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**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND THOMAS H. WRENN, III, D.D.S.**

MISSOURI DENTAL BOARD

Come now Thomas H. Wrenn, III, 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 010872 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 Thomas H. Wrenn, III, D.D.S. ("Licensee") is licensed by the Board as a dentist, License No. 010872. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

Practicing on a suspended license

3. On November 12, 2009, the Missouri Department of Revenue (DOR) suspended Licensee's dental license in accordance with House Bill 600 (HB600), codified as § 324.010, RSMo<sup>1</sup>.

4. The Board received notice of Licensee's tax compliance and restored his license to active status on January 19, 2010. Licensee's license was suspended for sixty-nine days.

5. On or about March 9, 2010, in anticipation of visiting Licensee at his practice location, Board Investigator Joseph Sears (Sears) performed a sweep of local pharmacies to collect controlled substance profiles on Licensee for all controlled substances he authorized during the period his license was suspended.

The profiles revealed:

- a. Licensee authorized prescriptions for APAP/Codeine, Hydrocodone/APAP and Tylenol #3.
- b. Licensee authorized six prescriptions for controlled substances that were filled between November 12, 2009 and January 19, 2010 including four for Hydrocodone/APAP, one for APAP/Codeine and one for Tylenol #3.

6. On March 9, 2010, Sears travelled to Licensee's practice location to determine if Licensee practiced during the period his license was suspended. Sears' visit to Licensee's practice revealed:

- a. Upon arrival, Licensee stated that he knew his license was suspended. However, later, Licensee told Sears that he had "misunderstood the correspondence received from DOR regarding his license being suspended. Licensee told Sears that he believed that DOR was only "threatening" to suspend it.

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<sup>1</sup> According to House Bill 600 of the 92<sup>nd</sup> General Assembly (2003), any holder of a professional license who has failed to pay taxes or file tax returns will have their license subject to suspension within ninety days of being notified by DOR of any delinquency or failure to file.

- b. Sears requested copies of patient records for the individuals that received prescriptions from Licensee while his license was suspended, as well as records for patients who received prescriptions from him once his license was reinstated.
  - c. Licensee informed Sears that the patient records were not at the practice but were at his home due to recent break-ins in the area. Sears asked Licensee to submit the patient records as well as documentation of continuing education records for December 1, 2006 through November 30, 2008 and basic life support (BLS) or advanced cardiac life support (ACLS) for the same period, to the Board within two weeks.
7. The Board received Licensee's response to Sears' request on March 22, 2010. Licensee provided the patient records that Sears requested as well as his continuing education records. A review of Licensee's patient records revealed:
- a. None of the records requested for the initial eight patients contain a record of the prescriptions Licensee wrote in violation of 19 CSR 30-1.048(2). Sears questioned Licensee about the absence of the prescriptions in the patient records. Licensee stated he "usually tried" to note prescriptions in the patient's record but it does not always occur. Licensee stated he does not record them anywhere but the patient's record.
  - b. Licensee saw patient R.H. on November 12, 2009.
  - c. Licensee saw patient B.J. on January 19, 2010.
  - d. Licensee saw patient P.S. on December 31, 2009.
  - e. Licensee saw patient D.R. on November 20, 2009.
  - f. Licensee saw patient J.W. on January 13, 2009.
  - g. Of concern in Licensee's records was a prescription for Tylenol #3 written to patient C.M. on February 5, 2010. C.M.'s patient record states she is allergic to codeine and penicillin.
  - h. Also of concern, Licensee prescribed a total of 64 tablets of Tylenol #3 to patient C.J. between January 25, 2010 and February 18, 2010, a difference of 24 days. Only one of the prescriptions is listed in C.J.'s patient record but both are documented in the controlled substance profile for Licensee from CVS pharmacy.

8. A review of Licensee's continuing education records for the period of December 1, 2006 through November 30, 2008 revealed:

- a. Licensee provided documentation of 48 continuing education hours completed between December 1, 2006 and November 30, 2008.
- b. Licensee provided a copy of BLS certification completed on March 15, 2010. Licensee provided no other BLS or ACLS certification.

9. As a result of the review of the initial patient records described in paragraph 7 above, Sears requested additional patient records, as well as additional continuing education records on March 26, 2010. Sears requested the records on or before April 5, 2010. The request was for three patient records, documentation of two additional hours of continuing education and BLS or ACLS certification for the relevant period.

