

Commonwealth of Kentucky
Kentucky Board of Dentistry
312 Whittington Parkway, Suite 101
Louisville, Kentucky 40222

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JAN 09 2010
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Agency Case Numbers 07-127, 07-128, 07-142, 07-151
Administrative Action No. 08-KBD-0379

Kentucky Board of Dentistry

Complainant

v.

Order

Serdar J. Abadi, D.M.D.
(License No. 8429)

Respondent

* * * * *

The Kentucky Board of Dentistry, having met on January 9, 2010, and having voted upon the above-styled case, hereby adopts and incorporates the attached Settlement Agreement.

It is so ordered.

Dated this 9 day of January, 2010.

Kentucky Board of Dentistry

By:


William Boggess, D.M.D., President

Certificate of Service

I hereby certify a true and accurate copy of the foregoing Order and Settlement Agreement was mailed, first-class postage prepaid, this 9th day of January, 2010, to:

Serdar J. Abadi, D.M.D.
2113 Drummond Lane
Lexington, Kentucky 40511
Respondent

Mark Brengelman, Assistant Attorney
Office of the Attorney General
700 Capitol Avenue, Room 118
Frankfort, Kentucky 40601-3449
Counsel for Board

William A. Bausch, Attorney
Kentucky Law Group, PLLC
1795 Alysheba Way, Suite 2101
Lexington, Kentucky 40509-2286
Hearing Officer

L. Chad Elder and Brian R. Good
Elder & Good, PLLC
159 St. Matthews Avenue, Suite 1
Louisville, Kentucky 40207
Attorneys for the Respondent


Brian K. Bishop, Executive Director

Commonwealth of Kentucky
Kentucky Board of Dentistry
312 Whittington Parkway, Suite 101
Louisville, Kentucky 40222

RECEIVED
JAN 09 2010
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Agency Case Numbers 07-127, 07-128, 07-142, 07-151
Administrative Action No. 08-KBD-379

Commonwealth of Kentucky,
Board of Dentistry

Complainant

v.

Settlement Agreement

Serdar J. Abadi, D.M.D.
(License No. 8429)

Respondent

* * * * *

Whereas, the Kentucky Board of Dentistry (hereafter "Board") having information upon investigation of an initiating complaint filed against Serdar J. Abadi, D.M.D., (hereafter "Respondent"), that the Respondent has acted in violation of KRS Chapter 313, for which disciplinary action may be taken pursuant to KRS 313.130;

Whereas, the Board has issued an two (2) Orders and Notices of Immediate, Temporary Suspension dated November 13, 2007, and July 30, 2008, which were not appealed;

Whereas, for the purposes of this Settlement Agreement, the Respondent admits the Respondent has violated, by a preponderance of the evidence at a hearing before the Board, the following violations:

- 1) Twenty-nine (29) counts of KRS 313.130(3), unprofessional conduct, as defined by 201 KAR 8:430 §2(7) of incompetence or negligence by a failure to meet the minimum standards of performance in diagnosis and treatment, when measured against the degree of care and skill which is expected of a reasonably competent dentist, acting in the same or similar circumstances, and of the same class to which the dentist belongs, and;
- 2) Fourteen (14) counts of KRS 313.130(3), unprofessional conduct, as defined by 201 KAR 8:430 § (2)(4) by failing to keep written dental records and medical history records that justify the course of treatment of,

including: (a) patient histories; (b) examination results; and (c) x-rays if taken, and;

- 3) Seven (7) counts of KRS 313.130(3), unprofessional conduct, as defined by 201 KAR 8:430 § (2)(8) by providing dental services without justification, and;
- 4) One (1) count of KRS 313.130(3), unprofessional conduct, as defined by 201 KAR 8:430 § (2)(15) by performing dental services without first obtaining the informed consent of the patient, and;
- 5) One (1) count of KRS 313.130(3), unprofessional conduct, as defined by 201 KAR 8:430 § (2)(16)(c) by prescribing a legend drug, including a Schedule I through IV controlled substance, to himself, and;
- 6) Seven (7) counts of KRS 313.140(2), obtaining a fee by fraud or misrepresentation.

