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**MAY 20 2010**

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND WILLIAM F. MOLLENHOUR, D.D.S.**

**MISSOURI DENTAL BOARD**

Come now William F. Mollenhour, 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 013500 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 William F. Mollenhour, D.D.S. is licensed by the Board as a dentist, License No. 013500. Licensee's Missouri license expired on November 30, 2008.
3. Licensee failed to submit the required renewal fee and application to renew his dental license prior to November 30, 2008.
4. Pursuant to Board regulation 20 CSR 2110-2.017(8), the license of any dentist or dental hygienist shall expire if not renewed on or before the license expiration date.
5. On November 30, 2008, Licensee's license to practice dentistry in the State of Missouri expired.
6. On or about January 28, 2010, the Board received Licensee's license reactivation application which included the reactivation fee, a copy of fifty (50) hours of continuing education completed in the last two years and proof of his certification in basic life support (BLS).
7. On or about March 23, 2009, the Board received a complaint alleging that Licensee had been treating patients since the expiration of his license on November 30, 2008. The Board conducted an investigation into the unlicensed practice complaint.
  - a. On April 7, 2009, Board Investigator Joseph Sears (Sears) conducted an interview of Licensee. The interview revealed that:
    - i. On April 7, 2009 both Licensee's Butler, Missouri and Garden City, Missouri locations were closed. The Butler location was also locked with no business hours posted. The Garden City location is part of a larger medical practice but Licensee's office itself was closed.
    - ii. Licensee confirmed that he was aware that his dental license was expired. He became aware of it on December 10, 2008 and "forgot" to renew his license.
    - iii. Licensee stated he was "no longer scheduling patients" but that he had "fixed a patient's denture the previous week."

- iv. Licensee's practice sees sixty (60) patients in a week and at the time of the investigation, he employed one dental assistant.
  - v. Licensee stated he failed to renew his license because he was dealing with personal issues related to his divorce for which he was under the care of a license psychiatrist who had prescribed him Adderall, Provigil and Wellbutrin.
  - vi. Licensee was not sure he wanted to renew his license because he was "not ready to work" due to the emotional issues and was having difficulty "focusing and concentrating on his patients"
- b. Sears also spoke with Licensee's current dental assistant Debbie McNeal (McNeal). McNeal is not a certified dental assistant nor is she an expanded function dental assistant. McNeal has worked for Licensee for four years. McNeal also stated that:
- i. The last time Licensee worked on a patient had been two to three weeks prior to the interview.
  - ii. Licensee has been cancelling patients.
- c. Licensee's calendar revealed patients set for appointments from December 1, 2008 through April 15, 2009 though it is unclear if all the patients on the appointment calendar were actually seen through April 15, 2009.
- d. Sears also interviewed Licensee's office manager, Sandra Hubbard. Hubbard had worked for Licensee for twelve years. Hubbard stated that:
- i. She had worked with Licensee for the last twelve years.
  - ii. The last time she had worked for Licensee was over a month ago. She had not seen him in the last month and left messages which he did not return.
  - iii. She was unsure if Licensee wanted to continue to practice. She continues to go to the office to check mail and messages. She has been referring his patients to other dentists in the area.
  - iv. With regard to the work she did for the doctor, she stated "everything" and if the assistants were not in the office she would assist the doctor. Hubbard is not a certified or EFDA assistant. She stated she took x-rays, chair side assisted, took study model

impressions, polished teeth and called in prescriptions. She also stated she has taken a "few" impressions for dentures and assisted during Licensee's use of nitrous oxide.

Hubbard did not have a nitrous oxide permit when she worked for Licensee.

