

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 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 Joint Stipulation and agrees to abide by the terms of this document, as they pertain to him.

Based upon the foregoing, Petitioner and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law.

STIPULATED FACTS

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. F.J. Ohmes ("Licensee") is licensed by the Board as a dentist, License No. 015092. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. The Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs issued Missouri Controlled Substances Registration Number 24601("BNDD Registration") to Licensee to stock, prescribe and dispense controlled substances at 1032 Rondale Court, Dardenne Praire, Missouri ("the office").

4. Regulation 19 CSR 30-1.023 terminates the BNDD registration of any person if and when the person discontinues business or changes business location. The person has 30 days in which to apply for a new registration or request for modification.

5. On or about October 10, 2005, Licensee moved his dental practice from its location at 2000 Bluestone Dr., St. Charles, Missouri to 1032 Rondale Ct., Dardene Prairie, Missouri which triggered regulation 19 CSR 30-1.023 and its requirement that Licensee apply for a new BNDD registration or a modification within 30 days.

6. On or about November 10, 2005, Licensee's BNDD registration expired. Licensee did not have authority to stock, dispense or prescribe controlled substances after November 23, 2005.

7. Pursuant to section 195.252, RSMo, it is unlawful for any person to stock, distribute or dispense a controlled substance without current registration from BNDD.

8. From November 10, 2005 and continuing through March 30, 3006, Licensee stocked, dispensed and/or prescribed controlled substances without a valid BNDD registration in violation of 19 CSR 30-1.023 and sections 195.030 and 195.252, RSMo.

9. On February 16, 2006, Board investigators presented at Dr. Ohmes' office. The investigator observed that Dr. Ohmes was stocking midazolam (generic Versed®), a

schedule IV controlled substance. Dr. Ohmes provided copies of prescriptions that he had written to patient A.S. on December 7, 2005 for triazolam (generic Halcon®), a schedule IV controlled substance and a prescription for Valium, a schedule IV controlled substance. Dr. Ohmes wrote these prescriptions while he did not have a BNDD registration.

10. On or about April 3, 2006, BNDD censured Dr. Ohmes' registration for violations of the Missouri drug laws and regulations.

STIPULATED CONCLUSIONS OF LAW

11. Jurisdiction and venue are proper.

12. The BNDD censure constitutes disciplinary action against the holder of a license or other right to practice any profession regulated by chapter 332 imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state.

13. Licensee failed to use that degree of skill and learning that a dentist ordinarily uses under the same or similar circumstances.

14. Licensee's conduct as alleged herein constitutes a gross deviation from that degree of skill and learning that a dentist ordinarily uses under the same or similar circumstances.

15. Licensee's conduct as alleged herein, constitutes incompetency, misconduct, gross negligence, misrepresentation or dishonesty in the performance of the functions or duties of a licensed dentist.

16. Licensee's conduct as referenced herein, constitutes violations of section 332.321.2(5), (8), (13) and (15).

17. At the time of the events alleged herein, Licensee had formed a relationship of professional trust and confidence with the patient in that the patient relied upon the professional expertise of Licensee to ensure that he followed all drug laws and regulations that pertain to the practice of dentistry.

18. Licensee's conduct as alleged herein violated the patient's professional trust and confidence.

19. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (8), (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:

....

(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;

....

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state;

....

(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;

STIPULATED 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.

20. Licensee’s dental license numbered 015092 is hereby **CENSURED**.

21. The parties to this Joint Stipulation understand that the Board will maintain this Joint Stipulation as an open and public record of the Board as provided in Chapters 324, 332, and 610, RSMo.

22. In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and Consent Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the Petitioner in the above styled action.

23. Petitioner hereby waives and releases the Board, its 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 litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

RESPONDENT



Dr. F. Jay Ohmes, D.D.S.

11 Dec 09

Date

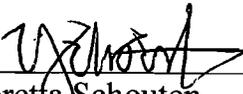
PETITIONER



Brian Barnett
Executive Director
Missouri Dental Board

12/11/09

Date



Loretta Schouten
Missouri Bar No. 52290

7970 S. Tomlin Hill Road
Columbia, Missouri 65201
Telephone: 573-875-7169
Fax: 573-875-5603
E-mail: llschouten@yahoo.com

ATTORNEY FOR PETITIONER

BEFORE THE ADMINISTRATIVE HEARING COMMISSION STATE OF MISSOURI

FILED

NOV 05 2008

ADMINISTRATIVE HEARING COMMISSION

MISSOURI DENTAL BOARD)
3605 Missouri Boulevard)
P.O. Box 1367)
Jefferson City, MO 65102)

PETITIONER,)

v.)

