

MAR 07 2011

MISSOURI DENTAL BOARD

**SETTLEMENT AGREEMENT
BETWEEN MISSOURI DENTAL BOARD
AND JASON SANCHEZ, D.D.S.**

Comes now Jason Sanchez, 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 2003013104, 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. Jason Sanchez ("Dr. Sanchez or Licensee") is licensed by the Board as a dentist, License No. 2003013104. Licensee's Missouri license was at all times relevant herein, and is now, current and active.
3. Dr. Sanchez practices dentistry at 411 Nicholas Road, Suite 204, Kansas City, Missouri ("the office").
4. Patient GM did not have a history of significant dental maladies or disease.
5. Dr. Sanchez provided dental care to GM from on or about February 2005 until approximately July 2007.



6. GM had existing crowns and composite restorations. GM was unhappy with the esthetic appearance of the crowns and asked Dr. Sanchez for treatment options.

7. Dr. Sanchez discussed various treatment options with GM and thereafter GM elected a treatment plan whereby 9 of her teeth would be crowned and 2 teeth would undergo composite restorations.

8. On February 9, 2005, Dr. Sanchez began the planned treatments.

9. A panorex was taken to evaluate bone pathology and completed restorations.

10. Bitewing x-rays were taken to check margins, but such x-rays should not be the sole method of determining margins.

11. Dr. Sanchez placed crowns on teeth no. 2, 3, 12, 13, 14, 15, 19, 30 and 31 and performed composite restorations on teeth no. 7 and 19 for patient GM.

12. Dr. Sanchez continued to treat GM until July 2007.

13. Patient GM experienced serious and re-current difficulties with the crowns Dr. Sanchez placed.

14. The crown on tooth no. 19 came off on three separate occasions and was discovered by patient GM floating loose in her mouth.

15. GM became increasingly unhappy with the condition and appearance of the crowns and restorations performed by Dr. Sanchez and ultimately consulted Drs. Rodriguez and Nalamachu.

16. On or about July 26, 2007, GM presented at Dr. Kali Nalamachu's office on an emergency basis. Crown #19 which was placed by Dr. Sanchez had come off for the third time and could not be re-cemented due to lack of sufficient tooth structure.



17. On or about July 26, 2007, Dr. Nalamachu conducted a comprehensive exam and found recurrent decay under several of the crowns placed by Dr. Sanchez.

18. On or about July 30, 2007, GM presented at Dr. Rodriguez's office for a second opinion. Dr. Rodriguez verified what Dr. Nalamachu had observed on July 26, 2007.

19. Radiographs taken by Dr. Kali Nalamachu and Dr. Jose R. Rodriguez showed open crown margins demonstrating a poor fit and insufficient tooth structure to cement the crowns to ensure stability and long term viability.

20. A poor fitting crown can result in recurrent decay and irritation to the gingival tissues and discomfort in the area.

21. GM experienced recurrent decay and irritation in the tissue and area surrounding the crowns placed by Dr. Sanchez due to poor fit and insufficient tooth structure.

22. Dr. Sanchez' treatment of GM was below the standard of care in that deficient restoration or disease was noted on GM's crowns in the following particulars:

- A. #2 PFM crown has marginal discrepancy on the lingual;
- B. #3 PFM crown has marginal discrepancy on the facial and lingual;
- C. #7 ML composite restoration is a defective restoration, caries are present on the mesial surface;
- D. #12 all ceramic crown has marginal discrepancy on the mesial and lingual and caries are present on the lingual;
- E. #13 ceramic inlay has marginal discrepancy on the mesial and distal and caries present on the mesial and distal;



- F. #14 all ceramic crown has marginal discrepancy on the distal and lingual and caries present on the lingual;
- G. #15 ceramic inlay has marginal discrepancy on the mesial;
- H. #18 ceramic onlay has marginal discrepancy on the mesial;
- I. #19 lost restoration, has extensive caries;
- J. #30 all ceramic crown has marginal discrepancy on the mesial, distal, and lingual and caries present on the lingual;
- K. #31 all ceramic crown has marginal discrepancy on the mesial, distal and lingual and caries present on the lingual.

