

A genuine copy of the Missouri Disciplinary Order is annexed as Exhibit A hereto and hereby fully incorporated by reference into this Stipulation and Consent Order. Under the Missouri Disciplinary Order, Respondent is to complete an ethics course, take and pass the Missouri jurisprudence exam, and maintain a practice monitor.

5. Respondent hereby stipulates, admits and waives any further proof in this or any other proceeding before or initiated by the Board, and the Board, upon motion duly made, seconded and passed, finds: that disciplinary action lawfully taken by the proper licensing authority against the Respondent's Missouri license to practice dentistry as follows:

Effective May 18, 2009, the Missouri Dental Board placed the Respondent's Missouri license to practice dentistry on probationary status for a period of five (5) years, and subject to certain terms and conditions, pursuant to a Findings of Fact, Conclusions of Law and Disciplinary Order approved and entered by the Missouri Dental Board on May 18, 2009 ("Missouri Disciplinary Order");

the Missouri Disciplinary Order annexed as Exhibit A hereto is a true and correct record of the lawful action taken by the Missouri Dental Board against Respondent's license to practice dentistry in the State of Missouri and constitutes conclusive evidence thereof; that the Missouri Dental Board is the proper licensing authority for dentists in the State of Missouri; and that Respondent's Kansas license to practice dentistry may be revoked, suspended, placed in a probationary status or denied renewal under the provisions of K.S.A. 65-1436(b) and K.S.A. 65-1436(a)(18) based on the action of the Missouri Dental Board lawfully placing Respondent's Missouri license to practice dentistry in probationary status.

The Board further finds and that such disciplinary action by the Missouri Dental Board, and the basis therefore, warrants the imposition of appropriate disciplinary action against Respondent's Kansas license to practice dentistry under the provisions of K.S.A. 65-1436(b) and K.S.A. 65-1436(a)(18).

6. The Board finds and Respondent stipulates and agrees that the following disposition is lawful, just and appropriate under the circumstances:

A. PROBATION. Pursuant to K.S.A. 65-1436(a), Respondent's Kansas license to practice dentistry shall be placed on probation for a period of time beginning on the effective of this Stipulation and Consent Order and expiring on June 2, 2014.

B. TERMS AND CONDITIONS. During the period of probation, Respondent will be entitled to practice the profession of dentistry pursuant to Chapter 65, Article 14 of the Kansas Statutes Annotated provided he adheres to the following terms and conditions of probation:

(i) Respondent must remain in compliance with the entire Missouri Disciplinary Order, including complying with all requirements regarding continuing education and maintaining a practice monitor.

(ii) Respondent shall comply with all provisions of the Kansas Dental Law, K.S.A. 65-1421, *et seq.*, and the rules and regulations of the Board applicable to licensed dentists and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. For purposes of this subsection, "state" includes the State of Kansas and all other states and territories of the United States.

(iii) Respondent's failure to comply with any provision set forth in this Stipulation and Consent Order or the Missouri Disciplinary Order constitutes a violation of the terms or conditions of probation.

7. Upon successful completion and expiration of the period of probation specified above, Respondent's license as a dentist in Kansas shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that

Respondent has violated any term or condition of this Stipulation and Consent Order, the Board may, in its discretion, initiate and take such additional disciplinary action against Respondent or Respondent's license as the Board deems necessary or appropriate to protect the public health, safety or welfare. If the Board determines that Respondent has violated a term or condition of this Stipulation and Consent Order and such violation would be independently actionable under the Kansas Dental Law, the Board may elect to pursue any lawful remedies or procedures available under Kansas law and the Board shall not be bound by this Stipulation and Consent Order in its determination of appropriate legal actions concerning any such violation.

8. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding the investigation which led to this disciplinary action and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal of settlement in the form of this Stipulation and Consent Order, with or without the presence of Respondent or his attorney. In the event that this Stipulation and Consent Order is not accepted and approved by the Board, Respondent further waives any objection to the Board members' consideration of this Stipulation and Consent Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

9. Except as provided in Paragraph 9 above, the stipulations and agreements contained herein shall not become effective or binding until and unless the Board approves this Stipulation and Consent Order. Respondent acknowledges that the approval of the Board's

attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

10. The Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it. The Respondent further agrees that the Kansas Dental Law, K.S.A. 65-1421, *et seq.* is constitutional on its face and as applied in this case.

11. This stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

12. Respondent acknowledges that he has the following rights:

- A. To have formal notice of charges served upon him;
- B. To file a response to the charges;
- C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing.
- D. To take advantage of all applicable provisions of the Kansas Administrative Procedures Act and the Kansas Act For Judicial Review and Civil Enforcement of Agency Action.

Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against him to those provided for herein. Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order.

13. Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation or the opportunity for consultation with counsel of his choosing. Respondent further acknowledges that he has read this Stipulation and Consent order in its entirety, that he understands its legal consequences and that he agrees that none of its terms are unlawful, unconscionable, fraudulent, oppressive, arbitrary, capricious or unreasonable.

14. Time is of the essence to this Stipulation and Consent Order. Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Consent Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Consent Order.

15. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Consent Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Consent Order shall be given full force and effect.

16. Upon execution by all parties and entry as an order by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

17. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's President or the President's authorized representative.

18. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1125 Probation of License."

B. Basis for Action: "39 – License Revocation, Suspension or Other Disciplinary Action Taken by a Federal, State or Local Licensing Authority."

19. Upon Respondent's execution of this Stipulation and Consent, all stipulations, understandings and agreements expressed herein shall become immediately effective and binding upon each of the parties, and the Board may enter its enforcement order based upon such stipulations, understandings and agreements without the necessity of filing any formal charges or holding hearings in these proceedings. The stipulations and agreements set forth in Paragraph 9 above shall become fully binding and effective immediately upon Respondent's execution of this Stipulation and Consent Order.

20. Respondent acknowledges that he has been advised by the Board that he would have the right within 15 days after service of the Stipulation and Consent Order to file a petition for reconsideration with the Board and the right within 30 days after service of the Stipulation and Consent Order to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Dental Board by serving Betty Wright, its Executive Director at 900 SW Jackson, Room 564-S, Topeka, Kansas 66612. Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 5th day of November, 2010.

KANSAS DENTAL BOARD

By: Denise Maus, RDH
RICHARD DARNALL, D.D.S. Denise Maus, RDH
President

AGREED TO AND ACCEPTED BY:

Arnold Barber

Arnold Barber, D.D.S.
Respondent

10/7/10

Date

APPROVED BY:

Signature of Respondent's Counsel

Date

Printed Name of Respondent's Counsel

Address of Respondent's Counsel

Randall J. Forbes

Randall J. Forbes #09089
FRIEDEN & FORBES
555 S. Kansas Avenue, Suite 303
Topcka, KS 66603
Tel: (785) 232-7266
Fax: (785) 232-5841
Counsel for Kansas Dental Board

10.25.10

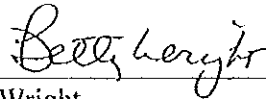
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND CONSENT ORDER was served by depositing same in the United States mail, postage prepaid, this 10th day of November, 2010, properly addressed to:

Arnold S. Barber, D.D.S.
215 E. McPherson St.
Kirksville, MO 63501

Randall J. Forbes
FRIEDEN & FORBES
555 South Kansas Avenue, Suite 303
Topeka, KS 66603




Betty Wright
Executive Director
KANSAS DENTAL BOARD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **STIPULATION AND CONSENT ORDER** was served by depositing same in the United States mail, postage prepaid, this 13th day of December, 2010, addressed to:

Arnold Barber, DDS
1316 Country Club Dr
Kirksville, MO 63501-5362

A handwritten signature in cursive script, reading "Melissa Graham", written over a horizontal line.

Melissa Graham
Administrative Officer
KANSAS DENTAL BOARD

BEFORE THE
MISSOURI DENTAL BOARD
STATE OF MISSOURI

MISSOURI DENTAL BOARD)
Petitioner,)
v.) AHC Case No. 07-0052 DB
ARNOLD BARBER, D.D.S.)
Respondent.)

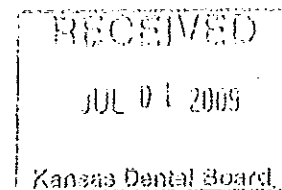
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

Statement of the Case

On June 3, 2008, the Administrative Hearing Commission entered its Findings of Fact and Conclusions of Law in the case of Missouri Dental Board v. Arnold Barber, D.D.S., Case No. 07-0052 DB. In that Findings of Fact and Conclusions of Law, the Administrative Hearing Commission found that Respondent's dental license is subject to disciplinary action by the Missouri Dental Board ("Board") for violating section 332.321.2 (5), (6), (13), and (15), RSMo 2000.

The Board has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Finding of Facts and Conclusions of Law. The Findings of Fact and Conclusions of Law of the Administrative Hearing Commission is incorporated herein by reference.

The Board set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.



