

5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board and the Board finds that on January 27, 2006, the Texas Board of Dental Examiners entered an Agreed Settlement Order disciplining License's Texas license to practice dentistry (the "Texas Order"). A true and correct copy of the Texas Order is marked Exhibit A, attached hereto and incorporated herein by reference.

The Board finds and concludes that the Texas Order is grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436 (a)(18).

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

A. COMPLIANCE WITH THE TEXAS ORDER. Respondent hereby agrees and consents to the Board's entry of an order requiring him to fully and timely comply with each of the requirements set forth in paragraphs 2, 3, and 4 of the "Order" section of the Texas Order and provide the Kansas Board written notification within 10 days of having completed compliance with each provision of the Texas Order.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order he must:

1. Comply fully with this Stipulation and Final Agency Order; and
2. Comply fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

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 that 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 Final Agency

Order and the Final Order provided for herein, with or without the presence of the Respondent or his attorney. In the event that this Stipulation and Final Agency Order and the Final Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Final Agency 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. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Order provided for herein is entered by the Board. The 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 Final Agency Action or the Final Order provided for herein.

10. The Respondent agrees that this Stipulation and Final Agency Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. The Respondent further agrees that the Kansas Dental Act, 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. The 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 Act for Judicial Review and Civil Enforcement of Agency Action.

The 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. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

13. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing. The Respondent further acknowledges that he has read this Stipulation and Final Agency order in its entirety, that he understands its legal consequences and that he agrees that none of its terms are unconscionable, arbitrary or capricious.

14. Time is of the essence to this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any violation of this Stipulation and Final Agency 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 Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

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

16. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

17. This Stipulation and Final Agency 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 authorized representative.

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

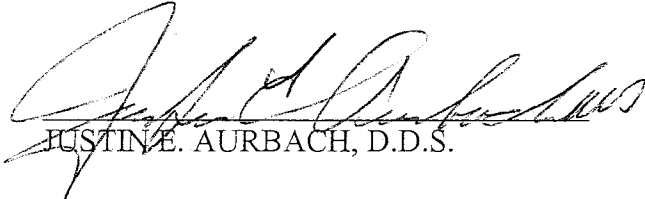
A. Adverse Action Classification: "1199 Other Licensure Action – Not Classified, Requirement to Comply with Order."

B. Basis For Action: "Other – Not Classified, Adverse action by another state licensing board."

19. The Respondent acknowledges that he has been advised by the Board that he would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Order provided for herein 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, KS 66612. The Respondent hereby waives those rights.

AGREED AND ACCEPTED BY:


JUSTINE E. AURBACH, D.D.S.

10/18/04
Date



ROBERT HENSON, D.D.S.
Investigation Member

12/8/06
Date

APPROVED BY:

Edward P. Waller Jr.
Respondent's Attorney's Name & Address
10999 H-10 WEST SUITE 800
SAN ANTONIO TX 78230

10/15/06
Date


Randall J. Forbes, #09089
FRIEDEN & FORBES
555 S. Kansas Avenue, Suite 303
Topeka, KS 66603
(785) 232-7266

Date

BEFORE THE KANSAS DENTAL BOARD

FILED
DEC - 8 2006
KANSAS DENTAL BOARD

In the Matter of)
)
JUSTIN E. AURBACH, D.D.S.)
Kansas License No. 4654)

File No. 06-62

FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Dental Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board. The Board finds that on January 27, 2006, the Texas Board of Dental Examiners entered an Agreed Settlement Order disciplining License's Texas license to practice dentistry (the "Texas Order"). The Board further finds and concludes that the Texas Order is grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436 (a)(18).

The Board finds and concludes that the following disposition is just and appropriate under the circumstances:

A. COMPLIANCE WITH THE TEXAS ORDER. Respondent is hereby ordered to fully and timely comply with each of the requirements set forth in paragraphs 2, 3, and 4 of the "Order" section of the Texas Order, a copy of which is attached to the Stipulation. Respondent is further ordered to provide the Kansas Board written notification within 10 days of having completed compliance with each provision of the Texas Order.

