

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

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In the Matter of
Dr. Domenic Albanese
License No. DN16525
Expires March 31, 2016

Docket No. DEN-2013-0154

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Dentistry (“Board”) and Dr. Domenic Albanese (“Licensee”), license¹ no. DN16525 (“License”) stipulate and agree the following information shall be entered into and become a permanent part of the Licensee’s record maintained by the Board.

1. The Licensee states he voluntarily enters into this Consent Agreement for Probation (“Consent Agreement”) in order to resolve the complaint against the Licensee pending before the Board at Docket No. DEN-2013-0154 (the “Complaint”).
2. The Licensee and the Board stipulate and agree to resolve the Complaint without making any findings and without proceeding to a formal adjudicatory hearing on the Complaint based on the allegations as follows:
 - (a) Licensee violated 234 CMR 9.05(14), committing an act that violates recognized standards of care, by diagnosing periodontal disease where none was confirmed three months later by a treating periodontist and seven months later by the subsequent treating general dentist.
 - (b) Licensee violated 234 CMR 2.04(17) and 234 CMR 5.15 for failing to maintain the patient record in conformance with Board regulations by: (1) failing to expose a full mouth series of radiographs at any time between 1994 and 2012; (2) failing to perform a periodontal charting/PSR evaluation prior to October 2011; (3) failing to perform an oral cancer screening at any time between 1994 and 2012; (4) failing to obtain a general consent form; (5) failing to obtain a specific consent form prior to the extraction of tooth #2; (6) failing to perform a charting of hard tissues and existing restorations; (7) failing to develop a treatment plan with associated fees prior to commencing treatment in October 2011 for full

¹ The term “license” or “License” applies to both a current and expired license as well as the right to renew an expired license.

mouth scaling and root planning; (8) failing to obtain a HIPAA acknowledgement form and (9) failing to expose a periapical radiograph prior to extraction of tooth #2.

3. In order to resolve this matter without further proceedings before the Board, the Licensee and Board agree that on the date of the execution of this Consent Agreement by the Board ("Effective Date") the Board will order that the Licensee be placed on Probation for six (6) months from the Effective Date ("Probation Period").
4. The Licensee shall successfully pass the *Massachusetts Dental Ethics and Jurisprudence Exam* within thirty (30) days of the Effective Date. A copy of the completed exam answer sheet must be submitted to the Board no later than thirty (30) days from the Effective Date.
5. Within six (6) months from the Effective Date, the Licensee shall provide written proof satisfactory to the Board that he has taken and successfully completed Board approved continuing education courses in the following areas:

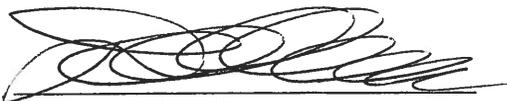
Diagnosis and Treatment Planning (3hours)
Record Keeping (3 hours)
Periodontology for the General Dentist (3 hours)

- (a) The course descriptions shall be submitted to the Board for pre-approval prior to taking the courses.
- (b) All courses must be attended and shall not be self-study or taken through a computer based on-line program.
- (c) The Board approved continuing education courses shall be taken in addition to the continuing education courses required to maintain his License pursuant to 234 CMR 8.00.
- (d) Within thirty (30) days of the Effective Date, Licensee shall provide a copy of this Consent Agreement to all jurisdictions in which he holds a license to practice dentistry.
 - (i) Licensee shall provide written documentation to the Board demonstrating his compliance with paragraph 5(d).
 - (ii) If Licensee is not licensed to practice dentistry or another health profession in any other jurisdiction, he shall submit an attestation to the Board stating such.
- (e) Licensee has the burden to prove compliance with the requirements of the Consent Agreement.

6. If the Licensee fails to successfully complete the requirements of paragraphs 4 or 5, the Board may take further disciplinary action. Such action may include, but not be limited to, extension of the Probation Period, suspension of the Licensee's License, suspension of Licensee's right to renew his License or other disciplinary action as is deemed appropriate by the Board.
7. During the Probation Period, the Licensee further agrees he shall not:
 - (a) Violate any law or regulation (state or federal) relating to the practice of dentistry;
 - (b) Commit any act that constitutes deceit, malpractice, gross misconduct in the practice of dentistry, unprofessional conduct, or conduct which undermines public confidence in the integrity of the profession; and
 - (c) Violate any regulations promulgated by the Board set forth in 234 CMR 2.00 *et seq.*
 - (d) The Licensee agrees to fully cooperate and respond to any inquiry or request made by the Board during the Probation Period.
8. The Licensee agrees his failure to satisfy any of the terms of the Consent Agreement set forth in paragraph 7 shall result in further disciplinary action by the Board pursuant to subparagraph 8(a) and (b).
 - (a) The Licensee shall be entitled to a hearing only as to whether he violated the conditions in paragraph 7 of the Consent Agreement. This hearing shall be conducted in accordance with the State Administrative Procedure Act, M.G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03.
 - (b) After a hearing, if the Board determines a violation did occur during the Probation Period, it will impose a further sanction deemed appropriate in its discretion.
 - (c) The Licensee agrees he is not entitled to a hearing to dispute the underlying allegations in the Complaint or the sanction to be imposed upon a finding of failure to comply with the terms of his Probation. The Licensee acknowledges and agrees by entering into the Consent Agreement, he is relinquishing important procedural rights.
9. The Licensee understands entering into the Consent Agreement is a final act and not subject to reconsideration, collateral attack or judicial review in any form or forum.

10. The Licensee acknowledges and understands this Consent Agreement is subject to the Commonwealth of Massachusetts's Public Records Law, M.G.L. c. 4, § 7(26).
11. The Board agrees as consideration for the Licensee entering into the Consent Agreement, the Board will not prosecute the allegations in the Complaint. Any further prosecution regarding the Complaint will relate only to whether the terms and conditions of the Consent Agreement were violated.
12. The Licensee enters into this Consent Agreement of his own free will. The Licensee is aware that he has a right to counsel in this matter and has either conferred with counsel prior to signing this Consent Agreement or waives this right.
13. A waiver by the Board of any provision of the Consent Agreement at any time shall not constitute a waiver of any other provision of the Consent Agreement, nor shall it constitute a waiver by the Board of its right to enforce such provision at any future time.
14. The Licensee has read the Consent Agreement. The Licensee understands he has the right to a formal adjudicatory hearing concerning the allegations set forth in the Complaint and that at a hearing he would have the right to confront and cross-examine witnesses, call witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, seek judicial review and to all other rights set forth in the State Administrative Procedure Act, M.G.L. c. 30A and 801 CMR 1.00 *et seq.* By executing this Consent Agreement, Licensee knowingly and voluntarily waives his right to a formal adjudicatory hearing and to all of the above-enumerated rights set forth in the State Administrative Procedure Act M.G.L. c. 30A and 801 CMR 1.00 *et seq.*, except as provided in subparagraph 8(a) and (b).

Licensee

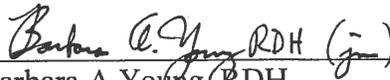


Dr. Domenic Albanese

10/20/15

Date Signed

Board of Registration in Dentistry


Barbara A Young, RDH
Executive Director

10/22/2015

Date Signed

10/22/2015

Effective Date