

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND ROBERT W. ADAMS, D.D.S.**

Come now Robert W. Adams, D.D.S., ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo¹, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives such and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline his license, along with citations to law and/or regulations the Board believes was violated.

For purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 011421 is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

2. Licensee Robert W. Adams, D.D.S. is licensed by the Board as a dentist, License No. 011421. Licensee's Missouri license is current and active.

3. On or about November 7, 2012, the Board's Inspector conducted an inspection of Licensee's Dental Office, which was open for business and offering dentistry services.

4. During the November 7, 2012 inspection, the Board's Inspector observed Licensee present and performing services on patients without wearing gloves or arm coverings. Licensee stated that he did not wear gloves unless a patient requested that he wear them.

5. During the November 7, 2012 inspection, Licensee's assistant informed the Board's Inspector that spore testing on the autoclave was only conducted every couple of weeks.

6. On or about February 6, 2013, the Board's Inspector conducted an inspection of Licensee's Dental Office, which was open for business and offering dentistry services.

7. During the February 6, 2013 inspection, the Board's Inspector observed Licensee present and performing services in a patient's mouth without wearing gloves, arm coverings, or a protective mask or face shield.

8. During the February 6, 2013 inspection, the Board's Inspector found that Licensee was only using steam integrator test strips to conduct the weekly tests on the autoclave.

9. During the February 6, 2013 inspection, the Board's Inspector found that Licensee failed to place instruments in sterilization bags for storage.

10. During the February 6, 2013 inspection, Licensee acknowledged that he was still not in compliance with the CDC guidelines by stating that he continued to only wear protective attire if the patient wanted him to.

11. On or about April 15, 2013, the Board received a sterilization report from Crosstex, a biological monitoring service Licensee had enrolled in. This report indicated a "Fail" result for the test of Licensee's sterilization equipment conducted on March 29, 2013.

12. On or about April 18, 2013, the Board held a meeting with Licensee to discuss the findings of these inspections and reports.

13. At the April 18, 2013 meeting, Licensee admitted that blood-soaked gauze was disposed of in the trash.

14. At the April 18, 2013 meeting, Licensee stated that needles and blades ("sharps") are disposed of in the following manner: they are placed in a sharps receptacle until it is full, then the receptacle is pried open and the needles and blades are emptied into a coffee can which is placed in the trash.

15. At the April 18, 2013 meeting, Licensee stated that after instruments are removed from the autoclave, they are stored in a drawer, uncovered and unpackaged.

16. Licensee's actions as described in paragraphs 4 through 15 above constitute incompetency, misconduct, and gross negligence, in that Licensee, on more than one occasion, failed to wear protective coverings on his hands, arms, or face while working on patients, failed to conduct weekly tests on the sterilization equipment, and failed to store cleaned instruments in sterilization bags, for which the Board has cause to discipline Licensee's license.

17. Licensee's actions as described in paragraphs 4 through 15 above constitute a violation of § 191.694(1), RSMo, in that Licensee, on more than one occasion, failed to wear protective coverings on his hands, arms, or face while working on patients, failed to conduct weekly tests on the sterilization equipment, and failed to store cleaned instruments in sterilization bags, for which the Board has cause to discipline Licensee's license.

18. Licensee's actions as described in paragraphs 4 through 15 above constitute a violation of professional trust and confidence, in that Licensee, on more than one occasion, failed to wear protective coverings on his hands, arms, or face while working on patients, failed to conduct weekly tests on the sterilization equipment, and failed to store cleaned instruments in sterilization bags, for which the Board has cause to discipline Licensee's license.

19. Licensee's actions as described in paragraphs 4 through 15 above constitute failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof, in that Licensee, on more than one occasion, failed to wear protective coverings on his hands, arms, or face while working on patients, failed to conduct weekly tests on the sterilization equipment, and failed to store cleaned instruments in sterilization bags, for which the Board has cause to discipline Licensee's license.

20. Licensee's actions as described in paragraphs 4 through 15 above constitute failure to maintain his office or offices, laboratory, equipment and instruments in a safe and sanitary condition, in that Licensee, on more than one occasion, failed to wear protective coverings on his hands, arms, or face while working on patients, failed to conduct weekly tests on the sterilization equipment, and failed to store cleaned instruments in sterilization bags, for which the Board has cause to discipline Licensee's license.

21. Section 191.694, RSMo states, in relevant part:

1. All health care professionals and health care facilities shall adhere to universal precautions, as defined by the Centers for Disease Control of the United States Public Health Service, including the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments, to minimize the risk of transmission of HIV, HBV and other blood-borne infections to patients. Health care professionals and health care facilities shall comply with current

guidelines, established by the Centers for Disease Control, for disinfection and sterilization of reusable devices used in invasive procedures.