F.J. OHMES, D.D.S.)
2000 Bluestone Drive)
St. Charles, MO 63303)

RESPONDENT.)

No. 08- 1907 DB BN

COMPLAINT

Petitioner states for its cause of action against Respondent:

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. F.J. Ohmes ("Licensee") is licensed by the Board as a dentist, License No. 015092. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. The Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs issued Missouri Controlled Substances Registration Number 24601 ("BNDD Registration") to Licensee to stock, prescribe and dispense controlled substances at 1032 Rondale Court, Dardenne Praire, Missouri ("the office").

4. Regulation 19 CSR 30-1.023 terminates the BNDD registration of any person if and when the person discontinues business or changes business location. The person has 30 days in which to apply for a new registration or request for modification.

5. On or about October 10, 2005, Licensee moved his dental practice from its location at 2000 Bluestone Dr., St. Charles, Missouri to 1032 Rondale Ct., Dardene Prairie, Missouri which triggered regulation 19 CSR 30-1.023 and its requirement that Licensee apply for a new BNDD registration or a modification within 30 days.

6. On or about November 10, 2005, Licensee's BNDD registration expired. Licensee did not have authority to stock, dispense or prescribe controlled substances after November 23, 2005.

7. Pursuant to section 195.252, RSMo, it is unlawful for any person to stock, distribute or dispense a controlled substance without current registration from BNDD.

8. From November 10, 2005 and continuing through March 30, 2006, Licensee stocked, dispensed and/or prescribed controlled substances without a valid BNDD registration in violation of 19 CSR 30-1.023 and sections 195.030 and 195.252, RSMo.

9. On February 16, 2006, Board investigators presented at Dr. Ohmes' office. The investigator observed that Dr. Ohmes was stocking midazolam (generic Versed®), a schedule IV controlled substance. Dr. Ohmes provided copies of prescriptions that he had written to patient A.S. on December 7, 2005 for triazolam (generic Halcon®), a schedule IV controlled substance and a prescription for Valium, a schedule IV controlled substance. Dr. Ohmes wrote these prescriptions while he did not have a BNDD registration.

10. On or about April 3, 2006, BNDD censured Dr. Ohmes' registration for violations of the Missouri drug laws and regulations.

11. The BNDD censure constitutes disciplinary action against the holder of a license or other right to practice any profession regulated by chapter 332 imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state.

12. Licensee failed to use that degree of skill and learning that a dentist ordinarily uses under the same or similar circumstances.

13. Licensee's conduct as alleged herein constitutes a gross deviation from that degree of skill and learning that a dentist ordinarily uses under the same or similar circumstances.

14. Licensee's conduct as alleged herein, constitutes incompetency, misconduct, gross negligence, misrepresentation or dishonesty in the performance of the functions or duties of a licensed dentist.

15. Licensee's conduct as referenced herein, constitutes violations of section 332.321.2(5), (8), (13) and (15).

16. At the time of the events alleged herein, Licensee had formed a relationship of professional trust and confidence with the patient in that the patient relied upon the professional expertise of Licensee to ensure that he followed all drug laws and regulations that pertain to the practice of dentistry.

17. Licensee's conduct as alleged herein violated the patient's professional trust and confidence.

18. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (8), (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:

....

(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;

....

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state;

....

(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;

WHEREFORE, Petitioner requests this Administrative Hearing Commission to conduct a hearing, if necessary, in this case pursuant to §§ 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that Petitioner may take disciplinary action against the license of Respondent for violations of Chapter 335, RSMo.

Respectfully submitted,



LORETTA SCHOUTEN
Missouri Bar No. 52290
7970 S. Tomlin Hill Road
Columbia, MO 65201
Telephone: 573-875-7169
Fax: 573-875-5603
llschouten@yahoo.com

ATTORNEY FOR PETITIONER