10. On or about April 9, 2010, Sears contacted Licensee and informed him that he had not received his response. Licensee stated the response had not been sent but would go out that day. On April 19, 2010, Sears contacted Licensee again and stated that the Board had not received his response. Licensee stated that Sears should receive it shortly but it had not been sent certified and could not be tracked. The Board received Licensee's response on April 20, 2010. The response included only the three patient records that Sears requested. The three records received on April 20, 2010 do not contain proper documentation of controlled substance prescriptions in violation of 19 CSR 30-1.048(2). The controlled substances for these patients are documented in the controlled substance profiles Sears obtained from local pharmacies. Licensee sent no additional records related to BLS or ACLS certification or the missing hours of continuing education in response to Sears' March 26, 2010 letter.

11. On or about October 15, 2008, Licensee completed his application for renewal of his dental license. Licensee attested on the renewal application that he earned fifty hours of continuing education credit between December 1, 2006 and November 30, 2008 and that he maintained documentation of those hours. Licensee also attested that he had current certification in BLS or ACLS.

12. Licensee has a duty to maintain full and complete records of all approved continuing education credits earned pursuant to and as defined by 20 CSR 2110-2.240(2)(A), which states in pertinent part:

Each licensee shall retain records documenting his/her completion of the required hours of continuing education for a minimum of six (6) years after the reporting period in which the continuing education was completed. The records shall document the licensee's attendance at the continuing education course including, but not limited to, retaining the titles of the courses taken, dates, locations, receipts, course sponsors, agendas and number of hours earned.

13. Licensee's failure to obtain the required fifty (50) continuing education credits is a violation of section 332.261 and of Regulations 20 CSR 2110-2.240(2) and 20 CSR 2110-2.071 which requires continuing education for renewal of a license.

14. Pursuant to Regulation 20 CSR 2110-2.240(5), "a violation of any provision of this rule shall be deemed by the board to constitute misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional, or any combination of these, in the performance of the functions, duties, or both, of a dentist or dental hygienist, depending on the licensee's conduct."

15. Regulation 19 CSR 30-1.048(2) states, in relevant part: "Each individual practitioner shall 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. This record may be maintained in the patient's medical record. When the controlled substance record is maintained in the patient's medical record and the practitioner is not the custodian of the medical record, the practitioner shall make the controlled substance record available as required in 19 CSR 30-1.041 and 19 CSR 30-1.044."

16. Licensee's conduct in practicing dentistry while his license was suspended as described in paragraphs 3 through 13 constitutes incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed by the chapter in that he was aware his license was suspended between November 12, 2009 and January 19, 2010 but he provided dental services to patients throughout that time.

17. Licensee's conduct in practicing dentistry while his license was suspended as described in paragraphs 3 through 13 constitutes violation of a professional trust or confidence.

18. Licensee's answer of "yes" to the question regarding completion of continuing education hours and BLS or ACLS certification on his 2008 renewal when, in fact, he had not completed 50 hours of education nor had a current BLS or ACLS certification constitutes the use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issue pursuant to this chapter.

19. Licensee's failure to complete 50 hours of education and BLS or ACLS certification constitutes violation of a provision of chapter 332 and lawful rules or regulations adopted pursuant to chapter 332.

20. Licensee's failure to properly document prescription authorizations in patient records as described in paragraph 7 above is a violation of 19 CSR 30-1.048(2), a drug law of the State of Missouri.

21. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(3), (5), (6), (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:

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(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;

(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;

(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 2000:

The terms of discipline shall include that the dental license, license number 010872, be placed on **PROBATION** for a period of two (2) 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 make up the two (2) approved continuing education hours that he was delinquent within the first twelve (12) months of the effective date of this Agreement.
- B. Licensee shall complete an additional two (2) approved continuing education hours within the first twelve (12) months of the effective date of this Agreement.
- C. These hours that need to be made up and the additional 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.
- D. Licensee shall provide the Board with proof of attendance of the continuing education hours no later than thirty (30) days after attending the course. Failure to attend the required documentation to the Board will result in a violation of the terms of discipline.
- E. Licensee shall take and pass the Board's jurisprudence examination within the first twelve (12) months of Licensee's period of probation. 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 twelve (12) 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. Licensee shall not allow his license to lapse.
- B. 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.
  - 1. 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.
  - 2. 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.
  - 3. 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 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

Thomas H Wrenn  
 Thomas H. Wrenn, III, D.D.S.

Brian Barnett  
 Brian Barnett,  
 Executive Director  
 Missouri Dental Board

Date 9/10/10

Date 9/14/10

approved by  
Attorney  
Joseph R Baird  
 # 23441