
**SETTLEMENT AGREEMENT BETWEEN
MISSOURI DENTAL BOARD AND
JAMES NEWBILL, D.D.S.**

Comes now James Newbill, 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 011324, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 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. James Newbill ("Licensee") is licensed by the Board as a dentist, License No. 011324. Licensee's Missouri license was at all times relevant herein, and is now, current and active.
3. On August 31, 2007, Licensee prescribed Halcion to his wife to treat insomnia unrelated to dental treatment in violation of section 195.070, RSMo.
4. Licensee failed to maintain adequate records of the Halcion prescription in his records.
5. As a licensed dentist, Licensee does not possess the education, skills or training necessary to diagnose or treat insomnia or to prescribe Halcion for treatment of a non-dental related diagnosis or symptom.

6. Section 195.050.6, RSMo requires every person registered to manufacture, distribute or dispense controlled substances under sections 195.005 to 195.425 keep records and inventories of all such drugs in conformance with the record keeping and inventory requirements of federal law and in accordance with any additional requirements of the Missouri Department of Health and Senior Services.

7. Regulation 19 CSR 30-1.048(2) requires all persons licensed to stock, prescribe, and dispense controlled substances maintain a record of the date, full name and address of the patient, the drug name, strength, dosage form, and quantity for all controlled substances prescribed or administered (“administration record”).

8. Licensee failed to document the prescription on an administration record in violation of §195.050.6, RSMo and 19 CSR 30-1.048(2).

9. Licensee has a duty to comply with Missouri controlled substance laws and regulations.

10. Licensee has a duty to comply with Chapter 332 regarding the practice of dentistry.

11. Licensee’s conduct as alleged herein demonstrates a lack of ability or a lack of disposition to use his ability to perform his professional duties, or a conscious indifference to those duties.

12. Licensee’s conduct as alleged herein demonstrates a conscious indifference to his professional duty to comply with Missouri’s laws and regulations governing controlled substances and the practice of dentistry.

13. Licensee’s conduct as alleged in herein violated the professional trust and confidence of his employees and patients and constitutes a violation of § 332.321.2(13), RSMo.

14. Licensee failure to maintain records of the controlled substances he dispensed to H.S. constitutes misconduct in the performance of his functions and duties as a licensed dentist in violation of § 332.321.2(5), (13), and (15), RSMo.

15. Cause exists for the Board to take disciplinary action against Licensee's dental license pursuant to § 332.321.2(5), (13), and (15) RSMo, which states:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

....

(13) Violation of any professional trust or confidence;

....

(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:

1. The terms of discipline shall include that Licensee's dental license numbered 011324 be **CENSURED.**

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 324, 332, 610, RSMo.

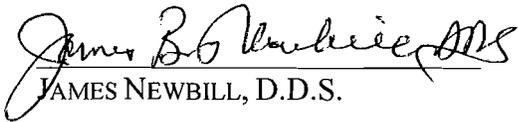
3. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed 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. Licensee understands that he may, either at the time the Settlement Agreement is signed by all parties, or within fifteen (15) days thereafter, submit the Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit his 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 requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Executive Director of the Board.

LICENSEE


JAMES NEWBILL, D.D.S.

Date 11-4-2009

BOARD


BRIAN BARNETT
Executive Director
Missouri Dental Board

Date 11/16/09

ATTORNEY FOR THE BOARD:

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