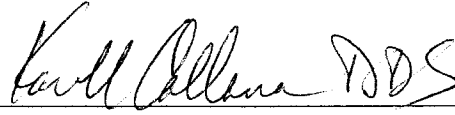
B. OTHER REQUIREMENTS. Respondent is further ordered:

1. To fully comply with the Stipulation and Final Agency Order; and
2. To fully comply with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

ENTERED AND EFFECTIVE this 8 day of December, 2006.

KANSAS DENTAL BOARD

By:



Karen Callanan, D.D.S., ~~M.S.~~

President

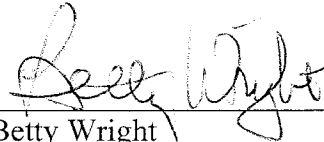
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND FINAL AGENCY ORDER was served upon counsel by depositing same in the United States mail, postage prepaid, this 12 day of December, 2006, addressed to:

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

Justin E. Aurbach, D.D.S.
5925 Forest Lane
Dallas, TX 75248

Edward P. Waller, Jr.
10999 IH-10 West, Suite 800
San Antonio, TX 78230



Betty Wright
Executive Director
KANSAS DENTAL BOARD

Exhibit A

SBDE NO. 04-626-0405

IN THE MATTER OF
THE LICENSE OF

JUSTIN AURBACH, DDS

TEXAS DENTAL LICENSE
NUMBER 8917

§
§
§
§
§
§
§

BEFORE THE STATE

BOARD OF

DENTAL EXAMINERS

AGREED SETTLEMENT ORDER

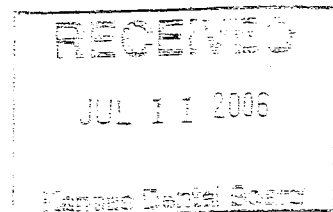
On the 27 day of January, 2006, the State Board of Dental Examiners (hereinafter the "Board" or "SBDE") met in a regularly scheduled meeting and the above-referenced case was considered.

JUSTIN AURBACH, DDS, hereinafter "Respondent," holder of Texas Dental License No. 8917, appeared at an informal settlement conference on Friday, October 07, 2005, at 333 Guadalupe, Austin, Texas, in response to a notice letter sent on September 09, 2005. Respondent was advised of the right to legal representation in the notice letter and was represented at the conference by his attorney, Edward Waller, Esq. At issue were allegations that Respondent violated the laws and rules regulating the practice of dentistry.

Respondent hereby waives a formal adjudicatory hearing and enters into the following Agreed Settlement Order. Respondent, by signature below, acknowledges that Respondent was advised of the right to legal representation, that Respondent understands the nature of the alleged violations as stated in the informal settlement conference notice letter dated September 09, 2005, and as discussed during the Informal Settlement Conference. Respondent's signature hereon also acknowledges that an adequate opportunity was provided to enable Respondent to respond to the alleged violations.

Board members Norman Mason, D.D.S., Juan Villarreal, D.D.S., and Phyllis Stine represented the full Board at the settlement conference pursuant to Section 263.007, Texas Occupations Code and Board Rule 107.63, 22 Tex. Admin. Code. Board staff present and participating were Felipe Alonso III, Staff Attorney; La Shanda Alexander, Legal Administrator; and Bill Williamson, representing the Enforcement Division. The Board members named above considered information presented by staff, the Respondent and the Complainant. The Board panel members, having carefully considered the Board's disciplinary guidelines, recommend the following Agreed Settlement Order contingent on the full Board's approval.

TXSAB 05/2005 PR 2125



FINDINGS OF FACT

1. During the time period from January 26, 2004 through February 26, 2004, the Respondent fell below the minimum standard of care by failing to make, maintain, and keep adequate dental records on patient R.C. Specifically, the record does not include: Board notification that a patient's admission to a hospital may have resulted from receiving dental services from the reporting dentist; a written informed consent signed by the patient covering all treatment provided; or a treatment plan with recommendation and treatment options signed by the patient.

