

**STATE OF NEW HAMPSHIRE
BOARD OF DENTAL EXAMINERS
CONCORD NH 03301**

In the matter of:
Dr. Jason Lee, DMD
Lic. #04536

DOCKET #22-DEN-010

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of dentistry, the New Hampshire Board of Dental Examiners (“Board”) and Jason Lee, DMD (“Respondent”), a dentist licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 317-A:17; RSA 317-A:18; RSA 310-A:1-j, and RSA 541-A:31, V; and Dental Administrative Rule (“Den”) 208 and 212, the Board has jurisdiction and authority to investigate and commence a disciplinary proceeding pertaining to allegations of professional misconduct committed by licensees of the Board. Pursuant to RSA 317-A:18, VIII; RSA 310-A:1-k, III; and RSA 541-A, V, the Board may at any time before or during a disciplinary proceeding resolve allegations of professional misconduct by a written *Settlement Agreement* approved by the Board and licensees provided the complainant has an opportunity to comment upon the terms of the *Settlement Agreement* before the *Settlement Agreement* has been executed.
2. The Board first granted Respondent a license to practice dentistry in the State of New Hampshire on January 13, 2020. Respondent holds license number 04536. Respondent practices dentistry at various locations in New Hampshire.

3. As a result of a routine inspection on March 25, 2022 at the Epping location of Aspen Dental, Chief Pharmacy Compliance Inspector Kaitlyn Simoneau (“Investigator Simoneau”) filed a memorandum with the Board alleging that the Respondent, the primary oral surgeon and sole DEA licensee at this location, failed to follow numerous protocols related to the proper storage, labeling, and destruction of controlled substances.
4. In response to the complaint, the Board conducted an investigation which included, among other things, follow up inspections by Inspector Simoneau at seven other Aspen Dental and Lindner Dental Associates locations where the Respondent practices in Bedford, Concord, Portsmouth, Rochester, Seabrook, Somersworth, and Tilton. As a result, the Board voted on 08/01/2022 to initiate a disciplinary proceeding in this matter.
5. Respondent stipulates that if a disciplinary proceeding were held, Hearing Counsel could prove that Respondent engaged in unprofessional conduct as defined under RSA 317-A:17, II(d) and/or (j)(1) by violations of Den 502.01(a), RSA 318-B:12, and 21 CFR 1304.11 according to the following facts:
 - a. On March 25, 2022, Inspector Simoneau conducted a controlled substance inspection at the Aspen Dental located in Epping, NH. The Respondent is the primary oral surgeon at this location and all controlled substances ordered for the facility are designated to the Respondent’s DEA number. Inspector Simoneau inspected all controlled substances in the facility and observed the following:
 - i. Several outdated medications,
 - ii. Several punctured vials with no indication of date opened or appropriate 28-day expiration,

- iii. Several pre-drawn syringes that were either unlabeled or labeled only with a medication name with no indication of strength or the date it was drawn,
 - iv. No copies of executed DEA 222 forms for retaining records of ordering controlled drugs, and,
 - v. No initial or biennial controlled drug inventory.
- b. Inspector Simoneau executed a Violation Notice on March 25 for “no initial controlled substance inventory.”
- c. The Respondent provided an explanation (dated March 28, 2022 but received by the Board on October 17, 2022) stating “[i]nitial inventory completed and will be conducted every 2 years.”
- d. Following the March 25 inspection, the Board ordered Inspector Simoneau to complete inspections of the Respondent’s seven additional work locations, including the Lindner Dental Associates location in Bedford and the Aspen Dental locations in Concord, Portsmouth, Rochester, Seabrook, Somersworth, and Tilton. The Respondent is the primary oral surgeon at these locations and all controlled substances ordered for these facilities are under his DEA license.
- e. At the Seabrook Aspen Dental on June 6, 2022, Inspector Simoneau noted as violations that there was no initial controlled drug inventory, a vial of dexamethasone that had a manufacturers expiration date of January 2022 but a noted open date of March 2022, and 11 vials of expired ketamine. The Respondent explained in writing that he was “not aware of initial inventory – now completed” and that he was “waiting for packing to send expired drugs – kept in drug box in the meanwhile. Now this has all been wasted.”

- f. At the Somersworth location of Aspen Dental on June 21, 2022, Inspector Simoneau noted a violation for not having an initial controlled substance inventory. The Respondent explained in writing that it was an “[o]versight” and that “we have the invoices of the initial drugs but didn’t have the inventory completed.”
 - g. At the Tilton location of Aspen Dental on August 16, 2022, Inspector Simoneau noted violations for missing invoices for midazolam 5mg/ml vials and excessive outdated medications including succinylcholine, ondansetron, midazolam, and Ketorolac. The Respondent explained in writing that “invoice available with supplier ... place in drug binder for reference” and “discarded all expired meds.”
 - h. Inspector Simoneau did not issue violations for the Lindner Dental Associates or other Aspen Dental locations, but noted that several of those locations had expired medications, missing invoices, or refrigerators with incomplete temperature logs.
6. The Board finds Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated the statutes and administrative laws outlined above.
7. Respondent acknowledges that this conduct set forth in paragraph 5 is the basis for the Board’s decision to impose disciplinary sanctions against Respondent’s license to practice as a dentist in the State of New Hampshire pursuant to the RSA 317-A:17, III.
8. WHEREFORE, the Respondent consents to the Board imposing the following discipline pursuant to RSA 317-A:17, III and RSA 310-A:1-m:
 - a. Respondent is **REPRIMANDED** for unlawful practices concerning recordkeeping, storage, and disposal of controlled substances.

