the Board as provided in Chapters 332, 610 and 620, RSMo.

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

38. If the Board determines that Licensee has violated a term or condition of this agreement, 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 agreement in its determination of appropriate legal actions concerning such violation.

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 04-1465 DB be closed.



JEFFERY W. HOLLOWAY, D.M.D.

April 19, 2007

Date

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BY: 

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4/19/07

Date

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Nanci R. Wisdom #39359
Attorney for Petitioner

04-25-07

Date

MISSOURI DENTAL BOARD
BY: 

SHARLENE RIMILLER,
EXECUTIVE DIRECTOR

DATE: 5-4-07

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

MISSOURI DENTAL BOARD,)
P.O. BOX 1357)
3605 Missouri Blvd.)
Jefferson City, Missouri 65102)
Petitioner,)
v.)
JEFFERY W. HOLLOWAY, D.M.D.)
1711 West Ninth Street)
Sedalia, MO 65301)
Respondent.)

CAUSE NO. 04-1465 DB

RECEIVED
MAY 23 2005

Administrative Hearing Commission

FILED

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ADMINISTRATIVE HEARING
COMMISSION

FIRST AMENDED COMPLAINT

ALLEGATIONS COMMON TO ALL COUNTS

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for the Allegations Common to All Counts states and alleges as follows:

1. The 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 is and at all times herein relevant, has been a licensed and certified dentist in the State of Missouri.
3. Until September 27, 2004 when Respondent voluntarily surrendered his registration, Respondent had been properly licensed by the Bureau of Narcotics and Dangerous Drugs and the Drug Enforcement Administration to distribute or dispense controlled substances pursuant to Missouri Revised Statutes sections 195.005 to 195.425.
4. This Commission has jurisdiction to hear this Complaint pursuant to the provisions in the Missouri Revised Statute section 621.045.

5. That on or about the following dates, Respondent prescribed the following controlled substances for one ::

- a) 05-28-02 – Two (2) vials 75 mg/ml Demerol
- b) 10-28-02 – Twenty (20) tabs 200/7.5 mg Vicoprofen
- c) 11-21-02 – Two (2) vials 75 mg/ml Demerol
- d) 12-04-02 – Twenty (20) tabs 5/500 mg Hydrocodone with APAP
- e) 12-19-02 – Twenty (20) tabs 200/7.5 mg Vicoprofen
- f) 02-11-03 – Twenty (20) tabs 7.5/750 mg Hydrocodone with APAP
- g) 05-03-03 – Six (6) tabs 50 mg Meperidine
- h) 05-11-03 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP
- i) 05-15-03 – Two (2) vials 75 mg/ml Demerol
- j) 05-16-03 – Ten (10) tabs 7.5/750 mg Hydrocodone with APAP
- k) 05-26-03 – Ten (10) tabs 7.5/500 mg Hydrocodone with APAP
- l) 05-28-03 – Fifteen (15) tabs 5/325 mg Oxycodone with APAP
- m) 05-30-03 – Ten (10) tabs 7.5/500 mg Hydrocodone with APAP
- n) 06-05-03 – Fifteen (15) tabs 7.5/500 mg Hydrocodone with APAP
- o) 06-08-03 – Twenty (20) tabs 5/500 mg Hydrocodone with APAP
- p) 06-09-03 – Thirty (30) tabs 7.5/500 mg Hydrocodone with APAP
- q) 06-11-03 – Eight (8) tabs 50 mg Meperidine
- r) 06-14-03 – Thirty (30) tabs 7.5/500 mg Hydrocodone with APAP
- s) 07-07-03 – Ten (10) tabs .5 mg Lorazepam
- t) 07-09-03 – Ten (10) tabs 1 mg Lorazepam
- u) 09-13-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- v) 09-16-03 – Ten (10) tabs 1 mg Lorazepam
- w) 10-02-03 – Twenty (20) tabs 40 mg Oxycodone with APAP
- x) 10-29-03 – Ten (10) tabs 1 mg Lorazepam
- y) 10-29-03 – Twenty (20) tabs 100/650 mg Prop-N with APAP
- z) 10-31-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- aa) 11-03-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- bb) 11-04-03 – Two (2) vials 75 mg/ml injectable Demerol
- cc) 11-04-03 – Twenty (20) tabs 7.5/750 mg Hydrocodone with APAP
- dd) 11-16-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- ee) 11-17-03 – Two (2) vials 75 mg/ml injectable Demerol
- ff) 11-17-03 – Ten (10) tabs 7.5/500 mg Endocet
- gg) 01-05-04 – Two (2) vials 75 mg/ml injectable Demerol
- hh) 01-05-04 – Ten (10) tabs 7.5/750 mg Hydrocodone with APAP
- ii) 01-05-04 – Four (4) tabs 50 mg Meperidine
- jj) 01-15-04 – Two (2) vials 75 mg/ml injectable Demerol
- kk) 01-15-04 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP
- ll) 01-28-04 – Ten (10) tabs 5/325 mg Oxycodone with APAP
- mm) 02-02-04 – Two (2) vials 75 mg/ml injectable Demerol
- nn) 02-02-04 – Ten (10) tabs 5/325 mg Oxycodone with APAP
- oo) 02-04-04 – Ten (10) tabs 5/325 mg Oxycodone with APAP
- pp) 02-05-04 – Twenty (20) tabs 5/325 mg Endocet