Whereas, the parties mutually desire to settle the issue in an expeditious manner, without the need for a formal hearing since the Respondent has cooperated with the Board;

It is hereby stipulated and agreed between the undersigned parties that this matter shall be settled and resolved upon the following terms:

Voluntary Waiver of Rights

The Respondent has had the opportunity at all times to seek the advice from competent counsel of choice. No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this agreement. The Respondent has freely and voluntarily entered into this agreement, motivated only by a desire to resolve the issues addressed herein. The Respondent has executed this Settlement Agreement only after a careful reading of it and a full understanding of all of its terms. The Respondent waives the right to challenge any agreed upon term or condition of this Settlement Agreement notwithstanding any other statutory provision of KRS Chapter 313, and the Respondent expressly agrees those agreed upon terms and conditions contained therein are exclusively a matter of private right.

The Respondent is fully aware of the Respondent's rights to contest charges in a formal hearing. These rights include: representation by an attorney at the Respondent's own expense, the right to a public hearing on any charges or allegations filed, the right to confront and cross-examine witnesses called to testify against the Respondent, the right to present evidence on the Respondent's own behalf, the right to compulsory process to secure the attendance of such witnesses, the right to testify on the Respondent's own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the charges, the right to obtain judicial review of the Board's decision, and the right to appeal any final order of the Board to the Circuit Court of the county in which the Board met as otherwise allowed by KRS 313.150(3). All of these rights are being voluntarily waived by the Respondent in exchange for the Board's acceptance of this Settlement Agreement.

Jurisdiction

The Respondent acknowledges that the Board has jurisdiction over the Respondent and the conduct which has precipitated this settlement. The Respondent also acknowledges that the Board has the legal power to take disciplinary action up to and including revocation of the Respondent's license to practice dentistry upon proof of any allegations that may be pending against the Respondent.

The Respondent acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Settlement Agreement have been met to the satisfaction of the Board.

Publication of Settlement

The Respondent acknowledges that, once adopted by the Board, this Settlement Agreement may be considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act. Further, the Respondent understands that the Board is free to make any use it deems appropriate of the contents of this agreement which shall include the Board's ability to share the content of this Settlement Agreement with any governmental or professional Board or organization and Board newsletter under 201 KAR 8:400 § 5 and availability via the Board's website.

Effect Upon Licensure Status: Voluntary Surrender as if Revoked

The Respondent's dental license shall be voluntarily surrendered as if revoked.

During the period of the Respondent's revocation from the practice of dentistry, the Respondent shall not practice dentistry as the term is defined in KRS 313.010(2), except as expressly provided below.

Application for Reinstatement of License

The Respondent may, not later than July 1, 2014, apply in writing to the Board for the reinstatement of the Respondent's revoked license to practice dentistry, if and only if the Respondent has fully complied with the following terms and conditions:

- 1) The Respondent shall successfully complete either of the following:
 - A) two (2) years post-graduate training in general dentistry at a school accredited by the Commission on Dental Accreditation, or;
 - B) clinical coursework from Oral Health Enrichment, LLC, Woodmere Village, Ohio, or from any other provider pre-approved by the Board, including a dental school accredited by the Commission on Dental Accreditation:
 - i) 20 clock hours of dental and medical ethics, and;
 - ii) 40 clock hours of treatment planning and diagnosis, and;
 - iii) 80 clock hours of endodontics, and;
 - iv) 80 clock hours of restoration, and;
 - v) 80 clock hours of crown and bridge.

- 2) The Respondent shall after the completion of ¶ 1, above, obtain a passing score on a clinical examination approved by the Board in 201 KAR 8:220, and;
- 3) The Respondent shall successfully complete, with written proof of such completion to be filed with the Board, a Board-approved continuing education course of at least twelve (12) hours in the calendar years 2010, 2011, 2012, 2013, and 2014, said continuing education courses shall be in addition to the hours otherwise required by 201 KAR 8:140, consisting of either:
 - a) The Clinical Applications of the Principles in Treatment of Alcoholism and Substance Abuse (CAPTASA) conference offered in Lexington, Kentucky or;
 - b) The University of Utah's School on Alcoholism and Other Drug Dependencies continuing education course, or;
 - c) Any other Board-approved, similar continuing dental education course, and;
- 4) The Respondent shall, on or before March 1, 2010, submit to a drug treatment assessment at the cost of the Respondent, and shall complete any recommended treatment and/or programs based on that assessment at the cost of the Respondent, which assessment shall be coordinated and pre-approved by the Board's Well-Being Committee, and;
- 5) The Respondent shall enroll and actively participate in the Well-Being Committee of the Board under contract beginning on or before March 1, 2010, until the Respondent applies to reinstate the Respondent's revoked dental license, and;
- 6) The Respondent shall comply with all requirements for license reinstatement pursuant to KRS Chapter 313 before the dental license is reinstated by the Board, specifically:
 - a) File a completed application for reinstatement, and;
 - b) Pay the appropriate licensure and reinstatement fees, and;
 - c) File proof of current certification by the American Heart Association in Basic Life Support ("BLS") or certification by the American Red Cross in cardiopulmonary resuscitation ("CPR"), and;
 - d) File, proof of the appropriate number of continuing dental education taken in the previous twenty-four (24) months as required by 201 KAR 8:140 § 2.

