

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND L. MARILYN WEAKS, D.M.D.**

Come now L. Marilyn Weaks, D.M.D. ("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 she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her 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 her and, subsequently, the right to a disciplinary hearing before the Board at which time she may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her license. Being aware of these rights provided her 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 her.

Licensee acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline her 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 041012 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2010 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 L. Marilyn Weaks, D.M.D. is licensed by the Board as a dentist, License No. 014012. Licensee's Missouri license expired on November 30, 2010. Licensee failed to renew her license.

3. On or about August 3, 2010, the Board received a complaint regarding Licensee from C.S. In her complaint, C.S. alleged that she started having issues with gum swelling and pain. She stated she tried to call Licensee for about two weeks and left messages until "the phone could not take anymore messages." C.S. stated she never received a call back from Licensee. C.S. stated that the dentist she found to treat her "discovered [a] very deep pocket and a cracked filling to the left bottom side." The subsequent dentist suggested that C.S. see or reach Licensee. C.S. went to Licensee's office on July 12, 2010 and found that the office had been closed and everything removed. The subsequent dentist's assistant also attempted to contact Licensee, according to C.S., and was unable to reach Licensee. The subsequent dentist prescribed an antibiotic for C.S.'s infection. C.S. also went to another subsequent periodontist who is unable to treat C.S. without x-rays. C.S. has been unable to obtain her x-rays which Licensee took in May 2009 from Licensee. C.S.'s insurance will not allow another set of x-rays as they only allow one set every five years. The subsequent periodontist needs the x-rays to complete root planning. C.S. also mailed a letter to Licensee stating the dilemma and requesting that Licensee mail her file to the subsequent dentist. C.S. sent the letter July 14, 2010. To date, the Board is not aware of any response to C.S.

4. On or about November 18, 2010, the Board received a letter from Licensee with a change of address and request for change of licensure status. The letter provided Licensee's new address and e-mail address. It also stated:

I am not practicing anywhere at this time; and am receiving Social Security disability benefits due to severe depressive disorder and post traumatic stress disorder. While receiving treatment (Dr. Greg Mattingly in St. Charles, MO), I am requesting the Dental Board grant me a "leave of absence." There is no anticipation of a quick resolution to my mental illnesses.



Unfortunately, I have not been well enough to appropriately inform my patients and referring doctors of my inability to work or communicate; but hope to do so soon.

5. On May 5, 2011, the Board sent Licensee an email regarding C.S.'s complaint. The email informed Licensee of C.S.'s complaint, and the complaint was attached, and requested that Licensee provide the Board with a copy of Licensee's records for C.S. including the x-rays. The e-mail also asked that Licensee send the records to C.S. The e-mail then asked Licensee for "an update on the progress [she] had made, or steps [she] ha[d] taken to notify your patients of the close of your practice and how they may obtain their records." The email finally gave Licensee a deadline of May 19, 2011 to provide C.S.'s records to the Board, to C.S. and to provide the Board with the requested update.

6. The Board received a response to its May 5, 2011 e-mail from Licensee on May 6, 2011. In the e-mail, Licensee stated that many of her patient records were "stolen by the attorney that foreclosed on my condo/office." She stated that she went to work one Monday and the locks had been changed. Licensee stated that the attorney said she could have four hours to have people remove things from the office but Licensee could not enter. Licensee stated there was a police officer present. Licensee stated that the patient records were boxed and "set out into the hall where I thought she would not be able to take them." Licensee stated that they filled up a truck and left to unload the truck. Licensee stated that when she returned everything had been confiscated including computer records. She stated the records she did remove were also confiscated by the landlord of the house she was renting when she was one day late moving out. She stated that the episodes caused a setback in her "road to recovery." She stated she recently became a member of Independence Center in St. Louis which helps people with severe mental illness transition back into society and find a job. She stated she was "working on getting some letters out soon" and didn't "know how [C.S.'s] records from [her] office would facilitate her restorative treatment. Perhaps I could get a friend to evaluate her and take new radiographs." In a follow up e-mail, Licensee informed the Board that the attorney who handled the foreclosure was Katherine Ruocco.

7. On or about May 11, 2011, the Board sent Katherine Ruocco an e-mail regarding Licensee's records. In the e-mail, the Board stated that it had been notified by Licensee that Ms. Ruocco had obtained possession of Licensee's patients' dental records when Licensee's condo/office was foreclosed upon. The e-mail asked for Ms. Ruocco to inform the Board if she "did and still have possession of [Licensee's] patient



records and if so, the best method in which these patients may be able to contact you and obtain copies of their records." On the same day, the Board received a response from Ms. Ruocco. Ms. Ruocco stated that "to my knowledge and recollection, [Licensee] had no medical records left in the office at the time she left[.]" Ms. Ruocco stated that the office was quite a mess and there were bags of unknown items she had left in the office even though on the day of the move, Ms. Ruocco informed Licensee that anything left in the office would be taken to the dump. Ms. Ruocco stated in her e-mail that Licensee acknowledged that statement. Ms. Ruocco stated that Licensee was present with a moving truck and moving men and was free to take what she wanted. Ms. Ruocco stated that Licensee took what she wanted and left. Ms. Ruocco stated she did not go through the bags that she left remaining in the property. Everything remaining was removed and taken to the dump. Ms. Ruocco stated she had no knowledge of any records and was unfortunately unable to assist the Board.

8. Section 332.181.5, RSMo states, in relevant part:

Any licensed dentist who fails to renew his or her license on or before the renewal date may apply to the board for renewal of his or her license within four years subsequent to the date of the license expiration. To renew an expired license, the person shall submit an application for renewal, pay the renewal fee and renewal penalty fee as set by rule, and submit satisfactory evidence of completion of at least fifty hours of continuing education for each renewal period that his or her license was expired as provided by rule. The required hours must be obtained within four years prior to renewal. The license of any dentist who fails to renew within four years of the time his or her license has expired shall be void. The dentist may apply for a new license; provided that, unless application is made under section 332.321, the dentist shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dentist.

9. Licensee's actions as described in paragraphs 3 through 7 above constitute incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty relating to one's ability to perform the functions or duties of a profession licensed by this chapter in that Licensee failed to maintain adequate records and abandoned patients for which Licensee's license is subject to discipline.

10. Cause exists for the Board to take disciplinary action against Licensee's expired license under § 332.321.2(5), 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, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter[.]

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:

The terms of discipline shall include that the dental license shall be **VOLUNTARILY SURRENDERED in lieu of discipline** and Licensee shall return all indicia of licensure to the Board. Licensee must reapply for a license in the State of Missouri should she wish to be licensed. Should she reapply for licensure, Licensee must meet all requirements for licensure at the time she reapplies. Should Licensee reapply for licensure, Licensee must provide the Board with documentation that she is fit to practice from a licensed medical or mental health professional.

10. 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.

11. 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.

12. Licensee, together with her heirs and assigns, and her 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.

13. 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.

14. 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

BOARD



L. Marilyn Weaks, D.M.D.

Date 3-15-2012



Brian Barnett,
Executive Director
Missouri Dental Board

Date 3/23/12

RECEIVED

MAR 23 2012

MISSOURI DENTAL BOARD