22. The Centers for Disease Control of the United States Public Health Service set out Guidelines for Infection Control in Dental Health in 2003. These guidelines state, in relevant part:

IV. PPE

A. Masks, Protective Eyewear, and Face Shields

1. Wear a surgical mask and eye protection with solid side shields or a face shield to protect mucous membranes of the eyes, nose, and mouth during procedures likely to generate splashing or spattering of blood or other body fluids (IB, IC) (1,2,7,8,11,13,137).

B. Protective Clothing

1. Wear protective clothing (e.g., reusable or disposable gown, laboratory coat, or uniform) that covers personal clothing and skin (e.g., forearms) likely to be soiled with blood, saliva, or OPIM (IB, IC) (7,8,11,13,137).

C. Gloves

1. Wear medical gloves when a potential exists for contacting blood, saliva, OPIM, or mucous membranes (IB, IC) (1,2,7,8,13).

2. Wear a new pair of medical gloves for each patient, remove them promptly after use, and wash hands immediately to avoid transfer of microorganisms to other patients or environments (IB) (1,7,8,123).

VI. Sterilization and Disinfection of Patient-Care Items

A. General Recommendations

1. Use only FDA-cleared medical devices for sterilization and follow the manufacturer's instructions for correct use (IB) (248).

2. Clean and heat-sterilize critical dental instruments before each use (IA) (2,137,243,244, 246,249,407).

3. Clean and heat-sterilize semicritical items before each use (IB) (2,249,260,407).

4. Allow packages to dry in the sterilizer before they are handled to avoid contamination (IB) (247).

5. Use of heat-stable semicritical alternatives is encouraged (IB) (2).

6. Reprocess heat-sensitive critical and semi-critical instruments by using FDA-cleared sterilant/high-level disinfectants or an FDA-cleared low-temperature sterilization method (e.g., ethylene oxide). Follow manufacturer's instructions for use of chemical sterilants/high-level disinfectants (IB) (243).

C. Receiving, Cleaning, and Decontamination Work Area

1. Minimize handling of loose contaminated instruments during transport to the instrument processing area. Use work-practice controls (e.g., carry instruments in a covered container) to minimize exposure potential (II). Clean all visible blood and other contamination from dental instruments and devices before sterilization or disinfection procedures (IA) (243,249--252).

D. Preparation and Packaging

1. Use an internal chemical indicator in each package. If the internal indicator cannot be seen from outside the package, also use an external indicator (II) (243,254,257).

2. Use a container system or wrapping compatible with the type of sterilization process used and that has received FDA clearance (IB) (243,247, 256).

E. Sterilization of Unwrapped Instruments

1. Clean and dry instruments before the unwrapped sterilization cycle (IB) (248).

2. Use mechanical and chemical indicators for each unwrapped sterilization cycle (i.e., place an internal chemical indicator among the instruments or items to be sterilized) (IB) (243,258).

3. Allow unwrapped instruments to dry and cool in the sterilizer before they are handled to avoid contamination and thermal injury (II) (260).

4. Semicritical instruments that will be used immediately or within a short time can be sterilized unwrapped on a tray or in a container system, provided that the instruments are

handled aseptically during removal from the sterilizer and transport to the point of use (II).

5. Critical instruments intended for immediate reuse can be sterilized unwrapped if the instruments are maintained sterile during removal from the sterilizer and transport to the point of use (e.g., transported in a sterile covered container) (IB) (258).

6. Do not sterilize implantable devices unwrapped (IB) (243,247).

7. Do not store critical instruments unwrapped (IB) (248).

F. Sterilization Monitoring

1. Use mechanical, chemical, and biological monitors according to the manufacturer's instructions to ensure the effectiveness of the sterilization process (IB) (248,278,279).

VII. Environmental Infection Control

F. Regulated Medical Waste

2. Management of Regulated Medical Waste in Dental Health-Care Facilities

a. Use a color-coded or labeled container that prevents leakage (e.g., biohazard bag) to contain nonsharp regulated medical waste (IC) (13).

b. Place sharp items (e.g., needles, scalpel blades, orthodontic bands, broken metal instruments, and burs) in an appropriate sharps container (e.g., puncture resistant, color-coded, and leakproof). Close container immediately before removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping (IC) (2,8,13,113,115).

c. Pour blood, suctioned fluids or other liquid waste carefully into a drain connected to a sanitary sewer system, if local sewage discharge requirements are met and the state has declared this an acceptable method of disposal. Wear appropriate PPE while performing this task (IC) (7,9,13).

23. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (6), (13), (16) and (17), RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter [.]

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(17) Failing to maintain his or her office or offices, laboratory, equipment and instruments in a safe and sanitary condition

Joint Agreed Disciplinary Order

24. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo: The terms of the discipline shall include that the dental license, license number 011421, be placed on **PROBATION** for a period of five (5) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided he adheres to all of the terms of the Board Settlement Agreement.

I. EDUCATIONAL REQUIREMENTS

- A. Licensee shall take and pass the Board's jurisprudence examination within the first twelve (12) months of Licensee's period of probation. Licensee shall contact the Board office to request a current law packet and permission to sit for the jurisprudence examination no less than thirty (30) days prior to the date Licensee desires to take the examination. Licensee shall submit the required re-examination fee to the Board prior to taking the examination. Failure to take and pass the examination during the first twelve (12) months of the disciplinary period shall constitute a violation of the Board Settlement Agreement.
- B. Within the first 180 days of Licensee's period of probation, Licensee shall attend and complete a minimum of twenty (20) hours of Board approved continuing education in Occupational Safety and Health Administration (OSHA) and Centers for Disease Control (CDC) guidelines for infection control in dental healthcare facilities. These continuing education hours must be from Board approved continuing education sponsors and are in addition to those hours required by law for renewal. These continuing education hours must be **classroom/out of office hours (NO correspondence or internet courses.)** Failure to complete the education within 180 days shall constitute a violation of the Board Settlement Agreement. It is understood Licensee has completed six (6) of these required hours as of the date this agreement was entered into for his participation and completion of a course offered by Cross Country Education on June 26, 2013.
- C. Licensee shall provide the Board with proof of attendance of the continuing education hours no later than thirty (30) days after attending the course. Failure to send the required documentation to the Board will result in a violation of the terms of discipline.
- D. **Monitoring.** Following successful completion of the twenty (20) hours of continuing education outlined in paragraph B, Licensee shall enter into a contract with a practice monitor who is approved by the Board. The monitor shall conduct random, quarterly inspections of Licensee's office to ensure compliance with infection control standards. Licensee shall be responsible for all costs associated with and pursuant to the contract agreement with the monitor. Licensee must provide the evaluator with a copy of this Settlement Agreement and must arrange for the evaluator to submit to the Board a written report of the on-site observations and any compliance recommendations made by the evaluator. Licensee shall comply with the monitor's recommendations. Licensee shall enter into the contract with the Board approved monitoring program within 10 days of the completion of the education described in paragraph B above. Failure to enter into the monitoring contract within ten (10) days of the completion of the continuing education or failure to follow all recommendations made by the evaluator shall constitute a violation of this agreement.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as reasonably required by the Board after notification of a required meeting.

- B. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within thirty (30) days of any change of home or work address and home or work telephone number.
- C. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Licensee shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- E. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo. Vacations or other temporary trips outside the state of Missouri shall not constitute removal or absence from the state for purposes of this paragraph.
- F. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- G. In the event the Board determines that the Licensee has violated any term or condition of this Settlement Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline the Licensee. No order shall be entered by the Board pursuant to this paragraph without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.
- H. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document and not now known to the Board. This agreement is intended to bind the Board and restrict the remedies available to it concerning any other violations in Chapter 332, RSMo., by the Licensee now known to the Board.

II. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow his license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

25. The parties to this Agreement understand that the Missouri Dental Board will maintain this Agreement as an open record of the Board as provided in Chapters 332, 610 and 324, RSMo.

26. The Board agrees that it will, within ten (10) days of the effective date of this settlement agreement, file a dismissal with prejudice of *Missouri Dental Board v. Adams*, Case No. 13CL-CV00121, currently pending in the Circuit Court of Caldwell County, Missouri, with each party to bear its own costs.

27. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

28. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

29. If no contested case has been filed against Licensee, Licensee has the right, either at the time this settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

30. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining

Licensee's license, the agreed upon discipline set forth herein shall go into effect. If Licensee does not request review by the Administrative Hearing Commission, the settlement agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

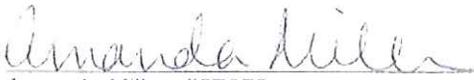
BOARD

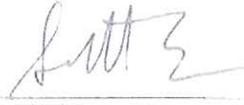

Robert W Adams, D.D.S.


Brian Barnett,
Executive Director
Missouri Dental Board

Date 04-22-14

Date 5/2/14


Amanda Miller, #57873
Attorney for Licensee


Scott T. Evans, #63482
Attorney for the Board

Date 4/22/14

Date 4/22/14