

STATE OF VERMONT  
SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF DENTAL EXAMINERS

IN RE: Carmen M. Alcala  
License No.:016-0001175

) Docket No.:DE05-0802  
)

**Stipulation and Motion to Amend Consent Order Nunc Pro Tunc**

The State of Vermont through prosecuting attorney Robert H. Backus, and the Respondent, Carmen Alcala, in person and through her attorney Christopher Ekman, appear before this Board and enter into the following Stipulation and Consent Order. This documents amends, *nunc pro tunc*, the Stipulation and Consent Order originally entered on October 18, 2004.

**Board Authority**

- 1 The Board of Dental Examiners (the "Board") has the jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Dental Examiners pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809 and; the rules of the Board and the Office of Professional Regulation.

**Statement of Facts**

2. A Stipulation and Consent Order was submitted by the parties in this matter, accepted by the Board and entered on October 18, 2004.
3. After the Stipulation and Consent Order in this matter was entered a complaint was made to this Board on about March 3, 2005 regarding conduct from December of 2000 with relevant facts as follows:
  - A) From September of 2000 to December of 2000, Respondent treated patient S.S. for a root canal.
  - B) During the course of S.S.'s treatment, Respondent prescribed S.S. with Diflucan for treatment of a vaginal yeast infection. Respondent did not note this prescription in her dental records for S.S.
4. Charges based upon the conduct in paragraph 12 above were filed under Docket # DE22- 0305 on November 17, 2005.
5. The parties agree that the Stipulation and Consent Order of October 18, 2004 should be amended as set out in the proposed order and that Docket #22-0305 should be dismissed.

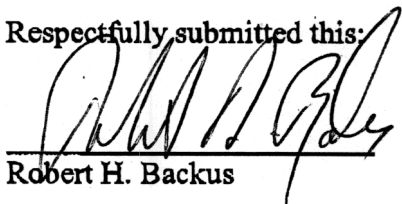
### Understandings

6. Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion the entire Stipulation and Consent Order shall be void.
7. Respondent has reviewed the entire document and agrees that it sets out the entire agreement of the parties, freely and voluntarily entered into.
8. Respondent waives any notification period and agrees to have this document reviewed by the Board during its next meeting. Respondent specifically waives any claim that presentation of this stipulation to the Board has prejudiced her right to a fair and impartial hearing should the Board reject this stipulation.
9. Respondent voluntarily waives her right to a contested hearing before the Board.
10. Respondent voluntarily waives her right to appeal the decision and order of the Board entered under this stipulation.

### ORDER

11. The Stipulation and Consent Order of October 18, 2004 is amended to add an additional administrative penalty of two hundred fifty dollars (\$250.00) and shall be paid within thirty days of the entry of this order.
12. The Stipulation and Consent Order of October 18, 2004 is further amended to reduce the period for the conditioning of the Respondent's license; the conditioning shall terminate on April 5, 2006.
13. Docket DE22-0305 is dismissed.
14. A violation of the terms of this order shall be grounds for further disciplinary action.
15. The final disposition of the complaint against Respondent is public and the Commission may notify other states of its disposition as provided in 3 V.S.A. §129(a)(8).
16. Respondent understands that this Stipulation and Consent Order will remain part of her licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Respectfully submitted this:

  
Robert H. Backus

Date: 3/30/06

Prosecuting Attorney  
State of Vermont  
Secretary of State

Carmen M. Alcala, DMH  
Carmen Alcala  
Respondent

Date: 3/27/2006

  
Christopher Ekman  
Attorney for Respondent

Date: 3/28/06

APPROVED AND SO ORDERED:

Dated: 3/30/06

Date of entry: 4/5/06

Board of Dental Examiners

by: Thomas R. O'Connell  
Chairperson

Willis o

STATE OF VERMONT  
SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF DENTAL EXAMINERS

IN RE: Carmen M. Alcala  
License No.:016-0001175

) Docket No.:DE05-0802  
)

**Stipulation and Consent Order**

The State of Vermont through prosecuting attorney Robert H. Backus, and the Respondent, Carmen Alcala, in person and through her attorney Mary Kehoe, appear before this Board and enter into the following stipulation and consent order.

**Agreement**

The Respondent will not contest the charges and understands that the Board may take the State's allegations of fact as true and based on those make a finding of unprofessional conduct and enter the order set out below.

**Board Authority**

1. The Board of Dental Examiners (the "Board") has the jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Dental Examiners pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809 and; the rules of the Board and the Office of Professional Regulation.
2. Failure to conform to the essential standards of acceptable and prevailing practice is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(b)(2).

