

IN THE MATTER OF
THE LICENSE OF

CLINTON HERZOG, DDS

TEXAS DENTAL LICENSE
NUMBER 20239

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BEFORE THE STATE

BOARD OF

DENTAL EXAMINERS

AGREED SETTLEMENT ORDER

On the 15th day of April, 2011, the State Board of Dental Examiners ("Board" or "SBDE") met in a regularly scheduled meeting and the above styled case was heard.

On October 27, 2010, the SBDE proposed this agreed settlement order in the above captioned case against Clinton Herzog, DDS, hereinafter "Respondent," holder of Texas Dental License No. 20239. At issue are allegations that the Respondent violated the laws and rules regulating the practice of dentistry.

Respondent wishes to waive further formal adjudicatory proceedings and voluntarily enters into the following Agreed Settlement Order. Respondent, by signature below, acknowledges that Respondent fully understands the nature of the findings of fact and conclusions of law set out herein, that Respondent has been advised of the right to legal representation, and that Respondent has been given the opportunity to formally contest any Board allegations in an adjudicatory proceeding.

The following Agreed Settlement Order is proposed, contingent on Board approval.

FINDINGS OF FACT

1. Respondent, Clinton Herzog, DDS, holds Dental License No. 20239. Respondent's license was initially issued on July 12, 2000, and was in full force and effect at all dates and times material and relevant to this Agreed Settlement Order.
2. Respondent has no prior disciplinary history.
3. On or about October 29, 2009, the Respondent engaged in dishonorable conduct, participated in communications to the public featuring false and misleading information regarding the Respondent's dental practice, and participated in a referral scheme that violates SBDE rules. Specifically, the Respondent participated in a television news segment featuring his dental

practice and states: "When our patients refer somebody, they get a free area of Botox." Respondent, a general dentist, cannot provide Botox for cosmetic purposes. Respondent also participated in a referral scheme that provided something of value (Botox injections) for referrals.

4. In October 2006, the Respondent fell below the minimum standard of care in the dental treatment of patient K.Y. Specifically, the crown that the Respondent fabricated for patient K.Y.'s tooth number 20 was short on the distal margin.
5. In October and November of 2006, the Respondent fell below the minimum standard of care in the dental treatment of patient K.Y. Specifically, the Respondent installed a 11 x 13 bridge that had open margins.

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 above constitutes a violation of Tex. Occ. Code §§ 259.001 and 263.002(a)(3), (4), and (10); and 22 Tex. Admin. Code §§ 108.7, 108.9(6), 108.52, and 108.60.

ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 20239, issued to Clinton Herzog, DDS, is hereby issued the sanction of REPRIMAND.
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 78701. 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 pay restitution directly to patient K.Y. in the amount of four thousand, two hundred fifty dollars (\$4,250.00). Proof of restitution must be provided to the Board no later than ninety (90) days from the effective date of this Order.

4. Respondent SHALL complete a total of twenty (20) 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. | Crown and Bridge - | 8 hours |
| b. | Ethics - | 6 hours |
| c. | Recordkeeping - | 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.

5. Respondent SHALL take and pass the jurisprudence assessment within thirty (30) days of the effective date of this Order. The fees for the assessment SHALL be borne by Respondent. A jurisprudence assessment taken prior to the effective date of this Order SHALL NOT count towards satisfying this requirement.
6. 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.

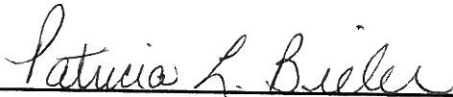
Respondent, by signing this Agreed Settlement Order, waives any right to a formal hearing and any right to judicial review of this Order. Failure to comply with the terms and conditions of this Order SHALL constitute a violation of this Order and may subject Respondent to further disciplinary action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

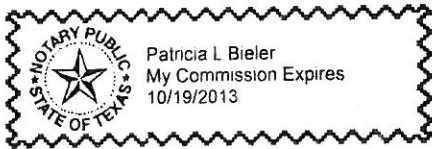


Clinton Herzog, DDS
Respondent

SWORN TO AND SUBSCRIBED before me on the 22 day of November, 2010.



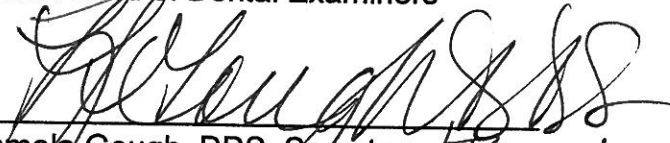
NOTARY PUBLIC
IN and FOR THE STATE OF TEXAS



STATE BOARD OF DENTAL EXAMINERS

SIGNED this 15th day of April 2011.

William Purifoy, DDS, Presiding Officer
State Board of Dental Examiners


Tamela Gough, DDS, Secretary *Presiding Officer*
State Board of Dental Examiners