

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND DAVID J. KROBATH, D.D.S.**

Come now David J. Krobath, 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 2000¹, 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 015800 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2009 and Chapter 332, RSMo.

¹ 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 J. Krobath, D.D.S. is licensed by the Board as a dentist, License No. 015800. Licensee's Missouri license was active and current at all relevant times.

3. On March 16, 2009, the Board received a complaint from patient A.M. alleging that she went into Licensee's office to have a tooth extracted, he overdosed her on Triazolam and she later was transferred by ambulance to St. John's Hospital.

4. On November 5, 2009, the Board received notice that the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) was investigating Licensee's practice related to drug law violations. On August 9, 2010, the Board received a copy of the Settlement Agreement entered into between Licensee and BNDD to resolve the issues identified in BNDD's investigation. The Settlement Agreement placed Licensee's BNDD registration on probation for three years until July 30, 2013 and placed twenty-five terms of probation on the license including, but not limited to, not ordering, purchasing, or accepting any controlled substances including unsolicited samples, notifying all practice locations, clinics, and employers of the Agreement, reviewing a patient's chart prior to issuing a prescription for a refill, and a separate prescription blank for each controlled substance. Licensee signed the Settlement Agreement on July 21, 2010. The Settlement Agreement became effective when BNDD signed the Settlement Agreement on July 30, 2010.

5. In summary, the Settlement Agreement identifies that the violations for which Licensee is being disciplined consist of: stocking diazepam and triazolam but failing to maintain an initial inventory of the controlled substances in his possession, failure to maintain controlled substance receipt records, failure to maintain a complete controlled substance dispensing log, improper controlled substance dispensing containers, dispensing controlled substances without proper identification and warning labels, failure to report the loss of controlled substances on January 2, 2009, failure to maintain complete, current and accurate controlled substance records and failure to maintain accurate inventories.

6. The Settlement Agreement describes in detail Licensee's violations of state drug laws. The Settlement Agreement states the following:

- a. Licensee is registered with the BNDD to stock, prescribe, dispense and administer controlled substances under Missouri Controlled Substances Registration number 13747 at the practice location of 189 Baker Avenue, Webster Groves, Missouri 63119.
- b. Licensee has stocked diazepam and triazolam since 2007 at his practice location.
- c. Diazepam is codified as a Schedule IV controlled substance pursuant to § 195.017.8.2(n), RSMo. Triazolam is codified as a Schedule IV controlled substance pursuant to § 195.017.8.2(vv), RSMo.
- d. Licensee did not maintain an initial or annual inventory of the controlled substances in his possession in violation of § 195.050.6, RSMo and 19 CSR 30-1.043(2) and (3).
- e. Licensee did not document the supplier's or the receiver's DEA number and the date received on his controlled substance receipt records in violation of § 195.060.6, RSMo and 19 CSR 30-1.048(1).
- f. Licensee did not maintain inventories and receipt records for the past two years in violation of § 195.050.6, RSMo and 19 CSR 30-1.041(2).
- g. Licensee did not document patients' addresses, the drug name, strength and dosage form on his controlled substance dispensing log for each controlled substance dispensed and did not keep it separate from the controlled substance records for the other doctor at his practice address in violation of § 195.050.5, RSMo and 19 CSR 30-1.048(1) and (3).
- h. Licensee dispensed controlled substances in paper envelopes and not in childproof containers in violation of 19 CSR 30-1.066(1)(B).
- i. Licensee dispensed controlled substances without labels to identify the drug name, strength or dosage form, the name of practitioner and name of the patient in violation of § 195.100.5, RSMo and 19 CSR 30-1.066(1)(c).
- j. Licensee dispensed controlled substances without labels warning against illegal transfer of controlled substances to another person in violation of § 195.100.3, RSMo.
- k. Licensee prescribed Vicodin™, the brand name for a drug product containing hydrocodone which is codified as a Schedule III controlled substance pursuant to

§ 195.017.6(4)(d), RSMo Supp. 2008, to patient E.S. and did not document the quantity prescribed in the patient's chart in violation of § 195.050.6, RSMo and 19 CSR 30-1.048(2).

