

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

In the Matter of)
Dr. Michael Y. Ofir)
License No. DN21072)
_____)

Docket Nos. DEN-2013-0040
DEN-2014-0055

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Dentistry ("Board") and Dr. Michael Y. Ofir ("Licensee"), License¹ No. DN21072, ("License") do hereby 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 hereby states that he voluntarily enters into this Consent Agreement for Probation ("Consent Agreement") in order to resolve disputed matters arising out of the Complaints pending against the Licensee before the Board docketed as DEN-2013-0040 and DEN-2014-0055 (the "Complaints").
2. The Licensee and the Board stipulate and agree to resolve the Complaints without making any findings and without proceeding to a formal adjudicatory hearing on the Complaints based on the allegations as follows:

DEN-2013-0055

- (a) Licensee violated 5.14(4)(a) by requiring payment of dental services rendered as a condition of providing a copy of a dental record;
- (b) Licensee violated 234 CMR 5.19(1) by advertising untruthful and inaccurate information pertaining to dental services;
- (c) Licensee violated 234 8.03(b) by failing to have current certification in Basic Life Support for the 2010-2012 renewal cycle;
- (d) Licensee violated 234 CMR 8.03(a) by failing to complete continuing education in Infection Control required for the 2010-2012 renewal cycle.

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- (a) Licensee violated 234 CMR 5.05(1) by failing to conduct weekly spore

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

testing, failing to sterilize straight hand-pieces after each patient use and failing to have an office Infection Control protocol;

- (b) Licensee violated 235 CMR 5.16(1) by failing to have a written protocol for managing medical or dental emergencies;
 - (c) Licensee violated 234 CMR 6.15(2)(f) by failing to have a portable cylinder E oxygen tank with pediatric and adult masks capable of giving positive pressure;
 - (d) Licensee violated 234 CMR 5.16(4) by failing to ensure all staff are trained when hired, and at least annually thereafter, to implement emergency protocols;
 - (e) Licensee violated 234 CMR 6.15(3) by failing to maintain current, unexpired medicaments in the emergency drug kit;
 - (f) Licensee violated 234 CMR 6.15(2)(b), (d) & (g) by failing to have required equipment for the delivery of local anesthesia;
 - (g) Licensee violated 234 CMR 5.04(1) and M.G.L. c. 112, §45 for failure to post current licenses for all licensees;
 - (h) Licensee violated 234 CMR 5.02(3)(a) by failing include the name of at least one of the owners on exterior signage;
 - (i) Licensee violated M.G.L. c. 112, §50 by failing to place patient identification in removable prostheses; and
 - (j) Licensee violated 234 CMR 5.04(3) relating to licensee's and dental auxiliaries' failure to wear name tags with name, professional title and function.
3. In order to resolve this matter without further proceedings before the Board, the Licensee and the 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 one (1) year 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 one (1) year 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:
- 3 Hours: Risk Management
 - 3 Hours: Record Keeping
 - 3 Hours: CDC Guidelines in Infection Control
 - 3 Hours: Ethics
- (a) The course description(s) shall be submitted to the Board for pre-approval prior to taking the course.
- (b) All courses must be attended and shall not be self-study and/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 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 profession in any other jurisdiction, he shall submit a signed attestation to the Board stating such.
- (e) The burden of proof of compliance with the requirements of the Probation is on the Licensee.
6. If the Licensee fails to successfully complete the requirements of paragraphs 4 or 5, the Board may take further disciplinary action without a hearing. Such action may include, but not be limited to, extension of the period of probation, suspension of the Licensee's License, or other disciplinary action 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, offenses against laws or regulations relating to 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 Probation set forth in paragraph 7 shall result in further disciplinary action by the Board pursuant to subparagraph 8(a).
- (a) The Licensee shall be entitled to a hearing as to whether he violated the terms and conditions of Probation as set forth in paragraph 8. 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 contained in the Complaints 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 the Consent Agreement is subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, §7.
11. The Board agrees as consideration for the Licensee entering into the Consent Agreement, the Board will not prosecute the allegations in the Complaints. Any further prosecution regarding the Complaints will relate only to whether the terms and conditions of this Consent Agreement were violated.
12. The Licensee states he enters into the Consent Agreement of his own free will. The Licensee further states that he is aware that he has a right to counsel in this matter and has either conferred with counsel prior to signing the Consent

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Agreement or waives his right to have counsel.

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).

Licensee:

Michael Ofir
Dr. Michael Y. Ofir

10/24/14
Date Signed

Board of Registration in Dentistry

Dr. Cynthia M. Stevens / Chair
Dr. Cynthia M. Stevens, Chair

10/30/14
Date Signed

10/30/14
Effective Date