**Statement of Facts**

3. Carmen M. Alcala (the "Respondent") of Williston, Vermont, is a Dentist holding license number 016-0001175 issued by the State of Vermont.
4. Respondent's license was originally issued on February 12, 1992 and is currently set to expire on September 30, 2005.
5. At all times relevant, Respondent's place of employment was at Allen Brook Comprehensive Dental, LLC, in Williston, Vermont.
6. On or about May 16, 2002, Respondent did fillings for S.W. on teeth "30, 31 and 29." Respondent did not properly note the work performed.
7. On or about April 2, 2002, patient S.W. complained about pain on tooth 29 and Respondent explained it was "referred pain from UR [upper right]." Respondent's records for patient S.W. indicate x-rays taken and that there was decay in "lower right quad" which is where tooth 29 is located. Billing records indicate that in addition to the x-rays

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Prosecuting Attorney  
Office of  
Professional Regulation  
Montpelier, VT 05602

and oral evaluation, Respondent performed "adult prophylaxis" which is not indicated in patient records.

On or about September 4, 2002, Respondent indicates in notes for patient S.W. regarding tooth 29 "tooth still vital and not in need of endodontic treatment on my professional opinion." Respondent never indicates whether she performed a test to conclude that the tooth is in fact vital.

9. On or about April 4, 2002, patient records for A.M. indicate that "mother called to make dental appointment." Billing records for patient A.M. indicate that Respondent performed a cleaning on patient A.M. Although a cleaning in fact occurred on April 4, 2002, the medical record does not note it.
10. On or about June 5, 2002, Respondent indicates in patient A.M.'s records "premed for resins" but does not identify what medication was used for premed. The only indication of the type of premed medication was in a note entered by Respondent on August 26, 2002 to the June 5, 2002 treatment record for patient A.M. indicating valium. This medication was prescribed by A.M.'s pediatrician and administered by A.M.'s step mother.
11. On or about July 3, 2002, Respondent indicates in patient A.M. records that patient A.M. "lost two fillings and had swollen lip." Billing records for patient A.M. indicate that Respondent performed a "limited oral examination" on patient A.M. two days earlier on July 1, 2002. July 1, 2002 treatment record for patient A.M. only indicate "mom wanted a check visit she noticed swelling." The medical record was created two days after the actual visit

### Charges

12. By failing to properly document treatment in patient dental records and charts, Respondent has committed unprofessional conduct by failing to conform to the essential standards of acceptable and prevailing practice in violation of 3 V.S.A. § 129a(b)(2).

### Understandings

13. Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion the entire Stipulation and Consent Order shall be void.
14. Respondent has reviewed the entire document and agrees that it sets out the entire agreement of the parties, freely and voluntarily entered into.
15. Respondent waives any notification period and agrees to have this document reviewed by the Board during its next meeting. Respondent specifically waives any claim that presentation of this stipulation to the Board has prejudiced his right to a fair and impartial hearing should the Board reject this stipulation.
16. Respondent voluntarily waives her right to a contested hearing before the Board.

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7. Respondent voluntarily waives her right to appeal the decision and order of the Board entered under this stipulation.

### ORDER

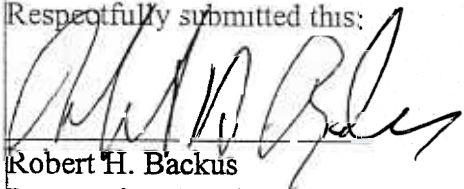
3. The Board adopts the facts as set out above and based on them it finds that Respondent by failing to properly document treatment in patient dental records and charts, Respondent has committed unprofessional conduct by failing to conform to the essential standards of acceptable and prevailing practice in violation of 3 V.S.A. §129a(b)(2)
13. The Respondent's license is suspended for a period of seven days commencing thirty days from the entry of the order.
14. Following the suspension period Respondent's license is conditioned for two years on the following terms:
- a. Within sixty days of the entry of this order Respondent shall pay an administrative penalty of one thousand five hundred dollars (\$1500.00).
  - b. Within one year Respondent shall complete two courses each of at least six hours. These courses must be approved by the Board. One course shall be in endodontic diagnosis and must address managing emergencies. The other course shall be in risk management.
  - c. Three times during the first year after the entry of this order a dentist who has been approved by the Board shall review (on each occasion) fifteen recent patient records to review the adequacy those records. The dentist shall make a report with recommendations for improvements (if needed) and the Respondent shall implement those recommendations. These reports shall be provided to the Board by the reviewing dentist. The reports are due at equal intervals commencing no earlier than three and no later than four months from the date of entry of this order.
15. A violation of the terms of this order shall be grounds for further disciplinary action.
16. The final disposition of the complaint against Respondent is public and the Commission may notify other states of its disposition as provided in 3 V.S.A. §129(a)(8).
17. Respondent understands that this Stipulation and Consent Order will remain part of her licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