- I. Licensee suffered a loss of controlled substances on January 2, 2009 and did not report it to BNDD until September 24, 2009 during the inspection. Licensee did not report the loss to BNDD upon discovery and no later than seven business days after the discovery in violation of 19 CSR 30-1.034(2)(B)(1).
- m. Licensee did not maintain complete, current and accurate controlled substance records in violation of § 195.050.6, RSMo and 19 CSR 30-1.044(1).
- n. Without the required records of inventories, receipt records and accurate dispensing records, it was not possible to conduct an audit to determine how many controlled substances were missing.
- o. Licensee did not provide adequate controls to detect and prevent the diversion of controlled substances in violation of 19 CSR 30-1.031(1).
- p. Licensee's BNDD registration is on probation for three years. As terms of probation, Licensee must notify any practice location, employer, long-term care facility, hospital, clinic or other location where he conducts activities with controlled substance authority of the Settlement Agreement. Licensee also shall not order, purchase or accept controlled substances, including samples. Licensee does not have the authority to purchase, stock or dispense controlled substances and any in his possession must be transferred within 30 days of the Settlement Agreement. Licensee must use a separate prescription blank for each controlled substance order and all prescriptions or medication orders for controlled substances must indicate whether or not the prescription can be refilled. In total, BNDD placed twenty-five terms of probation on Licensee's BNDD registration.

7. The Board also conducted an investigation of the complaint filed by patient A.M. and BNDD's investigation and findings. The Board's investigation revealed that:

- a. On March 16, 2009, the Board received the complaint from patient A.M. She alleged that she was treated on January 9, 2009 and Licensee used enteral conscious sedation. Patient A.M. alleged that Licensee gave her too much triazolam and as a result she was admitted to the hospital with a drug overdose. She also alleged that when her family telephoned Licensee to inform him, he sent two dental assistants to her home to provide care, prior to her being taken to the hospital by ambulance.
- b. On August 19, 2009, a Board Investigator interviewed Licensee at his practice location. Licensee stated he recalled the incident with patient A.M. He stated that he treated her on January 9, 2009 with enteral sedation and she had an adverse reaction at her home following the sedation and dental treatment. Licensee also stated he had treated patient A.M. with enteral sedation one additional time approximately six years prior. He stated that when she was moved into his operatory, she complained of not being sedated enough so he administered an additional tablet of triazolam. Licensee stated patient A.M. was incorrect in her assertion (see below, subparagraph e) that he administered two additional tablets. Licensee stated the procedure went well and she was released at 10:30 or 11:00 a.m. utilizing a discharge sheet. Licensee stated he uses the Doctors for Oral Conscious Sedation (DOCS) protocol for sedating patients which entails him administering two tablets. Licensee stated he received a telephone call from patient A.M. adult daughter who seemed fairly distraught and requested assistance. Licensee sent his two dental assistants to patient A.M. home which was five minutes from the office. He stated he maintained regular telephone contact with his assistants when they went to her home. He stated his assistants stated she was eating some "simple foods." Upon hearing A.M. vomited, Licensee directed that her blood sugar be checked as she is a diabetic. He was told by his assistants that it was normal. He also advised them to contact her physician. When they left the home, patient A.M. assured them she was stable. Eventually, he learned she had been taken to the hospital by ambulance. Licensee stated he did follow up with the emergency room physician who stated she was admitted with an altered mental status secondary to

Triazolam but was stable and sleeping. Licensee states this is why he felt there was no injury so he was not required to file a patient injury/death form. He stated he learned the next day that she had an overnight stay at the hospital.