If the Respondent intends to fulfill the educational requirements of ¶ 1(A), above, the Respondent shall notify the Board in writing at least thirty (30) days prior to the start of the Respondent's post-graduate training in general dentistry; the Board shall issue a student-limited license to the Respondent pursuant to KRS 313.035 if and only if the Respondent has met the requirements of KRS 313.035(1) and the terms and conditions in ¶¶ 3, 4, and 5, above.

If the Board reinstates the revoked license to practice dentistry of the Respondent, the Board may impose additional terms and conditions, including but not limited to, a period of probation, Well-Being Committee participation, a restriction on the Respondent holding a Drug Enforcement Administration certificate, an immediate, temporary suspension clause, and a restriction on practicing as a solo practitioner or independent practitioner.

If the Respondent has not applied in writing by July 1, 2014, to reinstate the Respondent's revoked license to practice dentistry, the dental license shall be deemed by the Board to be permanently revoked, and the Respondent shall not thereafter apply for any credential from the Board.

The Respondent agrees to indemnify the Board for any costs, including reasonable attorney's fees, if the Board finds after notice and opportunity to be heard, that the Respondent has failed to comply with any provision of this Settlement Agreement.

Release of Liability

In consideration of execution of this Settlement Agreement, the Respondent for the Respondent personally, the Respondent's executors, administrators, successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the Kentucky Board of Dentistry, and the Kentucky Attorney General and each of their members, agents, and employees

in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that the Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

Acceptance by the Board

It is hereby agreed between the parties that this Settlement Agreement shall be presented to the Kentucky Board of Dentistry at the next regularly-scheduled meeting of the Board.

The Respondent understands that the Board is free to accept or reject this Settlement Agreement, and if rejected by the Board, a formal disciplinary hearing on the accusations against the Respondent may be scheduled. The Respondent hereby agrees to waive any right the Respondent might have to challenge the impartiality of the Board, based solely upon the presentation of this Settlement Agreement, to hear the disciplinary accusation if, after review by the Board, this Settlement Agreement is rejected.

If the Settlement Agreement is not accepted by the Board, it shall be regarded as null and void. Admissions by the Respondent in the Settlement Agreement will not be regarded as evidence against the Respondent at any subsequent disciplinary hearing. The Respondent will be free to defend and no inferences against the Respondent will be made from the Respondent's willingness to have entered into this agreement.

The Settlement Agreement will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Settlement Agreement shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

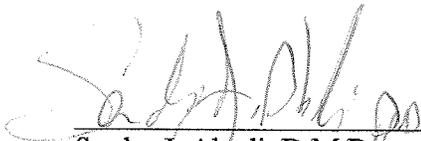
Cooperation with the Board

The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondent's compliance with the terms and conditions of this Settlement Agreement.

Complete Agreement

This Settlement Agreement consists of eight (8) pages and an additional signature page, and embodies the entire agreement between the Board and the Respondent. This Settlement Agreement shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall not rescind, revoke, or withdraw this Settlement Agreement prior to its presentation to the Board at a regularly scheduled meeting of the Board. It may not be altered, amended or modified without the express written consent of both parties.

Have Seen, Understood, and Approved:



Scrdar J. Abadi, D.M.D.
2113 Drummond Drive
Lexington, Kentucky 40511
Respondent

12-16-09
Date



Brian R. Good

12/18/09
Date



L. Chad Elder

12/18/09
Date

Elder & Good, PLLC
159 St. Matthews Avenue, Suite 1
Louisville, Kentucky 40207
Attorneys for Respondent



Jan. 9, 2010

Mark Brengelman

Date

Assistant Attorney General

Office of the Attorney General

Capitol Building, Room 118

700 Capitol Avenue

Frankfort, Kentucky 40601-3449

Board Counsel