

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND DAVID MICHAEL DERUYTER, D.D.S.**

Come now David Michael DeRuyter, 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 012974 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. Licensee David Michael DeRuyter, D.D.S. is licensed by the Board as a dentist, License No. 012974. Licensee's Missouri license was active and current at all relevant times.
3. At the Board's August 2009 meeting, the Board reviewed an investigation report on a complaint regarding another licensee. In the complaint, the patient's records noted that Licensee had provided his records on the complainant/patient, D.P. as a subsequent treating dentist. The Board decided to investigate whether Licensee was sedating patients, particularly D.P., without a conscious sedation permit. The Board's investigation revealed:
  - a. Licensee stated he had not been sedating patients without a permit and he had not been stocking controlled substances in his practices.
  - b. Licensee stated he only writes for anxiety and pain and he "may provide nitrous oxide."
  - c. D.P.'s chart stated "1 ½ carp[ule]s of septocaine and nitrous. Hydrocodone/Lorcet Plus 20 tabs Lorazepam 1 mg tablet/Ativan 1 mg tab."
4. Lorazepam/Ativan is a benzodiazepine, an oral sedation agent used for conscious sedation. Nitrous Oxide is an inhalation sedation agent used for conscious sedation.
5. Section 332.362.1, RSMo 2000 states:

All duly registered and currently licensed dentists in Missouri who prescribe and administer deep sedation or general anesthesia agents in the course of providing dental services shall possess a deep sedation or general anesthesia permit issued by the Board. All duly registered and currently licensed dentists in Missouri who prescribe and administer conscious sedation agents in the course of providing dental services shall possess a conscious sedation permit issued by the Board.
6. Regulation 20 CSR 2110-4.020 states, in relevant part:
  - (1) No dentist shall administer enteral and/or parenteral conscious sedation unless the dentist possesses a conscious sedation permit issued by the Missouri Dental Board.
  - (2) No dentist shall prescribe sedative agents for enteral sedation unless the dentist possesses an enteral or parenteral conscious sedation permit issued by the Missouri Dental Board.

7. Licensee's actions as described in paragraphs 3 and 4 above constitutes violation of a provision of chapter 332 and a lawful rule promulgated pursuant to chapter 332 as described in paragraphs 5 and 6 above for which the Board has cause to discipline Licensee's license in that Licensee administered conscious sedation without a permit.

8. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (6) and (15) 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) ...misconduct,... in the performance of, or relating to one's ability to perform, the functions or duties of any professional 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;

...

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government[.]

#### Joint Agreed 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:

9. The terms of discipline shall include that the dental license be placed on **PROBATION** for a period of two (2) years ("disciplinary period"). During the disciplinary period, Licensee shall not take any steps to renew or reinstate his Missouri dental license.

10. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of revocation).

11. 11. 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.

12. 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.

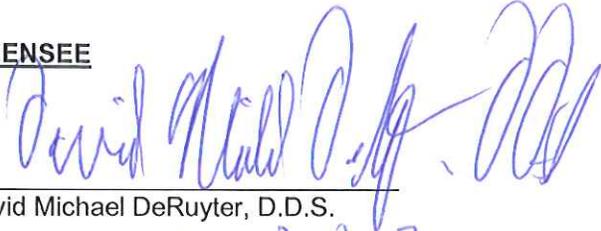
13. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, 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.

14. 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.**

15. 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 order set forth herein shall go into effect. If Licensee does not request review by the Administrative Hearing Commission, the

settlement agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

**LICENSEE**



David Michael DeRuyter, D.D.S.

Date

7-1-2013

**BOARD**



Brian Barnett,  
Executive Director  
Missouri Dental Board

Date

7/24/13