- c. The Board Investigator also interviewed dental assistant T.S. during his August 19, 2009 visit to Licensee's practice. T.S. is a certified dental assistant and obtained her Missouri Basic Skills Master in January 2007 and her Expanded Function Dental Assistant certificate in prosthodontics in March 2007. She also stated she attended the conscious sedation monitoring course offered by DOCS in 2005. She has worked for Licensee for ten years. She stated Licensee sent her and another assistant to patient A.M. home on January 9, 2009 after receiving a call from patient A.M. daughter that she was having an adverse reaction to the triazolam used for the conscious sedation done earlier in the day. She stated that the sedation seemed normal. She stated when they arrived at patient A.M.'s home, she was lying in bed but they were able to talk to her. She seemed "very groggy or loopy." She stated she made regular calls to Licensee who instructed them to get patient A.M. into a chair and eat something. When they went to move her, they discovered patient A.M. had urinated on herself and thrown up. They took her to the recliner in the living room and according to Licensee's instructions gave her chicken broth and juice. Patient A.M. vomited again. Licensee instructed them to check her blood sugar level. T.S. stated that at that time, Licensee directed patient A.M. daughters to contact patient A.M.'s physician. She states that attempts were made and someone left a voicemail message for him. T.S. stated they stayed for an hour and left after patient A.M. was able to drink some broth and juice without vomiting and with consent of A.M. daughters.
- d. Licensee provided the Board Investigator with a copy of patient A.M.'s patient record. Her patient record revealed that the patient medical history form in the chart was completed May 8, 2002. There was no sedation monitoring record for the January 9, 2009 conscious sedation. There was no record to indicate that her vital signs were monitored or at what frequency. There was a notation on February 22, 2002, patient

A.M. had a sedation procedure and was given two triazolam tablets and vomited an hour and fifteen minutes later. Licensee and his staff had made detailed notations of the events of January 9, 2009 and after.

- e. On September 10, 2009, the Board Investigator interviewed patient A.M. at her place of employment. She stated she selected Licensee because of the numerous advertisements that he uses sedation dentistry. She stated she was dispensed two tablets of triazolam on January 3, 2009 in a small envelope. She was instructed to take the tablets before returning for her appointment on January 9, 2009. She said she took the tablets as directed. When she arrived at the office, she was taken to the hygienist's operatory for a teeth cleaning. She stated no other staff members were present. She stated that she did not have any monitoring equipment connected to her such as a pulse oxymeter monitor. She stated after the cleaning, she was moved to another operatory and was able to walk there. She stated Licensee came into the operatory and gave her a third tablet of triazolam. She stated he left for a short time and when he returned he gave her another tablet of triazolam. She stated she knew it was a full tablet because "it did not feel like there was a rough edge on it to indicate that a larger tablet had been broken." She stated she did not see that final dose because Licensee placed it under her tongue. She stated she never asked for additional doses of triazolam. She stated she felt the tablet begin to dissolve and she fell asleep. She stated she did not remember waking until approximately 5:30 p.m. that evening in the hospital. She stated any other information was second hand from her daughter. She arranged before the procedure for her daughter to pick her up. She stated that her daughter informed her that she had to be "carried/walked" to the car, that her daughter had to help her inside, that she was lethargic and unresponsive. She stated she did not remember Licensee or his staff completing a patient health history, taking her vital signs, or using any monitoring equipment. She stated she remembered only Licensee and T.S. in the operatory.

