

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

**Agency Case Nos. 08-131 and 09-025
Administrative Action No. 10-KBD-0227**

Kentucky Board of Dentistry

Complainant

v.

Settlement Agreement

**Martin Russell Minix, D.M.D.
(License No. 6678)**

Respondent

* * * * *

Whereas, the Kentucky Board of Dentistry ("Board") having filed a Notice of Administrative Hearing and Order dated March 10, 2010 ("Notice of Hearing") upon investigation of an initiating complaint that Martin Russell Minix, D.M.D., 253 Hager Branch, East Point, Kentucky 41216 ("Respondent"), has acted in violation of KRS Chapter 313(effective until July 15, 2010) for which disciplinary action may be taken pursuant to KRS 313.130(4)(effective until July 15, 2010);

Whereas, the Respondent admits for the purposes of this Settlement Agreement the Board would prove by a preponderance of the evidence at a hearing before the Board:

- 1) one (1) count of a violation of 201 KAR 8:430 § 2(7)(effective until July 15, 2010) (by being guilty of negligence or by otherwise failing to meet the minimum standard 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) one (1) count of a violation of 201 KAR 8:430 § 2(4)(effective until July 15, 2010)(by failing to keep written dental records and medical history records that justify the course of treatment of the patient, including x-rays taken).

Whereas, the parties mutually desire to settle the issue in an expeditious manner, without the need for a formal hearing;

It is hereby stipulated and agreed between the undersigned parties 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 Formal Complaint and the right to obtain judicial review of the Board's decision. 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 the Board has jurisdiction over the Respondent and the conduct, which has precipitated this Settlement Agreement. The Respondent also acknowledges 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 the allegations in the Notice of Hearing pending against the Respondent.

The Respondent acknowledges 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 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 as well as availability via the Board's web site.

**Effect Upon Licensure Status:
Reprimand, Probation, Fines/Costs, and Continuing Dental Education**

It is stipulated as the agreed upon disciplinary action:

- 1) the Respondent's license to practice dentistry shall be reprimanded, with this Settlement Agreement constituting the reprimand, and;
- 2) the Respondent's license to practice dentistry shall be placed on probation for a period of one (1) year from the date of entry of an order of the Board adopting this Settlement Agreement, and;
- 3) the Respondent shall pay directly to the Board the sum of \$500.00 for investigative and legal costs of the Board and \$500.00 as a fine, in the total amount of \$1,000.00 by certified check(s) or money order(s) made payable to the "Kentucky Board of Dentistry" within ninety (90) days of the date of entry of an Order of the Board adopting this Settlement Agreement, and;
- 4) the Respondent shall successfully complete the following continuing dental education coursework at the cost of the Respondent within 180 days from the date of entry of an Order of the Board adopting this Settlement Agreement consisting of:
 - i) not less than forty (40) contact hours of clinical or classroom, in-person, continuing dental education, and;
 - ii) hands-on, clinical skills training, and;
 - iii) covering the content area of orthodontics, orthodontic and restorative diagnosis, orthodontic and restorative treatment planning, record keeping, restorative dentistry, and preventive dentistry, and;
 - iv) with written notice of such completion to be filed with the Board by the Respondent within ten (10) days of its completion, and;
- 5) the Respondent may complete the coursework described above in ¶ 4 by choosing courses selected by the Respondent and to be pre-approved by the Board as offered by the Pankey Institute for Advanced Dental Education, Key Biscayne, Florida, or other formal continuing dental education courses also selected by the Respondent and to be pre-approved by the Board at either the University of Kentucky, College of Dentistry, or the University of Louisville, School of Dentistry, or other dental school accredited by the Council on Dental Education of the American Dental Association, with at least a "B" average.
- 6) Any such courses taken or submitted pursuant to this Settlement Agreement shall not apply to any current continuing dental education requirements for the current or any future licensure renewal cycle, but are to be in addition to those currently required for any Kentucky-licensed dentist.

The Respondent expressly understands failure to comply with and complete all terms of this Settlement Agreement constitutes unprofessional conduct for which the Board may impose additional disciplinary action after notice and opportunity to be heard.

Resolution of Notice of Administrative Hearing

Upon approval of this Settlement Agreement and its adoption by the Board, the Board's Notice of Hearing is hereby resolved.

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, 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 this Settlement Agreement shall be presented to the Kentucky Board of Dentistry at the next regularly-scheduled meeting of the Board.

The Respondent understands 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

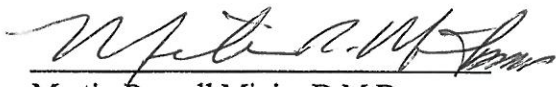
The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondent's compliance with the terms and conditions of this Settlement Agreement.

Complete Agreement

This Settlement Agreement consists of seven (7) pages and embodies the entire agreement between the Board and the Respondent. 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.

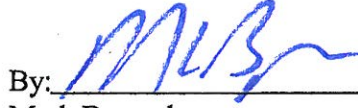
Have Seen, Understood, and Approved:

Kentucky Board of Dentistry



Martin Russell Minix, D.M.D.
253 Hager Branch
East Point, Kentucky 41216
Respondent

Date: 9-25-10



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

Date: Nov. 13, 2010



Shannon M. Naish, Attorney at Law
Fulkerson & Kinkel, PLLC
239 North Broadway
Lexington, Kentucky 40507
Counsel for Respondent

Date: 10-5-10