23. Dr. Sanchez's examination, treatment plan and dental care of GM fell below the standard of care in one or more of the following ways:

- (a) he improperly placed the crowns;
- (b) he failed to refer the patient to an appropriate specialist;
- (c) he failed to take appropriate radiographic studies to determine the safe and proper placement of the crowns
- (d) he failed to use appropriate measurements, gauges and/or devices to determine the safe and proper placement of the crowns
- (e) he failed to timely respond to the patient's difficulties and complaints of pain following the placement of the crowns; and
- (f) he failed to render timely treatment to the patient;
- (g) There are not adequate records that the patient was informed of her specific problems, given a choice of treatment or explained the risks;
- (h) There are no radiographs or other x-rays to show the procedural steps of the treatment;
- (i) There are deficiencies in the treatment;
- (j) The patient was not referred to a more qualified practitioner;



- (k) The crowns do not fit well as evidenced by radiographs and other x-rays showing open crown margins and decay.

24. GM commenced an alternative treatment plan with another dentist. The additional treatment involved extensive bridge and crown work on the crowns placed by Dr. Sanchez.

25. Because Dr. Sanchez deviated from the standard of care in providing treatment to GM, GM is at risk of losing tooth #19 if infection or other symptoms arise.

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

27. 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.

28. Pursuant to section 332.052.1, RSMo, dentists shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record-keeping format is capable of being printed for review by the board.

29. Dr. Sanchez failed to maintain an adequate and complete patient record for GM in violation of section 332.052.1, RSMo.

30. Dr. Sanchez failed to document a minimum appropriate medical history, results of clinical examinations and tests conducted, including the identification, or lack thereof, of any oral pathology or diseases, the treatment plan proposed by Dr. Sanchez and



documentation of the complete treatment rendered to GM in violation of section 332.052.1, RSMo.

31. Dr. Sanchez's conduct as alleged herein demonstrates incompetency and gross negligence by failing to meet the minimum standards of care in diagnosis and treatment.

32. Licensee's conduct in charging the patient a fee and receiving payment constitutes obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation in violation of section 332.321.2(4).

33. Licensee's conduct as alleged herein constitutes incompetency, misconduct, gross negligence, fraud, misrepresentation and dishonesty in the performance of his functions and duties as a licensed dentist in violation of § 332.321.2(5).

34. 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 the dental care Licensee performed complies with the standard of care and that the patient receive proper, appropriate and accurate care to resolve her dental complaints.

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

36. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(4), (5), 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:

....

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party payment program; or for repeated irregularities in billing a third party for services rendered to a patient. For the purposes of this subdivision, irregularities in billing shall include:

(a) Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered;

(b) Reporting incorrect treatment dates for the purpose of obtaining payment;

(c) Reporting charges for services not rendered;

(d) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the person is entitled;

(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;

....



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 2003013104 be placed on **PROBATION for a period of three (3) years** (“disciplinary period”). During the disciplinary period, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of this Settlement Agreement. The terms of the probation shall be:

I. REQUIREMENTS REGARDING CONTINUING EDUCATION

Ethics Course

A. Licensee shall take the continuing education course in ethics sponsored by the University of Missouri-Kansas City or its equivalent. 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 Licensee’s disciplinary period. 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.

Jurisprudence Exam

B. 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 packet 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.

Additional Continuing Education Hours

- C. Licensee shall complete fifty (50) hours of approved continuing education within the first twelve (12) months of the effective date of this Agreement in fixed prosthodontics. These hours are in addition to those hours required by law for renewal and must be classroom/out of office hours (NO correspondence or internet courses.) These additional continuing education hours cannot carry over into the next reporting period.

II. REFUND TO THE PATIENT

- A. Licensee shall provide an appropriate refund to patient GM and provide the Board with satisfactory evidence of such refund. In the event that a civil action is brought against licensee regarding the care provided to GM, licensee shall provide the Board with evidence of the disposition of that case. Evidence of the disposition of the civil action shall satisfy the Board's requirement for a refund to patient GM.

III. 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 the 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 § 332.321.9, 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 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.

IV. 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 324, 332, 610, 620, RSMo.



3. Upon the expiration of said discipline, Licensee's license to practice dentistry in Missouri shall be fully restored if all other requirements of law have been satisfied; provided however, that in the event the Board determines that the Licensee has violated any term or condition of this Settlement 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 the Licensee.

4. No order shall be entered by the Board pursuant to the preceding paragraph of this Settlement Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

5. If the Board determines that Licensee has violated a term or condition of this Settlement 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 Settlement Agreement in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

6. 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.

7. 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.

8. 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.**



9. 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

BOARD



JASON SANCHEZ, D.D.S



BRIAN BARNETT
Executive Director
Missouri Dental Board

Date 3-10-11

Date 3/7/11