- f. On September 10, 2009, the Board Investigator went to St. John's Mercy Medical Center, the hospital to which the ambulance took patient A.M. on January 9, 2009. She was admitted through the emergency room. Patient A.M. patient record from St. John's states she was admitted with the following diagnosis: altered mental status secondary to Halcion (triazolam), insulin-requiring diabetes mellitus, essential hypertension, nausea with vomiting, rheumatoid arthritis and hypothyroidism. She had a secondary diagnosis of benzodiazepine-based tranquilizer causing adverse effects in therapeutic use, injury or poisoning occurring at an unspecified place, as well as the medical conditions stated above. While in the hospital, patient A.M. was given Flumazeril (Romazicon), .2 mg every ten minutes as needed to counteract the sedation effects of the benzodiazepine. She arrived at the emergency room at 2:56 p.m. on January 9, 2009. She was administered the first dose of Romazicon at 4:20 p.m. and was aware then minutes later. She was given a second dose at 7:30 p.m. She was discharged on January 10, 2009.
- g. On September 10, 2009, the Board Investigator visited patient A.M.'s general physician, at his practice location. He stated he was aware of the incident on January 9, 2009. He stated he was unaware that patient A.M. was administered three to four tablets of triazolam. He stated he would strongly advise against administering three to four tablets of triazolam to patient A.M. in one sitting. He stated patient A.M. has multiple systemic diseases including diabetes mellitus, type II, hypertension and stage three renal failure. He stated he was never consulted by Licensee regarding patient A.M..

8. Section 195.040.7, RSMo 2000 states:

7. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department of health and senior services upon a finding that the registrant:

...

(4) Has violated any federal controlled substances statute or regulation, or any provisions of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425.

9. Section 195.050.6, RSMo 2000 states:

Every person registered to manufacture, distribute or dispense controlled substances under section 195.005 to 195.425 shall keep records and inventories of all such drugs in conformance with the record keeping and inventory requirements of federal law, and in accordance with any additional regulations of the department of health and senior services.

10. Section 195.100, RSMo 2000 states, in relevant part:

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

...

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name and address of the pharmacy or practitioner for whom he is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, dentist, podiatrist or veterinarian by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

11. Section 332.361, RSMo 2000 states:

1. Any duly registered and currently licensed dentist in Missouri may write, and any pharmacist in Missouri who is currently licensed under the provisions of chapter 338, RSMo, and any amendments thereto, may fill any prescription of a duly registered and currently licensed dentist in Missouri for any drug necessary or proper in the practice of dentistry, provided that no such prescription is in violation of either the Missouri or federal narcotic drug act.

2. Any duly registered and currently licensed dentist in Missouri may possess, have under his control, prescribe, administer, dispense, or distribute a "controlled substance" as that term is defined in section 195.010, RSMo, only to the extent that:

- (1) The dentist possesses the requisite valid federal and state registration to distribute that class of controlled substance;
- (2) The dentist prescribes, administers, dispenses, or distributes the controlled substance in the course of his professional practice of dentistry, and for no other reason;
- (3) A bona fide dentist-patient relationship exists; and
- (4) The dentist possesses, has under his control, prescribes, administers, dispenses, or distributes the controlled substance in accord with all pertinent requirements of the federal and Missouri narcotic drug and controlled substances acts, including the keeping of records and inventories when required therein.

12. Regulation 19 CSR 30-1.031(1) states:

All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a registrant has provided effective controls against diversion, the Department of Health shall use the security requirement set forth in 19 CSR 20-1.032- 19 CSR 30-1.034 as standards for the physical security controls and operating procedures necessary to prevent diversion. Substantial compliance with these standards may be deemed sufficient by the Department of Health after evaluation of the overall security system and needs of the applicant or registrant.

13. Regulation 19 CSR 30-1.034(2) states, in relevant part:

(2) Other Security

...

(B) A registrant shall notify the Department of Health and Senior Services of the theft, diversion or significant loss of any controlled substances or regulated chemicals upon discovery.

1. The registrant shall complete and submit a report of loss or diversion of the controlled substances to the Department of Health and Senior Services no later than seven business days after the discovery of such a loss. The loss report shall contain the following information; name and address of the registrant, business phone number, Missouri Controlled Substances Registration Number, federal Drug Enforcement Administration Registration number, date of theft or loss; date of discovery of theft or loss; county of location; principal type of registration such as M.D., D.O., D.P.M., O.D., D.V.M., D.D.S., D.M.D., A.N.P., emergency medical service, pharmacy, hospital, manufacturer, nursing home kit, narcotic treatment program, teaching institution, distributor, importer, exporter, or other specified business; whether or not the loss or theft was reported to law enforcement; the name and phone number of the law enforcement agency reported to; the number of losses or thefts the registrant has experienced in the past 24 months; the type of loss or diversion such as, break in/burglary, robbery, employee theft; forged or falsified records, lost in transit, or other explained type of loss; if lost in transit, the name of the common carrier and name of consignee; the name(s) of the individual diverting controlled substances who was responsible for the theft or loss; copy of registrant's internal investigative report involving the loss or theft; the full name, date of birth and social security number of the individual(s) responsible for the theft or