- e. Sears interviewed Barbara Gaman, an EFDA assistant who worked for Licensee for 11 years before leaving for personal financial reasons. Gaman stated that:
  - i. She assisted with impressions for dentures, took study model impressions, adjusted sore spots on dentures and assisted with nitrous oxide. Gaman did not have a nitrous oxide permit when she worked for Licensee..
- f. Sears also performed a sweep of local pharmacies in and around Butler Missouri to collect controlled substance profiles for Licensee for the period he was without a current license. The profiles revealed that:
  - i. Licensee prescribed 20 doses of hydrocodone to a patient on or about March 14, 2009 at the Butler Healthmart Pharmacy.
  - ii. Licensee prescribed 24 doses of hydrocodone to a patient on or about March 2, 2009 and an additional 20 doses to the same patient on March 11, 2009 at the Butler Hometown Pharmacy.
  - iii. Licensee prescribed 24 doses of hydrocodone to a patient on or about December 1, 2008 at the Walmart Pharmacy.
  - iv. Licensee prescribed 24 doses of hydrocodone to another patient on or about December 1, 2008 and an additional 12 doses of hydrocodone at the Walmart Pharmacy.
  - v. Licensee prescribed 30 doses of propoxyphene, a pain killer, to a patient on or about December 10, 2008 at Adrian Kreisler Drug.
  - vi. Licensee prescribed 24 doses of hydrocodone to two different patients on December 8, 2008 at Red Cross Pharmacy.
  - vii. Licensee prescribed 24 doses of propoxyphene to a patient December 2, 2008 at Walmart Pharmacy.
  - viii. Licensee prescribed 24 doses of propoxyphene to a patient December 12, 2008 at Walmart Pharmacy.

ix. Licensee prescribed 24 doses of hydrocodone to a patient on or about December 19, 2008 at the Walmart Pharmacy.

x. Licensee prescribed 24 doses of propoxyphene to a patient January 8, 2009 at Walmart Pharmacy.

8. On or about April 3, 2009, the Butler Missouri Police Department contacted the Board regarding a complaint of unlicensed practice by Licensee. Additionally, the credentialing manager for the Cass County Regional Medical Center in Harrisonville contacted the Board on April 6, 2009 about alleged unlicensed practice by Licensee and on April 10, 2009, the Garden City Police Department also contacted the Board about complaints of unlicensed practice by Licensee.

9. On or about May 18, 2009, Sears spoke with Licensee by telephone. Licensee stated:

- a. He intended to renew his dental license but needed to take a basic life support class to do so. He intended to take the class in June, 2009.
- b. He was "not doing well." He was very emotional and needed to have his medications changed.
- c. He had recently lost some feeling in his left hand and left foot due to his medications.
- d. He had not seen any patients since Sears' visit in April, 2009.

10. On or about June 16, 2009, Sears conducted a follow-up sweep of local pharmacies. Licensee had not written any prescriptions since the last sweep in April, 2009.

11. On February 4, 2010, Sears visited Licensee's locations in Butler and Garden City, Missouri. Both practices were closed. Sears met with Licensee at his home. Licensee stated:

- a. He had not practiced since the date of the first visit in April, 2009 nor had he prescribed any medication. He had no current patient calendar.
- b. To restart his practice, Licensee intends to advertise reduced or free services for walk-ins to reestablish his patient list.
- c. He was "anxious" to get back to practicing dentistry.

12. Sears conducted an additional sweep of pharmacies prior to visiting with Licensee on February 4, 2010. The sweep revealed no additional prescriptions written by Licensee.

13. Sears attempted to speak with McNeal and Hubbard again. McNeal did not return Sears' telephone call. Hubbard did and stated she has not worked for Licensee since the prior investigation in April,

2009. She also stated Licensee recently contacted her regarding his possible return to practice. She declined to continue her employment for personal reasons.

14. From November 30, 2008 through April, 2009, Licensee practiced dentistry at his office locations in Butler, Missouri and Garden City, Missouri without a current and active license.

