SETTLEMENT AGREEMENT BETWEEN MISSOURI DENTAL BOARD
AND MICHAEL S. GINSBURG, D.D.S.

Come now Michael S. Ginsburg, 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, 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.

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

Licensee acknowledges that Licensee has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline Licensee's 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 2004003735 is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo.

1 All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.
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, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Licensee is licensed by the Board as a dentist, License No. 2004003785. Licensee’s Missouri license has an expiration date of November 30, 2018. Licensee’s license is current and active.

3. On or about September 24, 2015, the Board received an investigation report from the Missouri Bureau of Narcotic and Dangerous Drugs (BNDD) against Licensee, alleging that Licensee prescribed controlled substances without a current BNDD registration, unlawfully distributed controlled substances outside his scope of practice, prescribed controlled drugs in bad faith, failed to maintain controlled substances in patient records, and had inadequate security in place to guard against diversion of controlled drugs. The Board tasked further review of the matter awaiting the outcome of pending litigation.

4. On or about March 20, 2017, Licensee pleaded guilty through a Guilty Plea Agreement to the felony charge of Unlawful Distribution of a Controlled Substance, in the United States District Court, Eastern District of Missouri, Southeastern Division, case number 1:16CR00042JAR. The Court sentenced Licensee to three (3) years’ probation, a fine and community service.

5. The Board reviewed the investigation file together with the United States District Court record in this matter at the Board’s October 26, 2017 meeting.

6. The Board determined that Licensee’s actions as described above in paragraphs 3 and 4 constitute a violation for which the Board has authority to discipline Licensee’s license.

7. Cause exists for the Board to take disciplinary action against Licensee’s license under § 332.321.2(2), 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:

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated
pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude, whether or not sentence is imposed[.]

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:

8. The terms of discipline shall include that Licensee’s dental license, number 2004003785, be SUSPENDED for six (6) months from the effective date of this Agreement, to be immediately followed by the placement of license number 2004003785 on PROBATION for a period of five (5) years (“disciplinary period”). Provided Licensee adheres to the Well-Being terms (Additional Requirements) and the General Requirements sections below, Licensee shall, during the disciplinary period, subsequent to the suspension, be entitled to engage in the practice of dentistry under Chapter 332, RSMo.

I. WELLNESS REQUIREMENTS

A. Within fifteen (15) days of the effective date of this Agreement, and continuing through the duration of the disciplinary period, Licensee shall participate in the Dental Well-Being Program administered by Capital Region Medical Center. Licensee shall follow all recommendations for treatment or aftercare made by the Dental Well-Being Program, and shall comply with each and every requirement to remain in the program. Within fifteen (15) days of entering the Dental Well-Being Program, Licensee shall cause the Dental Well-Being Program to send written notification to the Board confirming that Licensee has joined the program. Failure to fully participate in or follow any recommendations of the Dental Well-Being Program shall constitute a violation of this Agreement.

B. During the disciplinary period, Licensee shall, at Licensee’s expense, submit to drug and/or alcohol screens as required by the Board. Licensee shall, upon demand and without delay, provide a biological sample to the Board’s designated representative, including allowing the Board’s designated representative to obtain witnessed biological samples and shall cooperate fully and completely with the Board’s designated representative in providing such samples. The presence of any controlled substance, any drug whatsoever for which Licensee does not hold a valid prescription or any alcohol whatsoever in a drug and/or alcohol screen shall constitute a violation of this Agreement.

II. EDUCATIONAL REQUIREMENTS

A. 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 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 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 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.

IV. 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.

9. 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 and 324, RSMo.
10. 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.

11. 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.

12. 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.

13. 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 fact 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

Michael S. Ginsburg, D.D.S.

Date 4/9/18

BOARD

Brian Barnett, 
Executive Director 
Missouri Dental Board

Date April 20, 2018