diversion, if known; a copy of the police report if law enforcement was notified; if the loss or diversion was in transit, identify the origin of the delivery, the name of the carrier(s) used and the name of the consignee; a list of all controlled substances lost, stolen or diverted by their generic name, trade name, the dosage strength, dosage form and quantity; the signature of the person completing the loss report and their title and the date of signature. If the extent of the loss cannot be fully determined in that time frame, the registrant shall contact the Department of Health and Senior Services to request permission to submit an interim report and arrange for a complete record to be completed and submitted. The registrant may attach a copy of a completed Drug Enforcement Administration Loss Form in lieu of completing the back or second page of a loss report form provided by the Department of Health and Senior Services. In the event of theft, diversion or suspected theft or diversion, the report submitted to the Department of Health and Senior Services shall be accompanied by or followed by a summary of the internal investigation performed, the outcome of the investigation, and a copy of any law enforcement agency report completed if applicable.

2. If an insignificant amount of a controlled substance is lost during lawful activities authorized under Chapter 195, RSMo, the reason for the loss or a description of what occurred, the name of the drug and the amount lost shall be documented in writing, signed by the registrant and attached or filed with the last completed annual inventory.

14. Regulation 19 CSR 30-1.041(2) states:

Maintenance of Records and Inventories. Every inventory and other record required to be kept under 19 CSR 30-1.041-19 CSR 30-1.052, shall be kept by the registrant and be available, for at least two years from the date of the inventory or record, for inspecting and copying by authorized employees of the Department of Health, except that financial and shipping records (such as invoices and packing slips, but not executed order forms) may be kept at a central location rather than at the registered location if the registrant obtains from the Department of Health approval of his/her central record keeping system and a permit to keep central records. The permit to keep central records shall be subject to the following conditions:

(A) The permit shall specify the nature of the records to be kept centrally and the exact location where the records will be kept;

(B) The registrant agrees to deliver all or any part of these records to the registered location within three working days of receipt of a written request from the Department of Health for these records and if the Department of Health chooses to do so in lieu of requiring delivery of records to the registered location, to allow authorized employees of the Department of Health to inspect the records at any central location upon request by the employees without a warrant of any kind;

(C) The failure of the registrant to perform his/her agreements under the permit shall revoke, without further action, the permit and all other such permits held by the registrant under other registrations. In the event of a revocation of other permits under subsection (2)(C) of this rule, the registrant, within 30 days after the revocation, shall comply with the requirement that all records be kept at the registered location.

15. Regulation 19 CSR 30-1.042 states:

(2) Initial Inventory Date.

(A) Every person required to keep records who is registered with the Department of Health after May 1, 1971, and who was not registered previously shall take an inventory of all stocks of controlled substances on hand on the date s/he first engages in the manufacture, distribution or dispensing of controlled substances.

(3) Annual Inventory Date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least once a year. The annual inventory may be taken on any date that is within one year of the previous annual inventory date.

16. Regulation 19 CSR 30-1.044(1) states:

Every registrant required to keep records shall maintain on a current basis a complete and accurate record of each substance manufactured, imported, received, sold, delivered, exported or otherwise disposed of by him/her.

