

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

Agency Case Numbers 10-033, 12-067, 13-012, and 14-053

Kentucky Board of Dentistry

Complainant

v. Settlement Agreement

**Arlene R. Baluyut, D.M.D.
License No. 5876**

Respondent

Whereas, the Kentucky Board of Dentistry (hereinafter "Board") having information upon investigation of initiating complaints that Arlene R. Baluyut, D.M.D. (hereinafter "Respondent"), 630 Comanche Trail, Suite A, Frankfort, Kentucky 40601, has acted in violation of KRS Chapter 313, for which disciplinary action may be taken pursuant to KRS 313.100(1);

Whereas, the Board conducted an investigation and reviewed the evidence collected during the investigation, which included patient records, and determined Respondent:

1. Failed to exercise reasonably expected judgment from trained dental professionals in determining proper treatment options, sequencing, and implementation that should result in reasonably successful outcomes, given the patient's overall oral health care needs;
2. Failed to inform her patient of alternative treatment plans by recommending definitive invasive treatment when other treatment and/or observation were viable treatment options; and
3. Failed to apply proper periodontal risk assessment to achieve a treatment plan relative to the oral health of her patient.

Whereas, Respondent admits based on the above findings and for the purposes of this Settlement Agreement the Board would be able to prove as follows:

At least one (1) count of violating KRS 313.080(2)(c) by acting negligently in a manner inconsistent with the practice of the discipline for which she is licensed; and

At least one (1) count of violating KRS 313.080(2)(d) by being unable to practice a discipline regulated by the board with reasonable skill or safety.

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 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 carefully reading it and developing a full understanding of all of its terms.

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 313.090(19). 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 the allegations in the Formal Complaint 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 of the contents of this agreement as it deems appropriate. Such uses shall include, but not be limited to, publishing the agreement on the Board website and reporting its contents to the National Practitioner Data Bank pursuant to KRS 313.090(20).

Effect Upon Licensure Status

It is stipulated as to the agreed upon disciplinary action that:

1. Respondent shall immediately initiate enrollment into the American Association of Dental Boards' Dentist Professional Review and Evaluation Program (D-PREP) and all costs associated therewith shall be at her own expense;
2. Effective July 28, 2014, Respondent shall cease practicing dentistry and may seek reinstatement following successful completion of the D-Prep Program;
3. Respondent may only participate in minimal clinical activity for the purpose of coordinating transition of treatment to other clinicians for patient safety and welfare until July 28, 2014 at which time Respondent shall cease practicing

dentistry as stated in above; during this interim period Respondent shall not engage in any invasive clinical activity or initiation of any new treatment;

4. Respondent shall pay to the Board, by certified check or money order made payable to the "Kentucky Board of Dentistry," the sum of \$30,000.00 to be paid as follows: (a) \$10,000.00 on or before August 31, 2014; (b) \$10,000.00 on or before May 31, 2015; and, (c) \$10,000 on or before February 28, 2016;
5. Within ninety (90) days of signing this agreement, Respondent shall at her own expense undergo three (3) hours of remedial education through a program approved by the Board on the topic of radiation safety. This remedial education may be achieved if offered as part of the D-Prep program. This remedial education shall be in addition to the thirty (30) hours of continuing education Respondent is required to complete during each two-year license renewal cycle; and
6. Respondent's license shall be placed on probation for a period of five (5) years beginning on the date the Respondent signs this agreement. If the Board receives notice of a substantiated case of substandard care for treatment rendered during this five-year period, the Respondent's license shall be suspended for a minimum of one (1) year. The Board retains the right to suspend the Respondent's license for a period greater than one (1) year, up to and including revoking the Respondent's license, if the evidence justifies such action.

Enforcement of Settlement Agreement and Immediate, Temporary Suspension of License

The Respondent expressly understands that failure to comply with and complete all terms of this Settlement Agreement constitutes misconduct for which the Board, its Law Enforcement Committee, or its Executive Director, shall issue an immediate, temporary suspension of the Respondent's dental license for a period of not less than twelve (12) months, and a fine of not less than \$500.00 as administrative costs of the Board, prior to a hearing with the right to appeal such action as provided under KRS 13B.125.

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.

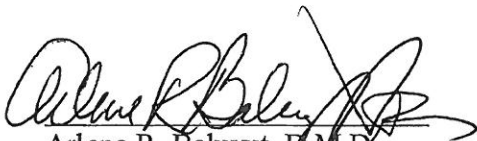
Cooperation with the Board

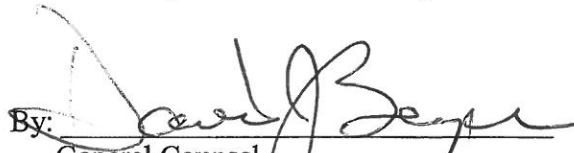
The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondent's compliance with the terms and conditions of this Settlement Agreement.

Complete Agreement

This Settlement Agreement consists of five (5) pages 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. This Settlement Agreement may not be altered, amended or modified without the express written consent of both parties.

Have Seen, Understood, and Approved: Kentucky Board of Dentistry


Arlene R. Baluyut, D.M.D.
630 Comanche Trail, Suite A
Frankfort, Kentucky 40601
Respondent

By: 
General Counsel
312 Whittington Parkway, Suite 101
Louisville, Kentucky 40222
Counsel for the Board

Date: 7/22/14

Date: 7/24/14