- qq) 02-06-04 – Two (2) vials 75 mg/ml injectable Demerol
- rr) 02-10-04 – Fifteen (15) tabs 5/325 mg Endocet
- ss) 02-11-04 – Four (4) vials 75 mg/ml injectable Demerol
- tt) 02-12-04 – Twenty (20) tabs 5/325 mg Endocet
- uu) 02-12-04 – Ten (1) tabs 1 mg Lorazepam
- vv) 02-12-04 – Twenty (20) tabs 100/650 mg Prop-N with APAP
- ww) 02-27-04 – Thirty (30) tabs 7.5/750 mg Hydrocodone with APAP
- xx) 03-03-04 – Two (2) vials 75 mg/ml injectable Demerol
- yy) 03-03-04 – Twenty (20) tabs 7.5/500 mg Endocet
- zz) 03-12-04 – Thirty (30) tabs 7.5/500 mg Hydrocodone with APAP
- aaa) 03-18-04 – Two (2) vials 75 mg/ml injectable Demerol
- bbb) 03-18-04 – Twenty-five (25) tabs 100/650 mg Prop-N with APAP
- ccc) 03-21-04 – Twenty (2) tabs 7.5/325 mg Endocet
- ddd) 03-24-04 – Twenty-five (25) tabs 100/650 mg Prop-N with APAP
- eee) 03-30-04 – Four (4) tabs 5 mg Diazepam
- fff) 03-31-04 – Two (2) vials 75 mg/ml injectable Demerol
- ggg) 03-31-04 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP
- hhh) 04-07-04 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP
- iii) 04-08-04 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP
- jjj) 04-11-04 – Thirty (30) tabs 7.5/500 mg Hydrocodone with APAP
- kkk) 06-13-04 – Ten (10) tabs 50 mg Meperidine
- lll) 07-19-04 – Two (2) vials 75 mg/ml injectable Demerol
- mmm) 07-19-04 – Twenty (20) tabs 7.5/500 mg Hydrocodone with APAP

6. That on or about the following dates, Respondent prescribed the following controlled substances for one : also known as :

- a) 11-23-02 – Ten (10) tabs 7.5/500 mg Hydrocodone with APAP
- b) 01-28-03 – Thirty (30) tabs 7.5/200 mg Vicoprofen
- c) 03-06-03 – Forty (40) tabs 7.5/200 mg Vicoprofen
- d) 03-14-03 – Forty (40) tabs 7.5/200 mg Vicoprofen
- e) 10-27-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- f) 11-05-03 – Ten (10) tabs 50 mg Meperidine
- g) 02-27-04 – Ten (10) tabs 7.5/500 mg Hydrocodone with APAP
- h) 11-10-02 – Thirty (30) tabs 7.5/200 mg Vicoprofen
- i) 03-02-03 – Fifteen (15) tabs 7.5/200 mg Vicoprofen
- j) 03-12-03 – Two (2) vials 75 mg/ml injectable Demerol
- k) 06-09-03 – Ten (10) tabs 5/500 mg Hydrocodone with APAP
- l) 11-17-03 – Ten (10) tabs 7.5/200 mg Hydrocodone with APAP
- m) 04-08-04 – Four (4) tabs 75 mg/ml injectable Demerol

7. That on or about the following dates, Respondent prescribed the following controlled substances for one

- a) 12-09-02 – Two (2) vials 75 mg/ml injectable Demerol
- b) 01-17-03 – One (1) vial 75 mg/ml injectable Demerol
- c) 01-17-03 – Four (4) tabs 50 mg Meperidine
- d) 02-12-03 – Two (2) vials 75 mg/ml injectable Demerol
- e) 03-20-03 – Two (2) vials 75 mg/ml injectable Demerol
- f) 03-22-03 – Two (2) vials 75 mg/ml injectable Demerol

