

**SBDE NO. 2016-00894**

**IN THE MATTER OF  
THE LICENSE OF**

**NGUYEN THANH PHAM, DDS**

**TEXAS DENTAL LICENSE  
NUMBER 26002**

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**BEFORE THE STATE**

**BOARD OF**

**DENTAL EXAMINERS**

**AGREED SETTLEMENT ORDER**

On the 22<sup>nd</sup> day of December, 2017, the State Board of Dental Examiners (Board) met in a regularly scheduled meeting and the above-styled case was heard.

Nguyen Thanh Pham, DDS, holder of Texas Dental License No. 26002 (Respondent), appeared at an informal settlement conference on May 9, 2017, at 333 Guadalupe Street, Austin, Texas. Respondent was represented by counsel. 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 (ASO). 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. Respondent's signature hereon also acknowledges that an adequate opportunity was provided to allow Respondent to respond to the alleged violations.

Board member D. Bradley Dean, DDS represented the Board at the settlement conference held pursuant to Texas Occupations Code § 263.0075, and 22 Texas Administrative Code § 107.63. The Board representative considered information presented by staff, the Respondent, and the Complainant, as applicable. The Board representative, having carefully considered the Board's disciplinary guidelines, recommends the following ASO contingent on the full Board's approval.

**FINDINGS OF FACT**

1. Respondent, Nguyen Thanh Pham, DDS, holds Texas Dental License No. 26002. Respondent's license was initially issued on September 14, 2010, and was in full force and effect at all dates and times material and relevant to this ASO.

2. Respondent holds the following sedation/anesthesia permits issued by the Board:
  - a. Nitrous Certification issued on January 23, 2012;
  - b. Level 1 Anesthesia Permit issued on January 23, 2012; and
  - c. Level 2 Anesthesia Permit issued on May 8, 2012.
3. Respondent's license has no prior disciplinary history.
4. During the time period from August 13, 2014, to February 8, 2016, Respondent over-sedated eight minor patients. Specifically,
  - a. On or about August 13, 2014, Respondent gave minor patient 3 60 mg of Demerol, despite the maximum recommended dose, based on minor patient 3's weight, being only 30 mg. Additionally, Respondent gave minor patient 3 20 mg of Hydroxyzine.
  - b. On or about October 3, 2015, Respondent gave minor patient 11 60 mg of Demerol, despite the maximum recommended dose, based on minor patient 11's weight, being only 27 mg. Additionally, Respondent gave minor patient 11 20 mg of Hydroxyzine.
  - c. On or about November 2, 2015, Respondent gave minor patient 1 50 mg of Demerol, despite the maximum recommended dose, based on minor patient 1's weight, being 32 mg. Additionally, Respondent gave minor patient 1 10 mg of Hydroxyzine.
  - d. On or about July 16, 2014, Respondent gave minor patient 4 80 mg of Demerol and 10 mg of Hydroxyzine, despite failing to record minor patient 4's weight.
  - e. On or about February 3, 2016, Respondent gave minor patient 10 50 mg of Demerol, despite the maximum recommended dose, based on minor patient 10's weight, being 41 mg. Additionally, Respondent gave minor patient 10 10 mg of Hydroxyzine.
  - f. On or about November 24, 2014, Respondent gave minor patient 12 50 mg of Demerol, despite the maximum recommended dose, based on minor patient 12's weight, being 39 mg. Additionally, Respondent gave minor patient 12 10 mg of Hydroxyzine.
  - g. On or about December 14, 2015, Respondent gave minor patient 8, who was under fifteen (15) years of age at the time, .375 mg of Triazolam, despite the fact that the safety and effectiveness of Triazolam has not been established for individuals under eighteen (18) years of age and the recommended dose of Triazolam for most adults is .25 mg. Additionally, Respondent gave the minor patient 15 mg of Hydroxyzine.
  - h. During the time period from September 2, 2015, to November 18, 2015, Respondent gave minor patient 9, who was fifteen (15) years

of age at the time, between .25 mg and .5 mg of Triazolam and 10 mg to 20 mg of Hydroxyzine on five (5) separate occasions.

5. On or about August 20, 2014, Respondent failed to obtain signed, written informed consent to the proposed sedation from the legal guardian of patient 2.
6. During the time period from January 24, 2012, to February 17, 2016, Respondent never obtained baseline vitals from any of the eleven (11) patients, and never provided an explanation for failing to obtain and document this information. Although some patients were under twelve years of age at the time they were seen by the Respondent, several were likely to be obese, based on their age and weight, and; thus warranted a limited physical examination.
7. During the time period from January 24, 2012, to February 17, 2016, Respondent never evaluated and assigned any of the 11 patients an ASA classification. Specifically, Respondent never recorded the height of any patients, which is a necessary factor to determine a patient's BMI. A patient's BMI, in turn, is a factor in determining the patient's ASA classification.
8. During the time period from January 24, 2012, to February 17, 2016, Respondent never performed a focused physical evaluation on any of the patients. Specifically, Respondent failed to evaluate each patients' airway.
9. During the time period from January 24, 2012, to February 17, 2016, Respondent failed to monitor:
  - a. oxygen saturation for patients 3, 4, 5, 8, 9 and 12;
  - b. chest excursions for patients 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12;
  - c. ventilations for patients 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12; and
  - d. blood pressure and heart rate for patients 3, 4, 5, 9 and 12.
10. During the time period from January 24, 2012, to February 17, 2016, Respondent failed to make and maintain:
  - a. a time-oriented anesthetic record that contains the names and dosages of all drugs administered and the names of individuals present during the administration of the drugs for patients 1, 3, 4, 5, 7, 8, 9, 10, 11 and 12; and
  - b. a record documenting pulse-oximetry, heart rate, respiratory rate and blood pressure at least every ten (10) minutes for patients 3, 4, 5, 8, 9 and 12.

