

**BEFORE THE STATE OF NEW MEXICO
BOARD OF DENTAL HEALTH CARE**

IN THE MATTER OF:

**CYNTHIA A. PHELAN, D.D.S.
LICENSE NO. DD2711**

Respondent.

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CASE NO. 10-70-COM

STIPULATED AGREEMENT

WHEREAS, the State of New Mexico Board of Dental Health Care ("Board") on October 4, 2010, received a complaint that alleged that Comfort Dental which is owned by Dr. Cynthia A. Phelan ("Respondent") engaged in "unprofessional conduct" by failing to comply with advertising guidelines.

WHEREAS, Respondent is willing to resolve this matter amicable and without the issuance of a Notice of Contemplated Action ("NCA") as required under the Uniform Licensing Act ("ULA"), and without a formal hearing and;

WHEREAS, the Board believes that this Stipulated Agreement ("Agreement") is appropriate and in the best interests of both the Board and Respondent.

IT IS AGREED AS FOLLOWS:

1. The Respondent is licensed under the Dental Health Care Act, Section 61-5A-1 *et seq*, NMSA 1978, and is subject to the jurisdiction of the New Mexico Board of Dental Health Care (hereafter the "Board").
2. The Respondent admits that Comfort Dental did not comply with advertising guidelines as set forth in Board Rule 16.5.16.10(B)(6) NMAC.

3. Discipline. This Agreement constitutes disciplinary action by the Board against the Respondent.

4. The Board shall take no further action against Respondent with respect to the matters in the subject case, provided Respondent complies with the following:

A. Respondent shall pay a one thousand dollar (1,000.00) fine, to be paid within (30) thirty days of the Respondent's receipt of the signed Agreement.

B. Respondent shall complete the New Mexico Dental Jurisprudence Examination within thirty (30) days after receipt of this Agreement signed by the Respondent and the Board.

C. Respondent will comply with advertising guidelines as required by the Dental Health Care Act and Board rules.

5. Waiver of Rights.

A. The Respondent enters into this Agreement voluntarily and waives her right to have this matter heard in the manner described in the New Mexico Licensing Act, 1978 NMSA, § 61-1-1 *et seq.* (Repl. Pamp. 2003), including the right to a full evidentiary hearing, the right to conform and cross-examine witnesses, and the right to an appellate process.

B. Respondent waives all rights to have this matter heard within the time frame set by the ULA, in order for the Board to consider this Agreement.

C. Respondent waives her right to assert a claim of bias or move to excuse any Board member based upon the Board member's consideration of this Agreement.

D. Respondent's waiver of any rights contained herein is made knowingly, intentionally, and voluntarily.

6. Respondent has the right to be represented by an attorney.


7. This Agreement is subject to Board approval. If the Board rejects this Agreement, the Board may proceed with an NCA. The terms of this Agreement or statements made by the Respondent in support of this Agreement shall **not** be used against the Respondent.

8. This Agreement is binding upon the Board and the Respondent.

9. Failure to comply with the terms and conditions of this Agreement shall be separate and independent grounds for disciplinary action by the Board. In the event the Respondent fails to comply with the provisions hereof, the Board shall have the right to take such action against Respondent, as it deems appropriate under the circumstances, including revoking Respondent's license.

10. This Agreement resolves Board case number 10-70-COM, and only the specific allegations contained therein. The Board reserves the right to initiate proceedings for any other violation of the Dental Health Care Act or the rules of the Board adopted pursuant to that act.

11. The complaint and this Agreement are public records within the meaning of the Inspection of Public Records Act, NMSA 1978, § 14-2-6(E) (1993).


Cynthia A. Phelan, D.D.S
Respondent

9/24/2011
Date