CONCLUSIONS OF LAW

The references to Statutes and Rules cited below are to the Statutes and Rules in effect at the time of the violations.

1. The Texas State Board of Dental Examiners has authority and jurisdiction over this case pursuant to Tex. Occ. Code § 251.001 et seq. and 22 Tex. Admin. Code § 101 et seq.
2. The conduct described in Finding of Fact No. 1 is a violation of TEX. OCC. CODE §263.002(a)(4) and (10)(Vernon Supp. 2003); 22 Tex. Admin. Code §§108.6(3), 108.7 and 108.8 (December 2001).

ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 8917, issued to JUSTIN AURBACH, DDS, is hereby issued the sanction of WARNING.
2. Respondent SHALL pay an administrative monetary fine in the amount of one thousand five hundred dollars (\$1,500.00) payable to the "Texas State Board of Dental Examiners" located at 333 Guadalupe, Tower 3, Suite 800, Austin, Texas. The administrative monetary fine SHALL be paid in one (1) lump sum or in installment payments, the total amount due no later than six (6) months from the effective date of this Order.
3. Respondent SHALL complete a total of nine (9) hours of Continuing Education courses. Under this stipulation, the continuing education courses SHALL be completed within six (6) months of the effective date of this Order. Continuing Education courses completed SHALL be in the following area(s):
 - a. Communication Skills - 6 hours
 - b. Risk management and Recordkeeping - 3 hours

This continuing education SHALL be in addition to Respondent's annual continuing education hours required for licensure by the Board.

All continuing education courses SHALL be approved in advance by the Board Secretary. It is the responsibility of the Respondent to obtain such approval. Courses taken without prior approval and prior to the effective date of this Order SHALL NOT satisfy the requirements of this Order. The Board Secretary SHALL have the authority to reduce the number of continuing education days or hours based on course availability. Upon the successful completion of each course, the Respondent SHALL provide completion documentation to the Board.

4. Respondent SHALL take and pass the jurisprudence examination within six (6) months of the effective date of this Order. The fees for the examination SHALL be borne by Respondent. A jurisprudence examination taken prior to the effective date of this Order SHALL NOT count towards satisfying this requirement.
5. Respondent SHALL abide by the Laws of the State of Texas, the Dental Practice Act, the rules and regulations of the Board, and any reporting requirements imposed to ensure compliance with this Order.

By signing this Agreed Settlement Order, Respondent agrees to its terms, acknowledges Respondent's understanding of it, and agrees that Respondent will satisfactorily comply with the mandates of this Order in a timely manner or be subject to appropriate disciplinary action by the State Board of Dental Examiners.

Respondent's signature hereon does not constitute either admission or denial of the allegations set forth in this Order or the underlying complaint, and it does not constitute admission or denial of the findings of fact and the conclusions of law set forth.

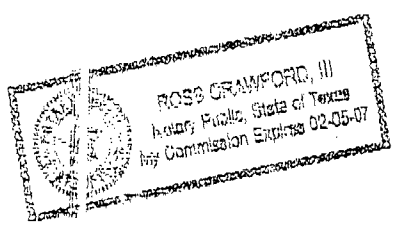
Respondent, by signing this Agreed Settlement Order, waives any right to a formal hearing and any right to judicial review of this Order. Failure to comply with the terms and conditions of this Order SHALL constitute a violation of this Order and may subject Respondent to further disciplinary action by the Board.

All of the above terms, conditions, and penalties become effective on the effective date of this Order. The effective date of this Agreed Settlement Order shall be the date it is executed by the State Board of Dental Examiners.

Justin Aurbach DDS
JUSTIN AURBACH, DDS
Respondent


Ross Crawford III notarized the signature of JUSTIN
AURBACH, DDS, this 16th day of November 2005.

Ross Crawford III
NOTARY PUBLIC
IN and FOR THE STATE OF TEXAS



STATE BOARD OF DENTAL EXAMINERS

SIGNED this 27 day of January 2006



Gary McDonald, D.D.S., Presiding Officer
State Board of Dental Examiners



Juan D. Villarreal, D.D.S., Secretary
State Board of Dental Examiners