### 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 Board has authority and jurisdiction over this case pursuant to Tex. Occ. Code §§ 251-267 and 22 Tex. Admin. Code §§ 100-125.
2. Respondent's conduct constitutes a violation of Tex. Occ. Code § 263.002(a)(4), (10); and 22 Tex. Admin. Code §§ 108.7(1), (2), (3)(B), (4), (7), 108.8(b)(4), (5), (c)(6), (8), (12), 110.5(b)(1), (c)(1), (2)(C)-(D), (4)(B)(ii), (4)(C)(i)-(ii), (4)(D)(i), (5)(A)-(C).

### ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 26002, issued to Nguyen Thanh Pham, DDS, is hereby SUSPENDED for a period of five (5) years to begin on the effective date of this ASO; however, such suspension is FULLY PROBATED.
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 Street, Tower 3, Suite 800, Austin, Texas 78701-3942. The administrative monetary fine SHALL be paid in full no later than six (6) months from the effective date of this ASO.
3. Respondent SHALL complete a total of twelve (12) hours of continuing education (CE) courses, which SHALL be completed within six (6) months of the effective date of this ASO. The twelve (12) hours of CE courses completed SHALL be in the following areas:

Risk Management and Record-Keeping	Nine (9) hours
Ethics	Three (3) hours

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

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

4. On the effective date of this ASO, Respondent SHALL refrain from sedating patients under thirteen (13) years of age until such time as she successfully completes thirty (30) hours of CE courses in the area of pediatric sedation.

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

All CE courses SHALL be approved in advance by Board Staff. It is the responsibility of Respondent to obtain such approval. Courses taken without prior approval and/or prior to the effective date of this ASO SHALL NOT satisfy the requirements of this ASO. Pediatric Advanced Life Support (PALS) courses SHALL NOT satisfy the requirements of the ASO. Board Staff SHALL have the authority to reduce the number of CE days or hours based on course availability. Upon the successful completion of each course, Respondent SHALL provide complete documentation of the course completion to the Board.

5. Respondent SHALL submit a copy of her written policies and procedures for responding to emergency situations within six (6) months of the effective date of this ASO.
6. Respondent SHALL successfully complete the Jurisprudence Assessment-Board Order and submit proof of completion to Board Staff within thirty (30) days of the effective date of this ASO. Respondent may not take the Jurisprudence Assessment-Board Order prior to the effective date of this ASO. Respondent SHALL be responsible for all costs relating to compliance with this requirement.
7. 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 ASO.

**Signature page follows.**

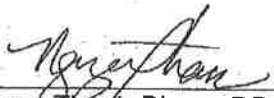
By signing this ASO, Respondent agrees to its terms, acknowledges understanding it, and agrees to satisfactorily comply with the mandates of this ASO in a timely manner or be subject to appropriate disciplinary action by the Board.


Respondent's signature hereon does not constitute either admission or denial of the allegations set forth in this ASO 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 ASO, waives any right to a formal hearing and any right to judicial review of this ASO. Failure to comply with the terms and conditions of this ASO SHALL constitute a violation of this ASO and may subject Respondent to further disciplinary action by the Board.

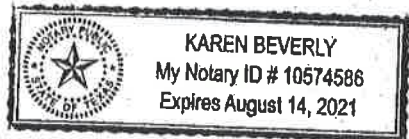
All of the above terms, conditions, and penalties become effective on the effective date of this ASO. The effective date of this ASO SHALL be the date it is executed by the Board.

THIS ASO IS A PUBLIC RECORD THAT WILL BECOME A PERMANENT PART OF RESPONDENT'S TEXAS DENTAL LICENSE DISCIPLINARY HISTORY.

  
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Nguyen Thanh Pham, DDS, Respondent

  
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notarized the signature of Nguyen Thanh Pham, DDS, this 7th day of November 2017.

  
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NOTARY PUBLIC IN and FOR THE STATE OF TEXAS



STATE BOARD OF DENTAL EXAMINERS  
SIGNED this 22<sup>nd</sup> day of December, 2017.

  
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DDS, Presiding Officer

  
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DDS, Board Secretary