8. That on or about the following dates, Respondent prescribed the following controlled substances for one i:

- a) 10-24-02 – Two (2) vials 75 mg/ml injectable Demerol
- b) 11-21-02 – Two (2) vials 75 mg/ml injectable Demerol
- c) 05-28-03 – Two (2) vials 75 mg/ml injectable Demerol
- d) 10-04-03 – Two (2) vials 75 mg/ml injectable Demerol
- e) 02-02-04 – Two (2) vials 75 mg/ml injectable Demerol

9. That the following drugs are controlled substances under Missouri Revised Statute section 195.017:

- a) Injectable Demerol is a Schedule II controlled substance pursuant to Missouri Revised Statute Section 195.017.
- b) Vicoprofen is a Schedule III controlled substance pursuant to Missouri Revised Statute Section 195.017.
- c) Hydrocodone with APAP is a Schedule III controlled substance pursuant to Missouri Revised Statute Section 195.017.
- d) Meperidine is a Schedule II controlled substance pursuant to Missouri Revised Statute Section 195.017.
- e) Oxycodone with APAP is a Schedule II controlled substance pursuant to Missouri Revised Statute Section 195.017.
- f) Lorazepam is a Schedule IV controlled substance pursuant to Missouri Revised Statute Section 195.017.

- g) Endocet is a Schedule II controlled substance pursuant to Missouri Revised Statute Section 195.017.
- h) Diazepam is a Schedule IV controlled substance pursuant to Missouri Revised Statute Section 195.017.
- i) Prop-N with APAP is a Schedule IV controlled substance pursuant to Missouri Revised Statute Section 195.017.

COUNT I

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for Count I of its Complaint states as follows:

10. Petitioner incorporates the allegations contained in the Allegations Common to All Counts in Count I as though fully set forth herein.

11. In regards to the controlled substances listed in paragraphs five (5), six (6), seven (7), and eight (8) of Allegations Common to All Counts:

- a) Respondent failed to document prescriptions for controlled substances as required by 19 CSR 30-1.048(2);
- b) Respondent failed to provide required information on prescriptions for controlled substances as required by 195.060.1 RsMo;
- c) Respondent wrote the prescriptions for Demerol to be used as stock in his office in violation of 19 CSR 30-1.048(6); and
- d) Respondent failed to maintain complete and accurate records as required by 19 CSR 30-1.044(1) and 195.050.6 RsMo.

12. Missouri Revised Statute section 332.361.2 provides that a registered and currently licensed dentist may possess, have under his control, administer, dispense or distribute a controlled substance only to the extent that:

. . . (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

13. 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:

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

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

. . . (15) Violation of the drug laws or rules and regulations of this state, or any other state or the federal government.

14. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute section 332.321.2 and section 332.361.

15. That Missouri Revised Statute section 332.321.3 gives Petitioner 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 caused to take disciplinary action against Respondent or, in the alternative, this matter be set for an evidentiary hearing.

COUNT II

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for Count II of its Complaint states as follows:

16. Petitioner incorporates the allegations contained in the Allegations Common to All Counts in Count II as though fully set forth herein.

17. Respondent kept a blank prescription pad on a counter dividing two treatment areas in his office, which was easily accessible to patients and employees.

18. With regard to the above and foregoing, Respondent failed to provide adequate controls and procedures against theft and/or diversion of controlled substances as required by 19 CSR 30-1.031(1).

19. That Missouri Revised Statute Section 332.361.2 provides that a registered and currently licensed dentist may dispense a controlled substance only to the extent that:

... (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;

... (3) A bona fide dentist-patient relationship exists; and

... (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

20. That Missouri Revised Statute Section 332.321.2 provides that the Missouri Dental Board may file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

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

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

... (15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government; ...

21. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute Section 332.321.2 and Section 332.361.

22. That Missouri Revised Statute Section 332.321.3 gives the Petitioner the authority to take disciplinary action against a 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 or, in the alternative, this matter be set for an evidentiary hearing.

COUNT III

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for Count III of its Complaint states:

23. Petitioner incorporates the allegations contained in the Allegations Common to All Counts in Count III as though fully set forth herein.

24. With regard to the prescription for _____ in paragraph 5(iii) of the Allegations Common to All Counts, Respondent wrote the prescription for pain the patient was undergoing as the result of excision of a lesion from patient's uterus.

25. Said prescription was written for a condition outside the scope of Respondent's professional practice of dentistry in violation of Section 195.070.1 RsMo.

26. That Missouri Revised Statute Section 332.361.2 provides that a registered and currently licensed dentist may dispense a controlled substance only to the extent that:

. . . (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;

... (3) A bona fide dentist-patient relationship exists; and

... (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

27. That Missouri Revised Statute Section 332.321.2 provides that the Missouri Dental Board may file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

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

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

... (13) Violation of a professional trust or confidence; and

... (15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government; ...

28. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute Section 332.321.2 and Section 332.361.

29. That Missouri Revised Statute Section 332.321.3 gives the Petitioner the authority to take disciplinary action against a 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 or, in the alternative, this matter be set for an evidentiary hearing.

COUNT IV

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for Count IV of its Complaint states:

30. Petitioner incorporates the allegations contained in the Allegations Common to All Counts in Count IV as though fully set forth herein.

31. With regard to the prescription for _____ contained in paragraph 7(f) of the Allegations Common to All Counts, Respondent documented administering 75 mg of Demerol to the patient.

32. 75 mg of Demerol was not administered nor accounted for in the patient chart.

33. With regard to the prescription for _____ contained in paragraph 7(f) of the Allegations Common to All Counts, Respondent failed to document wastage as required by 19 CSR 30-1.078(1).

34. That Missouri Revised Statute Section 332.361.2 provides that a registered and currently licensed dentist may dispense a controlled substance only to the extent that:

... (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;

... (3) A bona fide dentist-patient relationship exists; and

... (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

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

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

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

... (13) Violation of a professional trust or confident; and

... (15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government; ...

36. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute Section 332.321.2 and Section 332.361.

37. That Missouri Revised Statute Section 332.321.3 gives the Petitioner the authority to take disciplinary action against a 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 or, in the alternative, this matter be set for an evidentiary hearing.

COUNT V

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney and for Count V of its Complaint states:

38. Petitioner incorporates the allegations contained in the Allegations Common to All Counts in Count V as though fully set forth herein.

39. On September 13, 2004, Respondent tested positive for cocaine through a urinalysis given by Board Investigator, Brian Barnett.

40. On September 27, 2004, Respondent was found standing outside his office in a disoriented and unfocused condition. Respondent could not remember events of that day.

41. Respondent was seeing patients on September 27, 2004 in a disoriented, unfocused and injured condition while having lapses of memory.

42. Respondent saw patients on September 13 and 27, 2004.

43. Respondent presents a substantial probability of serious danger to the health, safety or welfare of clients and patients of Respondent.

44. Cocaine is a Schedule I controlled substance pursuant to Section 195.017 RsMo.

45. That Missouri Revised Statute Section 332.361.2 provides that a registered and currently licensed dentist may dispense a controlled substance only to the extent that:

... (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;

... (3) A bona fide dentist-patient relationship exists; and

... (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

46. That Missouri Revised Statute Section 332.321.2 provides that the Missouri Dental Board may file a Complaint against a dentist licensed to practice in Missouri under the following circumstances:

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

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

. . . (13) Violation of a professional trust or confident; and

. . . (15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government; . . .

47. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute Section 332.321.2 and Section 332.361.

48. That Missouri Revised Statute Section 332.321.3 gives the Petitioner the authority to take disciplinary action against a 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 or, in the alternative, this matter be set for an evidentiary hearing.

COUNT V

COMES NOW Petitioner, Missouri Dental Board, by and through its attorney, Nanci R. Wisdom, and for its cause of action in Count V herein states and alleges as follows:

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

50. On or about March 14, 2005, Respondent entered a plea of guilty to the charge of Refusal and/or Failure to Keep Records in violation of Section 195.252 RSMo.

51. Respondent entered the guilty plea in the Associate Circuit Division of the Circuit Court of Pettis County in Sedalia, Missouri.

52. 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:

... (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude, whether or not sentence is imposed;

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

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

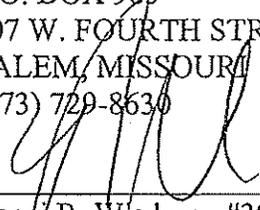
53. That as a result of the foregoing, Respondent has failed to comply with Missouri Revised Statute section 332.321.2.

54. That Missouri Revised Statute section 332.321.3 gives Petitioner 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 in Count
V or, in the alternative, this matter be set for an evidentiary hearing.

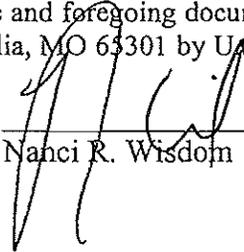
NANCI R. WISDOM
ATTORNEY AT LAW
P.O. BOX 983
107 W. FOURTH STREET
SALEM, MISSOURI 65560
(573) 729-8630



Nanci R. Wisdom #39359
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was forwarded to Jeffery W. Holloway, 1711 West Ninth, Sedalia, MO 65301 by U.S. Mail on this 9th day of May, 2005.



Nanci R. Wisdom