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Office of  
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Montpelier, VT 05602

Respectfully submitted this:

  
Robert H. Backus  
Prosecuting Attorney  
State of Vermont  
Secretary of State

Date: 10/12/07

Secretary of State

Carmen Alcala Date: 10/12/2004

Carmen Alcala

Respondent

Mary P. Kehoe Date: 10/12/2004

Mary Kehoe

Attorney for Respondent

Oct. 12 2004 03:23PM PS

FAX NO. : 1 802 879 8388

FROM: ALLEN BROOKS/ENTRAL

TOTAL P.04

|APPROVED AND SO ORDERED:

|Dated: \_\_\_\_\_

|Date of entry: 10/18/04

Board of Dental Examiners

by: Ranana Miller, DDS  
Chairperson

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Prosecuting Attorney  
Office of  
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SECRETARY OF STATE  
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BOARD OF DENTAL EXAMINERS

IN RE: Carmen M. Alcala  
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)  
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Docket No.:DE05-0802

**SPECIFICATION OF CHARGES**

**Board Authority**

1. The Board of Dental Examiners (the "Board") has the jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Dental Examiners pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809 and; the rules of the Board and the Office of Professional Regulation.
2. Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(a)(7).
3. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(a)(3).
4. Failure to conform to the essential standards of acceptable and prevailing practice is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(b)(2).
5. Willfully omitting to file or record, or willfully impeding or obstructing the filing or recording, or inducing another person to omit to file or record dental reports required by law is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. Laws and Rules for Dentists, Hygienists and Dental Assistants 3.8(7).

STATE OF VERMONT



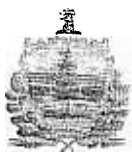
Prosecuting Attorney  
Office of  
Professional Regulation  
Montpelier, VT 05602

**Statement of Facts**

6. Carmen M. Alcala (the "Respondent") of Williston, Vermont, is a Dentist holding license number 016-0001175 issued by the State of Vermont.
7. Respondent's license was originally issued on February 12, 1992 and is currently set to expire on September 30, 2005.

8. At all times relevant, Respondent's place of employment was at Allen Brook Comprehensive Dental, LLC, in Williston, Vermont.
9. On or about September 10, 2000, Respondent began treating patient S.W.
10. On or about April 26, 2001, Respondent began treating patient A.M
11. "Notes" to patient records on the computer system for S.W. from September 10, 2000 through August 21, 2002 were entered by Respondent on August 21, 2002.
12. "Notes" to patient records on the computer system for A.M. from April 2, 2002 through June 5, 2002 were entered by Respondent on August 26, 2002.
13. Respondent advised that the dates of patient records differing from the dates of the notes were because whenever Respondent reviews the file or possibly adds something, the notes section will show the date that Respondent is reviewing the file or possibly adding something.
14. However, treatment records for patient S.W. for September 10, 2000 through August 21, 2002 show the notes as being entered on August 21, 2002 and thereafter all other treatment dates and note dates coincide. For example, treatment on September 3, 2002 contains a note dated September 3, 2002 and treatment on September 4, 2002 contains a note dated September 4, 2002, and adding the notes on September 3 and September 4, 2002 did not change the August 21, 2002 dates of the prior records. Respondent's explanation is inconsistent with the records she provided.
15. On or about April 2, 2001, Respondent indicates in patient S.W.'s records that S.W. was "delivering baby." Two weeks later, on or about April 26, 2001, Respondent indicates in patient S.W.'s records "patient pregnant expecting in a few months."
16. On or about May 16, 2002, Respondent did fillings on teeth "30, 31 and 29." Respondent did not note what material was used for the fillings nor did she note which surfaces of the teeth the fillings were on.
17. On or about April 2, 2002, patient S.W. complained about pain on tooth 29 and Respondent explained it was "referred pain from UR [upper right]." Respondent's records for patient S.W. indicate x-rays taken and that there was decay in "lower right quad" which is where tooth 29 is located. Billing records indicate that in addition to the x-rays and oral

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evaluation, Respondent performed "adult prophylaxis" which is not indicated in patient records. This is still not indicated even after Respondent added "notes" on August 21, 2002.