- b. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of two thousand dollars (\$2,000.00). Respondent shall pay the administrative fine within thirty (30) days from the effective date of this *Settlement Agreement* and according to the terms in paragraph 7.d.
- c. The Respondent shall pay a fee toward the **COSTS OF INVESTIGATION AND PROSECUTION** in the amount of **two hundred and fifty dollars (\$250.00)** to be paid within thirty (30) days from the effective date of this *Settlement Agreement* and according to the terms in paragraph 7.d.
- d. All payments shall be in the form of a check or money order made payable to the Treasurer, State of New Hampshire. The payment of the administrative fine shall be made separate from the payment of the costs of investigation and prosecution. Each payment shall specify on the memo line whether the payment is for “DEN Disciplinary Fine” or “DEN Costs of Investigation and Prosecution.” Each payment shall be mailed with a printed copy of this *Settlement Agreement*. All payments shall be sent to:

ATTN: OPLC Finance and NH Board of Dental Examiners
Office of Professional Licensure and Certification
7 Eagle Sq.
Concord, NH 03301

- e. Respondent is required to meaningfully participate in a total of twenty (20) hours of **CONTINUING DENTAL EDUCATION** which shall cover the topics of DEA registrant duties and responsibilities and the storage, documentation, and destruction of controlled substances. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within

ninety (90) days from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these required courses, Respondent shall notify the Board and provide the Board with proof of completion of the course hours, a syllabus/course outline, and a **Letter of Reflection**. The following terms apply to the **Letter of Reflection**:

- i. The Letter of Reflection shall be written by the Respondent in the Respondent's own words and shall demonstrate that the Respondent has achieved a satisfactory degree of skill and understanding in the areas of deficiency as described in the above stated facts.
- ii. The Letter of Reflection at a minimum shall apply the content learned during the continuing education course to the Respondent's conduct described in the facts above and reflect on how the conduct may have been changed.
- iii. Such Letter of Reflection shall be confidential and exempt from disclosure under RSA 91-A.
- iv. Within forty-five (45) days of receipt, the Board shall notify the Respondent whether or not the Letter of Reflection demonstrates a satisfactory degree of skill and understanding in the area(s) of deficiency.
- v. If the Board fails to notify the Respondent within forty-five (45) days, the Letter of Reflection shall be deemed that the Respondent demonstrated a satisfactory degree of skill and understanding in the area(s) of deficiency.
- vi. If the Board finds the Letter of Reflection fails to demonstrate a satisfactory degree of skill and understanding and timely notifies the

Respondent, the Board may order the Respondent to appear at a non-disciplinary show cause hearing to answer as to why the letter failed to demonstrate sufficient skill and understanding and to address the Board's concerns and/or may order the Respondent to take additional continuing education courses not to exceed the above stated hour requirement.

9. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct and shall serve as a separate and sufficient basis for further disciplinary action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
11. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to Respondent other than those terms and conditions expressly stated herein.
13. The Board agrees that in return for Respondent's executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.

14. Respondent understands that Respondent's action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of Respondent's choosing in connection with his decision to enter into this *Settlement Agreement*.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* has prejudiced Respondent's right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
17. Respondent agrees to support the adoption of this Settlement Agreement by the Board.
18. Respondent is not under the influence of any drugs or alcohol and is otherwise of sound mind at the time the Respondent signs this agreement.
19. Respondent certifies that Respondent has read this document titled *Settlement Agreement*. Respondent understands that Respondent has the right to a formal adjudicatory hearing concerning this matter and that at said hearing Respondent would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on Respondent's own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality, and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, Respondent waives these rights as they pertain to the misconduct described

herein. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

I, Jason Lee, have reviewed the foregoing *Settlement Agreement* settling misconduct allegations pending against me and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this *Settlement Agreement*. Further, I, Jason Lee, knowingly and freely waive the right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this *Settlement Agreement*.

Dated: 11/18, 2022



Jason Lee, DMD
Respondent

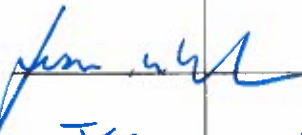
On this 18 day of November 2022 personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.



Justice of the Peace/Notary Public **DAWN E. BOUFFORD**
Notary Public - New Hampshire
My commission expires **December 18, 2025**

FOR THE BOARD OF DENTAL EXAMINERS

Dated: DECEMBER 7, 2022



JESSICA M. VHELEHAN
(Print Name)
Office of Professional Licensure and Certification
Authorized Representative of the NH Board of
Dental Examiners