SBDE NO. 03-1025-0829

IN THE MATTER OF
THE LICENSE OF
JOHN GARZA, DDS
TEXAS DENTAL LICENSE NUMBER 15983

BEFORE THE STATE BOARD OF
DENTAL EXAMINERS

AGREED SETTLEMENT ORDER

On the 19th day of August, 200_, the State Board of Dental Examiners (hereinafter the “Board” or “SBDE”) met in a regularly scheduled meeting and the above-referenced case was considered.

JOHN GARZA, DDS, hereinafter “Respondent,” holder of Texas Dental License No. 15983, appeared at an informal staff settlement conference on Friday, April 15, 2005, at 333 Guadalupe, Austin, Texas, in response to a notice letter sent on March 24, 2005. Respondent was advised of the right to legal representation in the notice letter and was represented at the conference by his attorney, Dan King, Esq. 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. Respondent, by signature below, acknowledges that Respondent was advised of the right to legal representation, that Respondent understands the nature of the alleged violations as stated in the informal settlement conference notice letter dated March 24, 2005, and as discussed during the settlement conference. Respondent’s signature hereon also acknowledges that an adequate opportunity was provided to enable Respondent to respond to the alleged violations.

A panel consisting of Staff Attorney Felipe Alonso, Ben Ablon, representing the Enforcement Division, and Board member Martha Malik, D.D.S. conducted the settlement conference pursuant to Section 263.007, Texas Occupations Code and Board Rule 107.63, 22 Tex. Admin. Code. Other Board staff present included Armand Ramirez, Legal Administrator. The above-named panel considered all available information, including that received from the Respondent and the Complainant. The panel, having carefully considered the Board’s disciplinary guidelines, recommends the following Agreed Settlement Order contingent on the Board’s approval.
FINDINGS OF FACT

1. During the time period from April 8, 2002 to July 25, 2002, the Respondent fell below the minimum standard of care in his endodontic treatment of patient B.B. Specifically, several canals were not enlarged enough to properly clean out the nerve tissue completely before they were obturated. In addition, there were an excessive amount of caries under the abutments on the bridge for teeth #12, #13, and #14 for none to have been present when the bridge was cemented. This constitutes a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon Supp. 2001); 22 Tex. Admin. Code §108.7 (December 2001).

2. During the time period from April 8, 2002 to July 25, 2002, the Respondent fell below the minimum standard of care in failing to make, maintain, and keep adequate medical records for patient B.B. Specifically, the record does not include: a written informed consent signed by the patient covering all treatment provided; or a treatment plan with recommendation and treatment options signed by the patient. This constitutes a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon 2001); and 22 Tex. Admin. Code §§108.7 and 108.8 (December 2001).

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 in Finding of Fact No. 1 is a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon Supp. 2001); 22 Tex. Admin. Code §108.7 (December 2001).

3. The conduct described in Finding of Fact No. 2 is a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon 2001); and 22 Tex. Admin. Code §§108.7 and 108.8 (December 2001).

ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent’s Texas Dental License No. 15983, issued to JOHN GARZA, DDS, is hereby is the sanction of REPRIMAND.
2. Respondent SHALL pay an administrative monetary fine in the amount of six thousand dollars ($6,000.00) 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 or in installment payments, the total amount due no later than one (1) year from the effective date of this Order.

3. Respondent SHALL pay restitution in the amount of seven thousand three hundred eight dollars ($7,308.00) payable to complainant B.B. The restitution amount SHALL be paid in one (1) lump sum or in installment payments, the total amount due no later than one (1) year from the effective date of this Order.

Respondent SHALL provide proof of payment of restitution in the amount ordered to the "Texas State Board of Dental Examiners" located at 333 Guadalupe, Tower 3, Suite 800, Austin, Texas no later than one (1) year from the effective date of this Order.

4. Respondent SHALL complete a total of thirty-eight (38) hours of Continuing Education courses. Under this stipulation, the continuing education courses SHALL be completed within two (2) years of the effective date of this Order. Continuing Education courses completed SHALL be in the following area(s):

   a. Crown and Bridge - 12 hours
   b. Risk management and recordkeeping - 6 hours
   c. Endodontics - 20 hours

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

5. 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.

6. Respondent SHALL take and pass the jurisprudence examination within three (3) months of the effective date of this Order. The fees for the examination SHALL be borne by Respondent. A jurisprudence examination taken prior to the effective date of this Order SHALL NOT count towards satisfying 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 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.

John Garza, DDS
Respondent

Diane Year
notarized the signature of JOHN GARZA, DDS, this 31st day of August 2005.

Diane Year
NOTARY PUBLIC
IN and FOR THE STATE OF TEXAS

Agreed Settlement Order
JOHN GARZA, DDS
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STATE BOARD OF DENTAL EXAMINERS
SIGNED this 19th day of August 2005.

Gary W. McDonald, DDS, Presiding Officer
State Board of Dental Examiners

Juan D. Villarreal, D.D.S., Secretary
State Board of Dental Examiners
John Garza, DDS
SBDE No. 03-1025-0829 (Staff; April 15, 2005; Dr. Malik)

The complaint(s) alleges the following violations of the Dental Practice Act and/or the Board’s rules and regulations:

1. During the time period from April 8, 2002 to July 25, 2002, the Respondent fell below the minimum standard of care in his endodontic treatment of patient B.B. Specifically, several canals were not enlarged enough to properly clean out the nerve tissue completely before they were obturated. In addition, there were an excessive amount of caries under the abutments on the bridge for teeth #12, #13, and #14 for none to have been present when the bridge was cemented. This constitutes a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon Supp. 2001); 22 Tex. Admin. Code §108.7 (December 2001).

2. During the time period from April 8, 2002 to July 25, 2002, the Respondent fell below the minimum standard of care in failing to make, maintain, and keep adequate medical records for patient B.B. Specifically, the record does not include: a written informed consent signed by the patient covering all treatment provided; or a treatment plan with recommendation and treatment options signed by the patient. This constitutes a violation of TEX. OCC. CODE §263.002(a)(4) and (10) (Vernon 2001); and 22 Tex. Admin. Code §§108.7 and 108.8 (December 2001).

**Disciplinary Actions Recommended: Reprimand, Fine, Restitution, CE, JP.**