

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND RICHARD BLUSTEIN, D.D.S.**

Come now Richard Blustein, D.D.S. ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement ("Board 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, RSMo 2000<sup>1</sup>, 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 2000.

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 each and every one of these rights and freely enters into the Board 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 the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in the Board Settlement Agreement are true and stipulates with the Board that Licensee's license, numbered 013435 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum Supp. 2009 and Chapter 332, RSMo.

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<sup>1</sup> Unless otherwise noted, all references to RSMo are to RSMo 2000.

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 2000, for the purpose of executing and enforcing the provisions of Chapter 332.
2. On or about March 22, 2011, the Board received a complaint against Licensee from E. Powell. Licensee provided her with an upper and lower partial which did not fit properly and caused her pain and discomfort. Further, Licensee improperly billed her insurance company. On July 7, 2010, July 8, 2010, July 12, 2010, and July 14, 2010, Powell went to see Licensee due to pain and difficulty wearing her lower partial. On August 18, 2010 and August 21, 2010, Powell went to see Licensee due to pain and difficulty wearing her upper partial. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).
3. On or about July 6, 2010, the Board office received an application for a Deep Sedation/General Anesthesia (DGSA) Site Certificate from Respondent.
4. On February 24, 2011, an Investigator for the Missouri Dental Board, filed an Incident Report stating that on July 13, 2010, he had traveled to Respondent's practice location to perform the required on-site inspection.
5. During his visit, the Board's Inspector discovered multiple BNDD violations. One such violation was that Respondent initially indicated that his practice did not stock controlled substances; however, upon inspection of the practice's emergency kit, which was kept in an unlocked cabinet, the Board's Inspector found a 5mg/ml vial of Midazolam. Midazolam is a controlled substance pursuant to §195.017.8(2) (ii), which is required to be stocked in a locked and substantially constructed cabinet. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).
6. The Board's Inspector found that Respondent failed to maintain required patient records. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).
7. The Board's Inspector also discovered infection control violations which included that Respondent stored several packaged hand pieces, whose chemical and biological indicators were not changed, in the same storage area as other sterilized hand pieces with changed chemical and biological indicators. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).

8. On January 26, 2010, the Board's Inspector had made a previous trip to Respondent's practice and found some of these same violations and Respondent was instructed to correct the infection control problems and to come into compliance with BNDD.
9. On September 11, 2009, the Board received a complaint against Licensee from L. Barg. Barg needed a permanent fixed partial because her mouth was too small for a removable one. Licensee recommended crowns and caps which never fit and she was constantly going in for adjustments from Licensee and several other dentists. Barg's upper and lower dental work, three missing upper teeth and partial were not effective for her uses. She had paid \$22,857.00 to Licensee for all the work for which she could not utilize.
10. On or about October 23, 2008, the Board received a complaint from M. Lyubovich. Lyubovich was 93 years old at the time of treatment. She is unable to speak English.
11. The complaint alleged that she took out a loan for dental services from Licensee for \$6,500.00 and paid in full, up front. She received a new upper and lower denture from Licensee who failed to wear gloves during her procedures.
12. Lyubovich received an upper denture which did not fit properly, caused her to get sores in her mouth allowed food to get trapped underneath and caused her lots of discomfort.
13. Numerous follow up appointments with Licensee were necessary, but provided Lyubovich no relief. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).
14. On or about October 23, 2008, the Board received a complaint from L. Skilioti. Ms. Skilioti paid approximately \$34,000.00 to Dr. Blustein, in advance, to restore implants and dentures. Instead of fixing her prosthesis with bridges and crowns, he provided her with a hybrid fixed denture. Licensee's dental work for Ms. Skilioti failed to meet her needs and was not helpful to her, causing pain and discomfort. This supports cause to discipline pursuant to §332.321.2(5), (6) and (13).

Joint Agreed Disciplinary Order

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 2000: The terms of discipline shall include that the dental license, license number 013435, be VOLUNTARILY SURRENDERED

IN LIEU OF DISCIPLINE Licensee shall not be entitled to engage in the practice of dentistry under Chapter 332, RSMo

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

2. The terms of the Board Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither the Board 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.

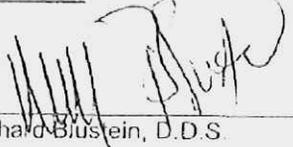
3. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, 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 the Board Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Board Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems the Board Settlement Agreement or any portion thereof to be void or unenforceable.

4. If no contested case has been filed against Licensee, Licensee has the right, either at the time the Board Settlement Agreement is signed by all parties or within fifteen days thereafter, to submit the Board Settlement Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Board Settlement Agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review the Board Settlement 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.**

5. 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 act 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 Board Settlement Agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE

  
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Richard Blustein, D.D.S.

Date 8/25/2013

BOARD

  
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Brian Barnett,  
Executive Director  
Missouri Dental Board

Date 9/25/13