

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD  
AND MARIA KUNSTADTER, D.D.S.**

Comes now Maria Kunstadter, 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 to practice dentistry will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, 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 she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her 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 her and, subsequently, the right to a disciplinary hearing before the Board at which time she may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her license. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each 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 her.

Licensee acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline her 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 this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 013491, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 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 2000, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Maria Kunstadter ("Licensee") is licensed by the Board as a dentist, License No. 013491. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. Licensee is registered by the Missouri Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs ("BNDD"), Registration No. 20898, to stock, prescribe and dispense controlled substances at 801 W. 47<sup>th</sup> Street, Suite 110, Kansas City, Missouri ("the office"). Licensee's BNDD registration was current and active at all times relevant herein.

4. On April 19, 2007, the Bureau received an application from Dr. Kunstadter for a new Missouri Controlled Substances Registration.

5. Dr. Kunstadter stocked Halcion.™

6. Halcion™ is a brand name for a drug product containing triazolam, which is codified as a Schedule IV controlled substance pursuant to Section 195.017.8(2)(w), RSMo. Supp. 2006.

7. Dr. Kunstadter did not maintain an annual inventory for the controlled substances in her possession.

8. Section 195.050.6, RSMo. 2000, states:

Every person registered to manufacture, distribute or dispense controlled substances under sections 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

9. Regulation 19 CSR 30-1.042(3) states:

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.

10. Dr. Kunstadter did not document the date received on her controlled substance receipt records for triazolam.

11. Section 195.050.6, RSMo. 2000, states:

Every person registered to manufacture, distribute or dispense controlled substances under sections 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.

12. 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 milligram (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.

13. On April 11, 2007, the Bureau received information that Dr. Kunstadter changed her practice address in February 2006. Dr. Kunstadter did not notify the Bureau of her change in practice location within 30 days of relocating her practice. Dr. Kunstadter's Missouri Controlled Substances Registration automatically closed in March 2006. Dr. Kunstadter issued controlled substance prescriptions without a registration. Although Dr. Kunstadter was informed by the Bureau on April 11, 2007, that she did not have a valid registration and she did have not authority to conduct activities with controlled substances, Dr. Kunstadter continued to stock Halcion™ until the date of the inspection.

14. Dr. Kunstadter conducted controlled substance activities in the absence of a Missouri Controlled Substance Registration.

15. Section 195.030.3, RSMo. 2000, states:

Persons registered by the department of health pursuant to sections 19S.00S to 19S.425 to manufacture, distribute, or dispense or conduct research with controlled substances are authorized to possess, manufacture, distribute or dispense such substances, including any such activity in the conduct of research, to the extent authorized by their registration and in conformity with other provisions of sections 19S.005 to 19S.42S.

16. 16. During the May 14, 2007 inspection, Dr. Kunstadter told Investigator Stevens she would transfer the Halcion™ in her possession to her husband, Dr. Michael Sigler.

17. On May 14, 2007, the Bureau received a faxed copy of a document showing Dr. Kunstadter had transferred the Halcion™ to Dr. Michael K. Sigler. Dr. Kunstadter did not document the date she transferred the Halcion™ on the transfer document.

18. 17. Section 195.050.6, RSMo. 2000, states:

Every person registered to manufacture, distribute or dispense controlled substances under sections 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.

19. 18. Regulation 19 CSR 30-1.048(4) states:

A registrant who transfers a controlled substance to or receives a controlled substance from another registrant shall maintain a written record of the transfer which contains the following information: the date of transfer, drug name, strength, dosage form, quantity, name, address and registration number of the transferring registrant and the name, address and registration number of the receiving registrant.

20. Dr. Kunstadter did not have complete controlled substance receipt records, an annual inventory or a complete controlled substance transfer record.

21. 20. Section 195.050.6, RSMo. 2000, states:

Every person registered to manufacture, distribute or dispense controlled substances under sections 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.

22. 21. 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 such substance manufactured, imported, received, sold, delivered, exported or otherwise disposed of by him/her.

23. Due to a lack of required record keeping, it was not possible to conduct an audit to determine if any controlled substances were missing. It was not known what controlled substances were received and there was no annual inventory as a starting date. In order to provide controlled substance prescriptions for your patients, Dr. Kunstadter invited another practitioner into her practice to sign off on controlled substance prescriptions for her. The other practitioner did not have a valid Missouri Controlled Substances Registration.

24. Dr. Kunstadter did not have adequate controls in place to prevent and detect diversion of controlled substances.

25. 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 30-1.032-19 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.

26. On April 19, 2007, Dr. Kunstadter submitted her Application for a Missouri Controlled Substances Registration and answered "No" to question 6b, indicating that her professional license had never been disciplined. Dr. Kunstadter's professional dental license was suspended for thirty days in 1996 and then followed by five years of probation. Dr. Kunstadter violated the terms of the order and was given five new years of probation in 1999. Dr. Kunstadter submitted an application for a Missouri Controlled Substances Registration to the Bureau in the year 2000 and did not answer question 6b correctly. The Bureau issued Dr. Kunstadter a Letter of Warning for this violation.

27. Dr. Kunstadter did not maintain an annual inventory for the controlled substances in her possession in violation of Section 195.050.6, RSMo. 2000 and 19 CSR 30-1.042(3).

