SBDE NOS.
03-232-1202; 03-529-0307; 03-558-0324; 04-276-1209

IN THE MATTER OF
THE LICENSE OF
RICHARD J. MALOUF, DDS
TEXAS DENTAL LICENSE
NUMBER 16206

BEFORE THE STATE
BOARD OF
DENTAL EXAMINERS

AGREED SETTLEMENT ORDER

On the 21st day of November, 2004, the State Board of Dental Examiners (hereinafter the "Board" or "SBDE") met in a regularly scheduled meeting and the above-referenced case was considered.

RICHARD J. MALOUF, DDS, hereinafter "Respondent," holder of Texas Dental License No. 16206, appeared at an informal settlement conference on October 7, 2004, at 333 Guadalupe, Austin, Texas, in response to a notice letter sent on September 7, 2004. Respondent was advised of the right to legal representation in the notice letter and was represented at the conference by his attorney, Sudie Thompson, Esq. At issue were allegations that Respondent violated the laws and rules regulating the practice of dentistry.

On October 20, 2004, Respondent rejected the initial proposed Agreed Settlement Order. Accordingly, in an effort to avoid the unnecessary waste of resources due to attorney fees, hearing costs, and travel expenses associated with formal disciplinary action through the State Office of Administrative Hearings, the Parties entered into settlement negotiations.

An agreement was reached relating to the matters at issue, and pursuant to that agreement Respondent wishes to waive further formal adjudicatory proceedings.

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, and that Respondent understands the nature of the alleged violations as stated in the informal settlement conference notice letter dated September 7, 2004. Respondent's signature hereon also acknowledges that an adequate opportunity was provided to enable Respondent to respond to the alleged violations.
Under the Board Secretary’s recommendation, having carefully considered the Board’s disciplinary guidelines, the following Agreed Settlement Order is proposed, contingent on Board approval.

**FINDINGS OF FACT**

1. During the time period between February 1999 and August 2001, Respondent failed to make, maintain and keep adequate dental records for patient A.N.

2. During the time period between January 2000 and January 2003, Respondent failed to make, maintain and keep adequate dental records for patient Z.S.

3. During November 2000 and May 2002, Respondent failed to make, maintain and keep adequate dental records for patient D.S.

4. During the time period between 1999-2003, Respondent failed to make, maintain and keep adequate dental records for patient R.L.

**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.


ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 16206, issued to RICHARD J. MALOUF, is hereby SUSPENDED for a period of one (1) year to begin on the effective date of this Order; however, such suspension is PROBATED in its entirety.

2. Respondent SHALL pay an administrative monetary fine in the amount of three thousand dollars ($3,000.00) 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, the total amount due no later than one (1) year from the effective date of this Order.

3. Respondent SHALL complete a total of six (6) hours of Continuing Education courses. Under this stipulation, the continuing education courses SHALL be completed within one (1) year of the effective date of this Order. Continuing Education courses completed SHALL be in the following area(s):

   a. Risk management - 6 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 one (1) year of the effective date of this Order. No later than thirty (30) days prior to taking the jurisprudence examination, Respondent SHALL notify the Board, in writing, as to the date and location of the examination that Respondent wishes to take. All written communication must be submitted to the Board's Office of General Counsel, ATTENTION Compliance Officer. The examination fees for the examination SHALL be borne by Respondent and Respondent SHALL submit all required examination fees prior to taking the examination. A jurisprudence examination taken prior to the effective date of this Order SHALL NOT count towards satisfying this requirement.

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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, 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.

RICHARD J. MALOUF, DDS
Respondent

Jennifer McChristian notarized the signature of RICHARD J. MALOUF, DDS, this 10th day of November, 2004.

NOTARY PUBLIC
IN and FOR THE STATE OF TEXAS

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STATE BOARD OF DENTAL EXAMINERS
SIGNED this 19th day of November 2004.

J. Kevin Irons, D.M.D., Presiding Officer
State Board of Dental Examiners

Gary W. McDonald, D.D.S., Secretary
State Board of Dental Examiners