

FEB 17 2011

MISSOURI DENTAL BOARD

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND ZAVON F. KANION, D.D.S.**

Come now Zavon F. Kanion, D.D.S. ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

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

Licensee acknowledges that he has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline his license, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 0014218 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2009 and Chapter 332, RSMo.



Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 332.
2. Licensee Zavon F. Kanion, D.D.S. is licensed by the Board as a dentist, License No. 0014218. Licensee's Missouri license was at all times relevant herein, and is now, current and active.
3. On or about October 28, 2009, the Board received a complaint that Tyuria L. Williams was practicing dental hygiene with an expired license. At the time the Board received the complaint, Ms. Williams was working for Licensee. The Board investigated the complaint against Williams.
4. The Board's investigation of the complaint against Williams revealed that:
 - a. On or about October 7, 1997, the Board issued Ms. Williams a license to practice as a dental hygienist in the state of Missouri.
 - b. Ms. Williams failed to submit the required renewal fee and application to renew her dental hygienist license prior to November 30, 2008.
 - c. On December 1, 2008, Ms. Williams' license to practice as a dental hygienist expired.
 - d. In late 2008, Dr. Zavon Kanion, DDS hired Ms. Williams as a hygienist. Ms. Williams worked a regular hygienist schedule, including but not limited to seeing patients, from December 1, 2008 through October 26, 2009 without a valid dental hygienist license.
 - e. In an interview with Board Investigator Mark Dudenhoeffer (Dudenhoeffer), Ms. Williams stated that on or about October 11, 2009, she realized her dental hygienist license had expired in November, 2008.
 - f. In an interview with Dudenhoeffer, Dr. Kanion stated that on or about October 26, 2009, Ms. Williams informed Dr. Kanion that she had been working since December 1, 2008 on an expired license. Dr. Kanion informed Ms. Williams she could not practice as a dental hygienist until she was properly licensed. Dr. Kanion also stated that he had a check written "that same date" to be sent to the Board for Ms. Williams' reinstatement.
 - g. Dudenhoeffer obtained a copy of Dr. Kanion's check from the Board's records. The check was dated October 21, 2009, and made out to the Missouri Dental Board in the amount of \$230.00.



The "for" line of the check stated "Tyuria Williams 003642" and the word "reinstatement" was printed at the top of the check.

h. On or about November 4, 2009, the Board renewed Ms. Williams' license.

5. The Board authorized additional investigation to determine if Licensee allowed Williams to continue working after she informed him that her hygienist license had expired. The Board's additional investigation revealed:

- a. On April 1, 2010, Dudenhoeffer interviewed Licensee at his practice location in Kansas City, Missouri. Dudenhoeffer specifically asked if Williams worked for him on October 29 and 30 and November 2 and 3, 2009. Licensee stated that he would examine the payroll records to see if Williams had worked those days.
- b. Dudenhoeffer also asked if Williams was salaried or hourly. Licensee stated hourly. Licensee also stated that he uses time cards to record Williams' hours for pay purposes.
- c. Licensee stated that if Williams worked in his office, it was as a hygienist.
- d. Licensee asked Dudenhoeffer why the Board wanted the information. Dudenhoeffer stated that those dates were the dates between which Licensee learned Williams' license was expired and the date her license was reinstated.
- e. Dudenhoeffer again asked if Williams worked for Licensee as a hygienist after she notified him that she did not have a current license. Dudenhoeffer stated that the Board needed to know specifically for those four days.
- f. Licensee admitted that he did not verify whether Williams had been re-issued her hygiene license. He felt it was resolved when he wrote the check for her renewal.
- g. On April 6, 2010, the Board received a copy of Williams' payroll time records for the dates in question. The information revealed that Williams did work on October 29 and 30 and November 2, 2009. However, there is no record that she worked on November 3, 2009.

6. Pursuant to § 332.101, RSMo, "[N]o person shall practice as a dental hygienist in Missouri as defined in section 332.091 except under his own name and unless and until the board has issued to him a certificate certifying that he has been duly registered as a dental hygienist in Missouri and unless and until the



board has issued to him a license, to be renewed each period as hereinafter provided, to practice as a dental hygienist in Missouri[.]”

7. Licensee’s allowing Williams, a hygienist under his supervision, to work in the office as a hygienist on October 29, 30 and November 1, 2009 without verifying the status of her license constitutes violation of, assisting or enabling any person to violate any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter in that he allowed a hygienist to continue working on an expired license in violation of § 332.101, RSMo.

8. Licensee’s allowing Williams, a hygienist under his supervision, to work in the office as a hygienist on October 29, 30 and November 1, 2009 without verifying the status of her license constitutes assisting or enabling any person to practice or offer to practice, by lack of supervision or in any other manner, any profession licensed or regulated by this chapter who is not currently eligible to practice pursuant to this chapter in that he allowed Williams to serve as a hygienist after learning that her certificate to practice was expired.

9. Licensee’s allowing Williams, a hygienist under his supervision, to work in the office as a hygienist on October 29, 30 and November 1, 2009 without verifying the status of her license constitutes violation of a professional trust or confidence.

10. Cause exists for the Board to take disciplinary action against Licensee’s license under § 332.321.2(6), (10) 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:

. . . .

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

(10) Assisting or enabling any person to practice or offer to practice, by lack of supervision or in any other manner, any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(13) Violation of any professional trust or confidence[.]



Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000:

1. The terms of discipline shall include that the dental license be placed on **PROBATION** for a period of five (5) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of his Settlement Agreement.

I. **EDUCATIONAL REQUIREMENTS**

A. Licensee shall take and pass the Board's designated jurisprudence examination within six (6) months of the start of the disciplinary period. Licensee shall contact the Board office to request a current law packed and permission to sit for the jurisprudence examination no less than thirty (30) days prior to the date Licensee desires to take the examination. Licensee shall submit the required re-examination fee to the Board prior to taking the examination. Failure to take and pass the examination during the first six (6) months of the disciplinary period shall constitute a violation of this Agreement.

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 requirements necessary to maintain Licensee's license in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.



- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document.

III. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow his license to lapse.
- B. 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 Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

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

3. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

4. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.



5. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

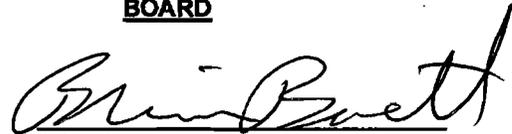
6. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE


Zayon F. Kanion, D.D.S.

Date 7 FEB. 10

BOARD


Brian Barnett,
Executive Director
Missouri Dental Board

Date 2/17/10

