SBDE NO. 2015-01264 & 2015-01265

IN THE MATTER OF § BEFORE THE STATE
THE LICENSE OF § § BOARD OF
DAVID L. CLARK, DDS § § DENTAL EXAMINERS
TEXAS DENTAL LICENSE § §
NUMBER 17816 §

AGREED SETTLEMENT ORDER

On the 12th day of January, 2018, the State Board of Dental Examiners (Board) met in a regularly scheduled meeting and the above-styled case was heard.

David L. Clark, DDS, holder of Texas Dental License No. 17816 (Respondent), appeared at an informal settlement conference on September 7, 2017, at 333 Guadalupe Street, Austin, Texas. Respondent was represented by Vernon Krueger. 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 Dr. Steven Austin 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, David L. Clark, DDS, holds Texas Dental License No. 17816. Respondent's license was initially issued on August 3, 1994, 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:

3. Respondent’s license has no prior disciplinary history.

4. During the time period from January 2, 2012, through April 14, 2015, Respondent fell below the minimum standard of care and violated the duty of fair dealing during the treatment of minor patient KB and minor patient AB. Specifically, Respondent recommended inappropriate orthodontic treatment for minor patient KB, resulting in a poor outcome and necessary subsequent treatment. Respondent also recommended unnecessary and inappropriate orthodontic treatment to minor patient AB. Respondent recommended unnecessary TMJ imaging for both minor patients, despite no indications it was necessary, and conducted TMD orofacial pain and airway evaluation on patient AB, an unnecessary service.

5. During the time period from January 2, 2012, through April 14, 2015, Respondent failed to adequately make and maintain records of the treatment of minor patient KB and minor patient AB. Specifically, Respondent failed to create adequate orthodontic diagnostic materials for minor patient KB, including cephalometric tracing or adequate study models. Respondent’s records for both minor patients state incorrect patient ages despite the presence of birthdates in the records.

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.


ORDER

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent’s Texas Dental License No. 17816, issued to David L. Clark, DDS, is hereby issued the sanction of WARNING.

2. Respondent SHALL reimburse the guardian of patient AB for the remaining portion of the payments provided to Respondent for treatment
not yet refunded, and SHALL reimburse the guardian of patient KB for the entirety of the payments provided to Respondent for treatment.

Proof of restitution SHALL be provided to the Board no later than thirty (30) days from the effective date of this ASO.

3. 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.

4. Respondent SHALL complete a total of twenty one (21) hours of continuing education (CE) courses, which SHALL be completed within six (6) months of the effective date of this ASO. The twenty one (21) hours of CE courses completed SHALL be in the following areas:
   - Risk Management and Record-Keeping: Six (6) hours
   - Orthodontics: Twelve (12) 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.

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.

David L. Clark, DDS, Respondent

notarized the signature of David L. Clark, DDS, this 20th day of October 2017.

Rebecca Redfearn, NOTARY PUBLIC IN and FOR THE STATE OF TEXAS

STATE BOARD OF DENTAL EXAMINERS
SIGNED this 12th day of January, 2018.

DDS, Presiding Officer

DDS, Board Secretary