Pursuant to notice and section 621.110, RSMo, the Board held a hearing on April 25, 2009, at the Grand River Inn, 606 West Business 36, Chillicothe, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. The Board was represented by Nanci Wisdom, Attorney at Law. Respondent was present for the hearing and was represented by Pete Smith of McDowell, Rice Smith & Buchanan. Four members of the Board were present and participated in the Board's deliberation, vote, and order.

Findings of Fact

1. Respondent, Arnold Barber, is licensed by the Board to practice dentistry, License No. 010597.
2. In accordance with the Administrative Hearing Commission's June 3, 2008, Findings of Fact and Conclusions of Law, the dental license of Respondent is subject to disciplinary action pursuant to section 332.321.2 (5), (6), (13), (15), RSMo 2000.

Conclusions of Law

3. The Board has jurisdiction over this proceeding pursuant to section 621.110, RSMo 2000 and section 332.321, RSMo 2000.

Disciplinary Order

THEREFORE, having fully considered all the evidence and testimony before this Board, and giving full weight to the Findings of Fact and Conclusions of Law of the Administrative Hearing Commission, it is the Order of the Missouri Dental Board that Respondent's license to practice as a dentist in the state of Missouri, License No. 010597, is

hereby placed on FIVE (5) YEARS PROBATION ("disciplinary period"). During the disciplinary period, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of this Disciplinary Order. The terms of the probation shall be:

I. REQUIREMENTS REGARDING CONTINUING EDUCATION

Ethics Course

- A. Licensee shall take the continuing education course in ethics sponsored by the University of Missouri-Kansas City or its equivalent. This continuing education shall be in addition to the continuing education required by law for licensure renewal by the Board. This course must be taken within the first twelve (12) months of Licensee's disciplinary period. Licensee shall provide the Board with proof of attendance from the sponsor of the program no later than thirty (30) days after attending the course. Failure to obtain the required additional continuing education hours and/or submit the required documentation to the Board will result in a violation of the terms of discipline.

Jurisprudence Exam

- B. Licensee shall take and pass the Board's designated jurisprudence examination within twelve (12) months of the start of the disciplinary period. 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 Disciplinary Order.

II. PRACTICE MONITOR

- C. During the disciplinary period, Licensee shall maintain a contract with Wilson Winch, or another Board approved practice monitor for the purpose of reviewing and insuring compliance with all applicable drug laws and drug regulations. Said practice monitor shall provide ongoing reports to the Board office attesting to the Licensee's compliance or noting deficiencies for each visit made. The visits and initial report shall be provided within thirty (30)

days of the beginning of the disciplinary period. Visits to Licensee's office to assess compliance shall be completed quarterly and reports to the Board office shall be provided quarterly throughout the disciplinary period. The consultant shall be hired at Licensee's expense. Licensee shall be responsible for ensuring that all visits are timely made and that all required reports to the Board office are timely submitted. Failure to ensure timely visits by the practice monitor and/or submit a report to the Board office as required herein shall constitute a violation of Licensee's discipline.

III. 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 the 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 § 332.321.9, 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 Disciplinary Order.
- H. If Licensee fails to comply with the terms of this Disciplinary Order, in any respect, the Board may impose such additional or other discipline that it deems appropriate, including revocation.
- I. This Disciplinary Order 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.

IV. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow his license to lapse.
- B. The terms of discipline apply even if Licensee places his license on inactive status.
- C. Licensee shall notify, within 15 days of the effective date of this Disciplinary Order, 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. Upon the expiration of said discipline, Licensee's license to practice dentistry in Missouri shall be fully restored if all other requirements of law have been satisfied; provided however, that in the event the Board determines that the Licensee has violated any term or condition of this Disciplinary Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline the Licensee.

2. No order shall be entered by the Board pursuant to the preceding paragraph of this Disciplinary Order without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

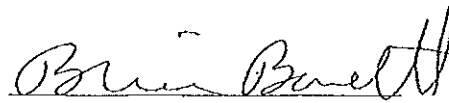
3. If the Board determines that Licensee has violated a term or condition of this Disciplinary Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Disciplinary Order in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Disciplinary Order occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Disciplinary Order has occurred.

4. The terms of this Disciplinary Order are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this Disciplinary Order 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.

5. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 324, 332, 610, RSMo.

Entered this 18th day of May, 2009.

MISSOURI DENTAL BOARD

A handwritten signature in cursive script that reads "Brian Barnett". The signature is written in black ink and is positioned above the printed name and title.

Brian Barnett
Executive Director