

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

RECEIVED

MAY 05 2011

Agency Case Number 09-028

KBD

Kentucky Board of Dentistry

Complainant

v.

## Order

Robert S. Adkins, D.M.D.  
(License No. 3633)

Respondent

\* \* \* \* \*

The Kentucky Board of Dentistry, having met on March 5, 2011, and having voted on the terms and conditions taking disciplinary action in the above-styled case, hereby adopts and incorporates the attached Settlement Agreement.

It is so ordered.

Dated this 11 day of May, 2011.

Kentucky Board of Dentistry

By:

  
C. Mark Fort, 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 11 day of May, 2011, to:

Robert S. Adkins, D.M.D.  
Larkin Professional Building  
2505 Larkin Road  
Lexington, Kentucky 40503-3296  
*Respondent*

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

Phillip M. Longmeyer, Attorney at Law  
Dinsmore & Shohl, LLP  
1400 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
*Attorney for Respondent*

  
Brian K. Bishop, Executive Director

**COPY**

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Kentucky Board of Dentistry  
312 Whittington Parkway, Suite 101  
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**Agency Case Number 09-028**

**Kentucky Board of Dentistry**

**Complainant**

v.

**Settlement Agreement**

**Robert S. Adkins, D.M.D.  
(License No. 3633)**

**Respondent**

\* \* \* \* \*

**Whereas**, the Kentucky Board of Dentistry (hereafter "Board") having information Robert S. Adkins, D.M.D., Larkin Professional Building, 2505 Larkin Road, Lexington, Kentucky 40503-3256 (hereafter "Respondent"), has acted in violation of KRS Chapter 313, for which the Board has authorized to be filed a Notice of Administrative Hearing and Order, and for which disciplinary action may be taken pursuant to KRS 313.130(3) and (4);

**Whereas**, for the purposes of this Settlement Agreement, the Respondent admits the Board would be able to prove by a preponderance of the evidence at an administrative hearing:

- 1) One (1) count of a violation of KRS 313.130(3) and (4) by violating 201 KAR 8:430 § 2(4) by failing to keep written dental records and medical history records which justify the course of treatment of the patient; this violation involved the failure of the Respondent to document separated instruments (broken files) during the Respondent's root canal therapy on the patient's tooth.

**Whereas**, the Board has no evidence to suggest that any alleged failure to document was intentional on the part of Respondent;

**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 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 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 any allegations 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 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 under 201 KAR 8:400 § 5 or availability via the Board's website.

### **Effect Upon Licensure Status: Reprimand; Probation; Costs; Continuing Education**

It is stipulated as the agreed upon disciplinary action:

1) the Respondent's license to practice dentistry in the Commonwealth of Kentucky shall be reprimanded, with this Settlement Agreement constituting the reprimand, and 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;

2) the Respondent shall pay costs in the amount of \$500.00 by certified check or money order made payable to the "Kentucky Board of Dentistry" on or before thirty (30) days from the date of entry of an Order of the Board adopting this Settlement Agreement, and;

3) the Respondent shall successfully complete within 180 days of the date of entry of an order of the Board adopting this Settlement Agreement, the following:

A) a Board-approved, continuing dental education course and assessment of at least ten (10) clock hours covering: i) dental and medical record keeping, and; ii) clinical skills for the general dentist, from any of the following providers: Oral Health Enrichment, LLC, Woodmere Village, Ohio; the Pankey Institute, Key Biscayne, Florida, or; any other provider pre-approved by the Board, such as a university's school or college of dental education accredited by the Council on Dental Education of the American Dental Association, and;

4) the Respondent shall also file written proof of the completion of A(i) and (ii), above, to be filed with the Board within ten (10) days of its completion, said continuing dental education course to be in addition to the hours otherwise required by 201 KAR 8:140 for the renewal of the Respondent's dental license for the next renewal cycle 2010-2011.

This is the Respondent's second disciplinary action.

### **Enforcement of Settlement Agreement**

The Respondent expressly understands failure to comply with and complete all terms of this Settlement Agreement constitutes misconduct for which the Board may impose additional disciplinary action after notice and opportunity to be heard. 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, 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, 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 Settlement 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. The Respondent shall make available to any member or agent of the Board any document or information deemed reasonably necessary by the Board, its members or agents, to monitor compliance with all terms of this Settlement Agreement, including appropriate signed releases.

### **Complete Agreement**

This Settlement Agreement consists of six (6) pages and a seventh (7<sup>th</sup>) 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.

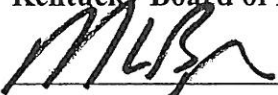
[ This space intentionally left blank. ]

**Have Seen, Understood, and Approved:**

\_\_\_\_\_  
Robert S. Adkins, D.M.D.  
Larkin Professional Building  
2505 Larkin Road  
Lexington, Kentucky 40503-3296  
*Respondent*

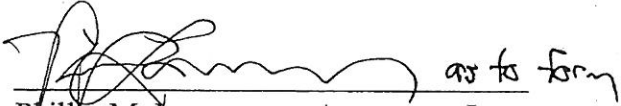
Date: Robert S. Adkins

**Kentucky Board of Dentistry**

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: Feb. 23, 2011

 as to form

Phillip M. Longmeyer, Attorney at Law  
Dinsmore & Shohl, LLP  
1400 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
*Attorney for Respondent*

Date: January 24, 2011