18. On or about May 16, 2002, patient S.W. complained about pain on tooth 29. Respondent notes in record "pulpitis" but never notes performing a hot and cold sensitivity test for pulpitis.
19. On or about August 5, 2002, patient S.W. complained about pain on tooth 29. Respondent states in records in a note dated August 21, 2002, that "x-ray 29 shows pulpitis." Pulpitis cannot be diagnosed from x-rays and must be diagnosed from a sensitivity test to hot and cold.
20. On or about August 21, 2002, patient S.W. called Respondent and advised that medicine prescribed for the pain in tooth 29 had stopped working and she was having pain in the tooth again.
21. On or about September 4, 2002, patient S.W. had x-rays performed on tooth 29 and Respondent notes that there is "decay, but too small to do a filling" and the Respondent will "just watch for 6 month[s]."
22. On or about September 4, 2002, Respondent performed a test for pulpitis on patient S.W. on tooth 29 and explains pulpitis to patient S.W. Patient S.W. had complained about pain in tooth 29 since April 2, 2002. Respondent explains pulpitis to patient S.W. on September 4, 2002 even though Respondent had "diagnosed" pulpitis from an x-ray on August 5, 2002 and indicated pulpitis on May 16, 2002.
23. On or about September 4, 2002, Respondent indicates in notes for patient S.W. regarding tooth 29 "tooth still vital and not in need of endodontic treatment on my professional opinion." Respondent never indicates whether she performed a test to conclude that the tooth is in fact vital.
24. On or about September 4, 2002, Respondent indicates in notes for patient S.W. that she referred patient to "specialist vermont [sic] endodontics" even though Respondent's professional opinion was that the tooth was "not in need of endodontic treatment." This referral was after patient S.W. had complained about tooth 29 since April 2, 2002.
25. On or about April 4, 2002, patient records for A.M. indicate that "mother called to make dental appointment." Billing records for patient A.M. indicate that Respondent performed a cleaning on patient A.M.
26. On or about June 5, 2002, Respondent indicates in patient A.M.'s records "premed for resins" but does not identify what medication was

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used for premed. The only indication of the type of premed medication was in a note entered by Respondent on August 26, 2002 to the June 5, 2002 treatment record for patient A.M. indicating valium.

27. On or about June 5, 2002, Respondent indicates in patient A.M.'s records, she gave patient A.M. 7 fillings on teeth T, K, I, E, G, I and S. Billing records for patient A.M., which are inconsistent with treatment records, indicate that Respondent gave 6 fillings on teeth T, K, I, F, G, and S.
28. On or about July 3, 2002, Respondent indicates in patient A.M. records that patient A.M. "lost two fillings and had swollen lip." Billing records for patient A.M. indicate that Respondent performed a "limited oral examination" on patient A.M. two days earlier on July 1, 2002. July 1, 2002 treatment record for patient A.M. only indicate "mom wanted a check visit she noticed swelling."
29. On or about July 30, 2002, patient A.M. had a tooth extracted by Dr. Kano.
30. On or about August 28, 2002, Respondent indicates in patient A.M.'s records that "mother has contacted another dentist."
31. In a letter from Respondent to OPR Investigator Jackie Cholewa dated September 16, 2002, Respondent advised patient S.W. that her son, patient A.M., "would not have an abscessed tooth due to trauma." A tooth can, in fact, become abscessed due to a trauma.
32. Respondent advises in her letter to OPR Investigator Jackie Cholewa that "Aaron was seen on May 16, 2002 because [S.W.] noticed an upper swollen lip." Patient records for A.M. indicate that A.M. was seen by Respondent on July 3, 2002 for a "swollen lip" and two lost fillings. There is no indication in patient A.M.'s records that Respondent saw A.M. on May 16, 2002 until Respondent enters a note on August 26, 2002.
33. Excluding the note entered by Respondent on August 26, 2002, it appears that S.W. called for an appointment for Respondent to check A.M.
34. In a letter dated September 16, 2002, Respondent advises that patient S.W. "reported pain in August 2002 not in May 2002." Respondent's records for patient S.W. indicate on April 2, 2002 there was "decay lower right quad" and May 16, 2002 "patient reported pain pulpitis #29."

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## Charges

35. By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has:

- a. Committed unprofessional conduct by willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records in violation of 3 V.S.A. §129a(a)(7);
- b. Committed unprofessional conduct by failing to comply with provisions of federal or state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3);
- c. Committed unprofessional conduct by failing to conform to the essential standards of acceptable and prevailing practice in violation of 3 V.S.A. §129a(b)(2);
- d. Committed unprofessional conduct by willfully omitting to file or record, or willfully impeding or obstructing the filing or recording, or inducing another person to omit to file or record dental reports required by law in violation of Laws and Rules for Dentists, Hygienists and Dental Assistants 3.8(7).

## Relief Requested

WHEREFORE, the Dentist license of Carmen M. Alcala should be revoked, suspended or otherwise disciplined.

Dated at Montpelier, Vermont this 5<sup>th</sup> day of November 2003.

State of Vermont  
Secretary of State

By:

Robert H. Backus

State Prosecuting Attorney

STATE OF VERMONT

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Prosecuting Attorney  
Office of  
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