17. Regulation 19 CSR 30-1.048(1) states:

(1) Each individual practitioner, institutional practitioner and pharmacy shall maintain records with the following information for each controlled substance received, maintained, dispensed or disposed:

- (A) The name of the substance;
- (B) Each finished form (for example, ten milligrams (10 mg) tablet or ten milligram (10 mg) concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (for example, 100 tablet bottle or three milliliter (3 ml) vial);

(C) The number of commercial containers of each finished form received from other persons, including the date of and number of containers in each receipt and the name, address and registration number of the person from whom the containers were received;

(D) The number of units or volume of the finished form dispensed including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed and the written or typewritten name or initials of the individual who dispensed or administered the substance;

(E) The number of units or volume of the finished forms, commercial containers, or both, disposed of in any other manner by the registrant, including the date and manner of disposal and the quantity of the substance in finished form disposed.

(2) Each individual practitioner shall maintain a record of the date, full name and address of the patient, the drug name, strength, dosage form and quantity for all controlled substances prescribed or administered. This record may be maintained in the patient's medical record. When the controlled substance record is maintained in the patient's medical record and the practitioner is not the custodian of records, the practitioner shall make the controlled substance record available as required in 19 CSR 30-1.041 and 19 CSR 30-1.044.

(3) Individual practitioners shall maintain the records listed in subsections (1)(A) – (E) of this rule separately from patient medical records.

18. Regulation 19 CSR 30-1.066(1) states, in relevant part:

An individual practitioner who dispenses controlled substances shall –

...

(B) Package all controlled substances dispensed from an individual practitioner's inventory in compliance with the Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471-1476.

(C) Permanently affix a label to the exterior of the drug container which includes: the date, the name and address of the dispensing practitioner, the name of the patient, directions for use, and the exact name and strength of the drug dispensed for all controlled substances[.]

19. Regulation 20 CSR 2110-2.210(1) states, in pertinent part:

(1) A dentist who practices in this state shall submit a report to the board within thirty (30) days of any mortality or injury requiring hospitalization within the dentist's knowledge which occurs to a patient during or within twenty-four (24) hours of administration of local anesthesia, nitrous oxide inhalation

analgesia, conscious sedation with parenteral or enteral drugs, deep sedating, or general anesthesia, while under the care of the dentist.

20. For the purpose of this Board Settlement Agreement, Licensee stipulates his actions as described in paragraphs 3 through 7 above constitute violations of state drug laws as described in paragraphs 8 through 10 and 12 through 18 above for which the Board has cause to discipline Licensee's license.

21. For the purpose of this Board Settlement Agreement, Licensee stipulates his actions as described in paragraphs 8 through 10 and 12 through 18 above constitute violations of 332.361, RSMo for which the Board has cause to discipline Licensee's license.

22. For the purpose of this Board Settlement Agreement, Licensee stipulates his failure to file a patient injury/death form, as described in paragraph 7 above, as required by 20 CSR 2110-2.210(1) is a violation of a rule adopted pursuant to Chapter 332, RSMo for which the Board has cause to discipline Licensee's license.

23. For the purpose of this Board Settlement Agreement, Licensee stipulates cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(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:

...

(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 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 015800, 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 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.

II. GENERAL REQUIREMENTS

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

B. Licensee shall submit reports to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102, stating truthfully whether he has complied with all the terms and conditions of the Board Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.

C. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.

D. 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.

E. 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.

F. If at any time during the disciplinary period, Licensee changes his residency 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.

G. 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 the Board Settlement Agreement.

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

I. The Board 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.

III. ADDITIONAL REQUIREMENTS

A. Licensee shall not allow his license to lapse.

B. Licensee shall notify, within 15 days of the effective date of the Board 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.

C. Licensee shall not provide any sedation services to patients for which a permit would be required by 20 CSR 2110-4.010-4.040.

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.**

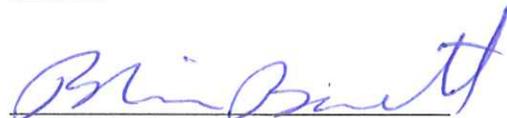
5. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties 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


David J. Kroboth, D.D.S.

Date 5/13/2014

BOARD


Brian Barnett,
Executive Director
Missouri Dental Board

Date 5/30/14