

**SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND GREGORY A. PUCEL, D.D.S.**

Come now Gregory A. Pucel, 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, 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 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 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 were 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 013772 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2010 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. Licensee Gregory A. Pucel, D.D.S. is licensed by the Board as a dentist, License No. 013772. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. On December 4, 2009, the Board received a complaint about Licensee from J.V., a former patient of Licensee. J.V. alleged that Licensee had charged her \$2,200.00 for a non-removable "splint" to treat her migraine headaches. J.V. alleged in her complaint that the splint caused her to have more migraines. She also alleged that she had the splint removed. She stated she requested an itemized invoice from Licensee with regard to the \$2,200 and that Licensee only sent letters that "avoided the issue." As a result of the complaint, the Board initiated an investigation. As part of the investigation, the Board requested a response from Licensee and patient record for J.V.

4. As part of the Board's investigation, the Board reviewed J.V.'s record and Licensee's response. The Board then referred the complaint to its investigators for further investigation. As part of the that investigation, the Board requested additional records including billing records and records for other patients for whom he billed for Comprehensive Ortho Adult for an Orthopedic splint. The Board also sought information about how many of Licensee's patients had the Orthopedic Splint Therapy in 2007, 2008 and 2009.

5. On March 26, 2010, Board Investigator Joseph Sears requested any records regarding orthodontic treatment by Licensee from Anthem Blue Cross & Blue Shield, Delta Dental of Missouri and United Health Care. Only Delta Dental had any records. Delta Dental provided the billing records.

6. On June 1, 2010, Investigator Sears travelled to Licensee's practice in Chesterfield, Missouri to retrieve patient records for patients who had received treatment and been billed as Comprehensive Ortho Adult. Licensee was on vacation when Investigator Sears arrived but Dr. _____, the only other dentist in the practice assisted Investigator Sears in obtaining approximately six patient charts, including J.V.'s chart. J.V.'s chart stated that Licensee "began orthopedic splint" on October 13, 2008 which Licensee billed as "comprehensive ortho adult." Delta Dental denied the claim.



7. Upon review of J.V.'s chart, portions of the patient chart were incomprehensible to the Board. The treatment notes did not contain sufficient information as to diagnosis or treatment planning and contained diagrams without a sufficient legend to explain them.

8. As part of the Board's investigation, the Board requested documentation of completion of Licensee's continuing education (CE) hours for the last two reporting periods, 2006-2008 and 2008-2010. As detailed above, the Board requested to meet with Licensee regarding J.V.'s complaint and his patient records. Licensee appeared before the Board on October 21, 2010. At that meeting, the Board requested that licensee provide his CE documentation for the last two reporting periods. Licensee agreed to provide the requested documentation within a week. On or about February 20, 2012, Licensee provided proof of his required CE documentation to the Board. Licensee's documentation supported completion of the required hours of CE.

9. Section 332.052, RSMo states, in relevant part:

1. Dentists shall maintain an adequate and complete patient record for each patient and may maintain electronic records provide the record-keeping format is capable of being printed for review by the board[.]

10. Regulation 20 CSR 2110-2.240 states, in relevant part:

...

(2) In order to renew a license, each dentist shall submit satisfactory evidence of completion of fifty (50) hours of continuing education during the two (2)-year period immediately preceding the renewal period, and each dental hygienist shall submit satisfactory evidence of completion of thirty (30) hours of continuing education during the two (2)-year period immediately preceding the renewal period. Any hours acquired beyond the required number may be carried forward into the next time block not to exceed twenty-five (25) hours for dentists and fifteen (15) hours for dental hygienists. Of the fifty (50) hours required for dentists, not less than forty (40) must be hours directly related to the updating and maintaining of knowledge and skills in the treatment, health, and safety of the individual dental patient. Of the thirty (30) hours required for dental hygienists, not less than twenty-five (25) must be hours directly related to the updating and maintaining of knowledge and skills in the treatment, health, and safety of the individual dental patient. One (1) hour of continuing education shall be granted for every fifty to sixty (50-60) minutes of contact (either academic or clinical) instruction.

(A) For the licensure renewal form due November 30, 2004, and each subsequent renewal period after that, the licensee shall report the number of hours obtained for the two (2)-year period just completed and shall attest to those hours by signing the form. Each licensee shall retain records documenting his/her completion of the required hours of continuing education for a minimum of six (6) years after the reporting period in which the



continuing education was completed. The records shall document the licensee's attendance at the continuing education course including, but not limited to, retaining the titles of the courses taken, dates, locations, receipts, course sponsors, agendas, and number of hours earned. The board may conduct an audit of licensees to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries[.]

11. Licensee's conduct in providing services to J.V. which were not documented, such that it is not clear what, if any services, were provided, as described in paragraphs 3 through 7 above constitutes misconduct in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter for which the Board has cause to discipline Licensee's license.

12. Licensee's conduct in failing to maintain an adequate and complete record for J.V., as described in paragraphs 3 through 7 above constitutes violation of a provision of this chapter or lawful rule or regulation adopted pursuant to this chapter for which the Board has cause to discipline Licensee's license.

13. Licensee's as described in paragraphs 3 through 7 above constitutes violation of a professional trust or confidence for which the Board has cause to discipline Licensee's license.

14. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321.2(5), (6) and (13), 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, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, 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[.]



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 the dental license be placed on **PROBATION** for a period of three (3) 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 his Settlement Agreement.

I. EDUCATIONAL REQUIREMENTS

- A. Jurisprudence Examination. Licensee shall take and pass the Board's jurisprudence examination within twelve (12) months of this Agreement becoming effective. Licensee shall contact the Board office to request a current law packed 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 this 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 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 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 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.



- 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 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 imposition of the 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.

III. 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.

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, 324, RSMo.

3. 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.

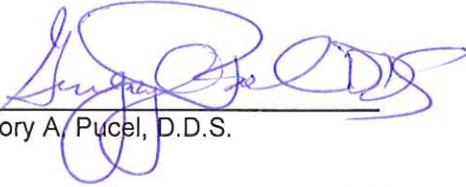
4. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability,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



5. If no contested case has been filed against Licensee, Licensee has the right, either at the time the 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.**

6. 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 agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

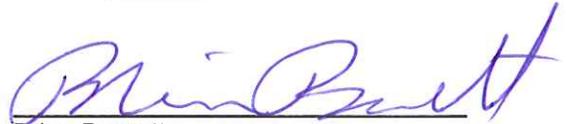
LICENSEE



Gregory A. Pucel, D.D.S.

Date July 12, 2012

BOARD



Brian Barnett,
Executive Director
Missouri Dental Board

Date 7/20/12

