

SBDE NO. 2022-01004 & 2023-00158

**IN THE MATTER OF
THE LICENSE OF**

ANDREW KELSEY, DDS

**TEXAS DENTAL
LICENSE NUMBER 29197**

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BEFORE THE STATE

BOARD OF

DENTAL EXAMINERS

AGREED SETTLEMENT ORDER

On the 3rd day of November, 2023, the State Board of Dental Examiners (Board) met in a regularly scheduled meeting and the above-styled case was heard. The full Board adopted this Agreed Settlement Order (ASO) at a public meeting on the date shown above (effective date).

Andrew Kelsey, DDS, holder of Texas Dental License No. 29197 (Respondent), appeared at an informal settlement conference on July 14, 2023, at 1601 Congress Ave., Austin, Texas. Respondent was represented by Lindsey Cummings. 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 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 members Bryan Henderson, DDS, Ricky Garcia and Committee Member Joanna Allaire, RDH, represented the Board at the settlement conference held pursuant to Texas Occupations Code § 263.007, and 22 Texas Administrative Code § 107.63. The Board representatives considered information presented by staff, the Respondent, and the Complainant, as applicable. The Board representatives, having carefully considered the Board's disciplinary guidelines, recommended the following ASO contingent on the full Board's approval.

FINDINGS OF FACT

Respondent IAndrew Kelsey, DDS holds Texas Dental license No. 29197. Respondent's icense was initially issued on June 22, 2013, 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 September 11, 2013;
 - b. Level 1 Anesthesia Permit issued on March 1, 2017;
 - c. Level 2 Anesthesia Permit issued on November 12, 2018;
 - d. Level 3 Anesthesia Permit issued on November 12, 2018; and
 - e. Sedation of High-Risk Patients issued on September 10, 2019.
3. Respondent's past disciplinary history, as described in the Order dated February 22, 2019, is incorporated by reference as part of this ASO.
4. During the time period from June 2, 2022, through July 7, 2022, Respondent failed to meet the minimum standard of care in the treatment of the patient. Specifically, Respondent failed to:
 - a. consider the length the procedure and the length the patient would be immobile when travel between Dallas and Houston after the procedure when treatment planning the procedure; and
 - b. consider a hospital setting given the patient's age, ASA III classification, anemia, hypertension, and need for dialysis.

AGGRAVATING FACTOR

In determining the appropriate sanctions in these matters, the Board considered the following aggravating factor:

- a. the severity of the patient harm.

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 represents grounds for discipline under Tex. Occ. Code § 263.002(a)(4), (10) and 22 Tex. Admin. Code § 108.7(1).

ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 29197, issued to Andrew Kelsey, DDS, is hereby placed under PROBATED SUSPENSION for a period of three (3) years. This ASO contains no period of enforced suspension.

2. Respondent SHALL pay an administrative monetary fine in the amount of four thousand dollars (\$4,000.00) payable to the "Texas State Board of Dental Examiners" located at 1801 Congress Ave., Suite 8.600, Austin, Texas 78701. 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 eight (8) hours of continuing education (CE) courses, which SHALL be completed within six (6) months of the effective date of this ASO. The eight (8) hours of CE courses completed SHALL be in the area of Medically Compromised Patients.

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. Respondent SHALL successfully complete the Jurisprudence Assessment-Dentist with Dentist with Level 3 – Moderate Parental Sedation permit 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-Dentist with Level 3 – Moderate Parental Sedation permit prior to the effective date of this ASO. Respondent SHALL be responsible for all costs relating to compliance with 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 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. This ASO is a compromise agreement pursuant to Tex. R. Evid. 408.

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 adopted by the Board at a public meeting, as shown by the signatures of the Presiding Officer and Board Secretary, below.

THIS ASO IS A PUBLIC RECORD THAT WILL BECOME A PERMANENT PART OF RESPONDENT'S TEXAS DENTAL LICENSE DISCIPLINARY HISTORY. PRIOR DISCIPLINARY HISTORY MAY BE USED AS AN AGGRAVATING FACTOR IN FUTURE BOARD DISCIPLINARY ACTIONS.



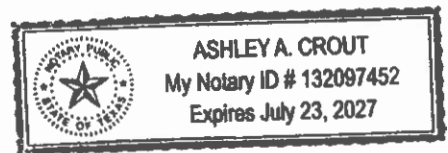
Andrew Kelsey, DDS, Respondent



notarized the signature of
Andrew Kelsey, DDS, this 5th day of September, 2023.




NOTARY PUBLIC IN and FOR THE STATE OF TEXAS



STATE BOARD OF DENTAL EXAMINERS
SIGNED this 3rd day of November, 2023.



David H. Yu, DDS, Presiding Officer



Robert McNeill, DDS, MD, Board Secretary