28. Dr. Kunstadter did not document the date received on her controlled substance receipt records for triazolam in violation of Section 195.050.6, RSMo. 2000 and 19 CSR 30-1.048(1).

29. Dr. Kunstadter conducted controlled substance activities in the absence of a Missouri Controlled Substance Registration in violation of Section 195.030.3, RSMo. 2000 and 19 CSR 30-1.017(2).

30. Dr. Kunstadter did not document the date she transferred the Halcion™ on the transfer document as required in violation of Section 195.050.6, RSMo. 2000 and 19 CSR 30-1.048(4).

31. Dr. Kunstadter did not maintain complete controlled substance records in that she did not have complete controlled substance receipt records, an annual inventory or a complete controlled substance transfer record in violation of Section 195.050.6, RSMo. 2000 and 19 CSR 30-1.044(1).

32. Dr. Kunstadter did not have adequate controls in place to prevent and detect diversion of controlled substances in violation of 19 CSR 30-1.031(1).

33. On April 19, 2007, Dr. Kunstadter submitted her Application for a Missouri Controlled Substances Registration and answered "No" to question 6b, indicating that her professional license had never been disciplined when in fact: a) Dr. Kunstadter's professional dental license was suspended for thirty days in 1996 and then followed by five years of probation; Dr. Kunstadter violated the terms of the order and was given five new years of probation in 1999; Dr. Kunstadter submitted an application for a Missouri Controlled Substances Registration to the Bureau

in the year 2000 and did not answer question 6b correctly, the Bureau issued Dr. Kunstadter a Letter of Warning for this violation; Dr. Kunstadter did not make full, true and complete answers on her Missouri Controlled Substances applications in violation of Section 195.040.3(5), RSMo.2000 and 19 CSR 30-1.017(3).

34. On or about December 19, 2007, Dr. Kunstadter's BNDD registration was placed on probation for violations of Chapter 195 and the accompanying regulations.

35. The BNDD discipline constitutes disciplinary action against the holder of a license or other right to practice imposed by another agency upon grounds for which discipline is authorized in this state.

36. Licensee's conduct as referenced herein constitutes misconduct in the performance of her functions and duties as a licensed dentist in violation of § 332.321.2(5).

37. Licensee's conduct in as referenced herein constitutes a violation of § 332.321.2(13), RSMo.

38. Licensee's conduct as referenced herein constitutes a violation of § 332.321.2(15), RSMo.

39. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (8), (13) 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) 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;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state;

(13) Violation of any professional trust or confidence;

....

(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:

1. The terms of discipline shall include that Licensee's dental license numbered 013491 be placed on PROBATION for a period of three (3) years ("disciplinary period") to run concurrent with Licensee's BNDD probation effective December 19, 2007 and conclude at such time as Licensee's BNDD probation ends. During the disciplinary period, Licensee shall be entitled to engage in the practice of dentistry under Chapter 332, RSMo, provided she adheres to all of the terms of this Settlement Agreement. The terms of the probation shall be:

## **I. REQUIREMENTS REGARDING CONTINUING EDUCATION**

### **Ethics Course**

- A. Licensee shall take the continuing education course in ethics sponsored by the University of Missouri-Kansas City or its equivalent. This continuing education shall be in addition to the continuing education required by law for licensure renewal by the Board. This course must be taken within the first twelve (12) months of Licensee's disciplinary period. Licensee shall provide the Board with proof of attendance from the sponsor of the program no later than thirty (30) days after attending the course. Failure to obtain the required additional continuing education hours and/or submit the required documentation to the Board will result in a violation of the terms of discipline.

### **Jurisprudence Exam**

- B. Licensee shall take and pass the Board's designated jurisprudence examination within six (6) months of the start of the disciplinary period. 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 six (6) months of the disciplinary period shall constitute a violation of this Agreement.

## **III. 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 she has complied with all the terms and conditions of this 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 her 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 her 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 removes herself from the state of Missouri, ceases to be currently licensed under the provisions of Chapter 332, or fails to advise the Board of her current place of business and residence, the time of her 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 § 332.321.9, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor her compliance with the terms and conditions of this Settlement Agreement.
- H. 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 revocation.
- I. 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.

#### **IV. ADDITIONAL REQUIREMENTS**

- A. Licensee shall not allow her license to lapse.
  - B. The terms of discipline apply even if Licensee places her license on inactive status.
  - C. 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.
2. 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, 620, RSMo.

3. Upon the expiration of said discipline, Licensee's license to practice dentistry in Missouri shall be fully restored if all other requirements of law have been satisfied; provided however, that 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.

4. No order shall be entered by the Board pursuant to the preceding paragraph of this Settlement Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

5. If the Board determines that Licensee has violated a term or condition of this Settlement Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Settlement Agreement in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

6. 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.

7. Licensee, together with her heirs and assigns, and her 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.

8. Licensee understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen (15) days thereafter, submit the Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit her request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P. O. Box 1557, Jefferson City, Missouri 65101.**

9. If Licensee requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement

sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Executive Director of the Board.

LICENSEE

  
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MARIA KUNSTADTER, D.D.S.

Date 5/14/2009

BOARD

  
\_\_\_\_\_  
BRIAN BARNETT  
Executive Director  
Missouri Dental Board

Date 5/27/09

  
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