SBDE NO. 2016-00221

IN THE MATTER OF THE LICENSE OF § BEFOR THE STATE §
STEPHEN MCANANEY, DDS § BOARD OF §
TEXAS DENTAL LICENSE § DENTAL EXAMINERS §
NUMBER 16520 §

AGREED SETTLEMENT ORDER

On the 23rd day of February, 2018, the State Board of Dental Examiners (Board) met in a regularly scheduled meeting and the above-styled case was heard.

Stephen McAnaney, DDS, holder of Texas Dental License No. 16520 (Respondent), appeared at an informal settlement conference on October 20, 2017, at 333 Guadalupe Street, Austin, Texas. Respondent was represented by attorney Edward P. Waller, Jr. 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 Bryan Henderson, 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, Stephen McAnaney, DDS, holds Texas Dental License No. 16520. Respondent’s license was initially issued on June 26, 1991, 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 21, 1991;
b. Level 1 Anesthesia Permit issued on January 1, 2002;
c. Level 2 Anesthesia Permit issued on January 1, 2012; and
d. Level 3 Anesthesia Permit issued on March 8, 2006.

3. Respondent’s past disciplinary history, as described in the Orders dated August 23, 2002, and April 28, 2006, is incorporated by reference as part of this ASO.

4. During the time period from August 20, 2014, through December 15, 2015, Respondent fell below the minimum standard of care during the administration of sedation to six patients. Specifically, Respondent:
   a. apparently utilized vials of propofol for multiple patients, a practice which may have placed patients at risk of infection;
   b. failed to obtain written informed consent from the patients including the notice of the risks related to the procedure include cardiac arrest, brain injury, and death;
   c. failed to adequately conduct a pre-sedation medical evaluation and review of the patients’ medical histories before the procedures;
   d. failed to document patient vital signs at prescribed intervals, including respiration rates at 10 minute intervals;
   e. apparently fabricated Ramsey scores of “2” for the majority of entries related to sedated patients;
   f. apparently fabricated respiration rates of “16” for the majority of entries related to sedated patients; and
   g. failed to determine and document that patients’ levels of consciousness, oxygenation, ventilation, and circulation were satisfactory for discharge.
   h. administered an excessive dose of local anesthesia to patient LH on September 30, 2014;
   i. failed to document that patient LH’s blood pressure and heart rate had reached safe levels for discharge after the procedure on September 30, 2014;
   j. failed to document vital signs at appointments where local anesthesia was administered to patient LH on April 22, 2015, May 20, 2016, and August 19, 2016;
   k. administered an excessive dose of midazolam to patient LG on September 4, 2014; and
   l. failed to record the dosage of local anesthesia administered to patient BM on October 27, 2015.
5. During the time period from August 20, 2014, through December 15, 2015, Respondent violated rules of the Board related to the practice of sedation. Specifically, Respondent utilized propofol during the sedation of patients, while only holding a Level 3 – Moderate Sedation permit. Additionally, Respondent administered propofol in concert with other sedation drugs in dosages likely to produce deep or general sedation for the patients. Finally, Respondent failed to maintain adequate continuing education for his Level 3 – Moderate Sedation permit.

6. On or about November 5, 2015, Respondent failed to report the hospitalization of patient RS as a possible consequence of dental treatment, in violation of Board rules.

**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.


2. Respondent’s conduct constitutes a violation of Tex. Occ. Code § 263.002(a)(4), (10); and 22 Tex. Admin. Code §§ 108.6(2), 108.7(1)-(4), 108.8(b)(4)-(5), (c)(1), (12), 110.5(b)(1), (c)(1), (2)(A), (C)-(D), (4)-(6), (d), 110.9(c), 110.10(a), (b)(3).

**ORDER**

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent’s Texas Dental License No. 16520, issued to Stephen McAnaney, DDS, is hereby placed under a PROBATED SUSPENSION for a period of three (3) years to begin on the effective date of this ASO. This ASO contains no period of enforced suspension.

2. Respondent SHALL surrender his Level 1 through Level 3 sedation/anesthesia permits on or before the effective date of this ASO. Respondent may continue to practice nitrous oxide/oxygen inhalation sedation while maintaining a valid permit.

Respondent SHALL NOT be eligible to receive a Level 1, Level 2, Level 3, or Level 4 sedation/anesthesia permit issued by the Board, or any equivalent permit level above nitrous oxide sedation if Board rules revise
the permit terminology, for the three year probationary suspension period in Stipulation No. 1, above.

3. Respondent SHALL pay an administrative monetary fine in the amount of five thousand dollars ($5,000.00) 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.

4. Respondent SHALL complete a total of twenty-four (24) hours of continuing education (CE) courses, which SHALL be completed within six (6) months of the effective date of this ASO. The twenty-four (24) hours of CE courses completed SHALL be in the following areas:
   Risk Management and Record-Keeping       Sixteen (16) hours
   Local Anesthesia                          Eight (8) 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.

5. 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.

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 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.

Stephen McAnaney, DDS, Respondent

John O. Adcock, M. notarized the signature of

Stephen McAnaney, DDS, this 11th day of January 2018.

NOTARY PUBLIC IN and FOR THE STATE OF TEXAS

James O. Adcock, Jr.
Notary Public
Notary Number 15897
Richland Parish, Louisiana

STATE BOARD OF DENTAL EXAMINERS
SIGNED this 23rd day of February, 2018.

David Tillman, DDS, Presiding Officer

Jorge E. Quirch, DDS, Board Secretary