15. Pursuant to § 332.071, RSMo, a person or other entity "practices dentistry" within the meaning of this chapter who:

(1) Undertakes to do or perform dental work or dental services or dental operations or oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

(11) Controls, influences, attempts to control or influence, or otherwise interferes with the dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition except that any opinion rendered by any health care professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337, or 338, RSMo, regarding the diagnosis, treatment, disorder, or physical condition of any patient shall not be construed to control, influence, attempt to control or influence or otherwise interfere with a dentist's independent professional judgment;

(12) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except when one, not a registered and licensed dentist, does so pursuant to a written uniform laboratory work order, in the form prescribed by the board, of a dentist registered and currently licensed in Missouri and which the substitute in this subdivision described is constructed upon or by use of casts or models made from an impression furnished by a dentist registered and currently licensed in Missouri;

(13) Attempts to or does place any substitute described in subdivision (12) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute to any person other than the dentist upon whose order the work in producing the substitute was performed;

(14) Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision (12) of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri;

(15) Undertakes to do or perform any physical evaluation of a patient in the person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery;

(16) Reviews examination findings, x-rays, or other patient data to make judgments or decisions about the dental care rendered to a patient in this state.

16. Pursuant to § 332.081.1, RSMo, "no person shall practice dentistry in Missouri or provide dental services as defined in § 332.071 unless and until the board has issue to the person a certificate certifying that the person has been duly registered as a dentist in Missouri, as provided in this chapter, to practice dentistry or

as a dental hygienist, or has issued to the person or entity a permit, to be renewed each period to provide dental services in Missouri.”

17. Pursuant to § 332.361.1, RSMo, “only duly registered and currently licensed dentists in Missouri may write a prescription for any drug necessary or proper in the practice of dentistry, provided that no such prescription is in violation of the Missouri or federal narcotic drug act.”

18. Board regulation 20 CSR 2110-2.071(10) provides that : “Any licensee who fails to renew his/her license on or before the license expiration date shall not perform any act for which a license is required unless and until the license is properly renewed.”

19. Licensee’s actions as described in paragraphs 3 through 14 above after his license expired on November 30, 2008 constitute the practice of dentistry and prescribing drugs in the practice of dentistry in violation of §§ 332.071, 332.081, 332.361 and 20 CSR 2110-2.071(10).

20. Licensee’s actions as described in paragraphs 3 through 14 above after his license expired on November 30, 2008 constitute impersonation of a licensed dentist.

21. Licensee’s actions as described in paragraphs 3 through 14 above after his license expired on November 30, 2008 constitute failure to display a license required by this chapter.

22. Licensee’s actions as described in paragraphs 3 through 14 above after his license expired on November 30, 2008 constitute violation of a professional trust or confidence in that Licensee held himself out to his patients as a licensed dentist and his patients relied on that in receiving services.

23. Licensee’s actions as described in paragraphs 3 through 14 above after his license expired on November 30, 2008 constitute violations of the drug laws of this state, § 332.361.1, RSMo, in that only licensed dentists may prescribe drugs necessary or proper in the practice of dentistry and Licensee continued to write prescriptions after his license was expired.

24. Cause exists for the Board to take disciplinary action against Licensee’s license under § 332.321.2(6), (7), (12), (13) and (15) 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;

(7) Impersonation of any person holding a permit or license or allowing any person to use his or her permit, license or diploma from any school;

...

(12) Failure to display a valid certificate, permit or license if so required by this chapter or by any rule promulgated hereunder;

(13) Violation of any 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[.]

#### 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. During the disciplinary period, Licensee shall participate in the Missouri Dental Well-being Committee ("Committee"). Within fifteen (15) days of the effective date of this agreement, Licensee shall cause the Committee to send written notification to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102, confirming that Licensee has joined the program. Licensee shall follow all recommendations of the Committee or the Committee Administrator with regards to counseling, evaluations, any treatment deemed necessary by an evaluation, and any follow-up care. Failure to participate in the Well-Being Committee shall constitute a violation of this Agreement.
- B. Licensee shall not allow his license to lapse.
- 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 fact 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**

William F. Mollenhour  
William F. Mollenhour, D.D.S.

Date 17 May 2010

**BOARD**

Brian Barnett  
Brian Barnett,  
Executive Director  
Missouri Dental Board

Date 5/20/10