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

Come now Michael D. Woody, 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, RSMo¹, 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 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 013682 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 332, RSMo.

¹ All statutory references are to Missouri Revised Statutes 2016, 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, RSMo.

2. Licensee, Michael D. Woody, D.D.S. is licensed by the Board as a dentist, License No. 013682. Licensee’s Missouri license was at all times relevant herein, and is now, current and active.

3. On August 10, 2018, the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) filed a complaint with the Board against Licensee alleging that Licensee prescribed controlled substances without a valid controlled substance registration in that it expired in 2014 and Licensee continued to prescribe after its expiration. BNDD provided its records regarding the investigation of the violation as well as documents regarding the issuance of a new registration to Licensee subject to discipline.

4. BNDD’s investigation of Licensee revealed:
   a. Licensee’s prior registration expired on December 31, 2014. BNDD sent Licensee two renewal reminders on October 25, 2014 and January 7, 2015. Licensee failed to renew his registration until he applied for a new registration on June 27, 2018.
   b. As part of Licensee’s application for a new registration, BNDD requested the controlled substance prescribing records for Licensee from Walgreens Pharmacy. The records revealed Licensee wrote controlled substance prescriptions from January 4, 2015 through June 26, 2018. During that time, when his prescription was expired, Licensee wrote approximately 6,750 tablets of controlled substances for patients.
   c. Licensee committed two violations of the BNDD statutes and regulations.
      i. In violation of section 195.030.2, RSMo, and regulation 20 CSR 30-1.017(2), Licensee conducted activities with controlled substances without a valid controlled substance registration for four years after Licensee’s prior registration expired on December 31, 2014.
ii. In violation of regulation 19 CSR 30-1.031(1), Licensee did not provide adequate security to prevent the diversion of controlled substances into unauthorized channels. There was diversion which occurs when drugs leave their normal and legal channels and enter a path that is not authorized by law. Licensee issued unlawful prescriptions, cause pharmacies to dispense controlled substances based on unlawful prescriptions. Licensee did not have a system to routinely check his credentials or comply with registrations and expiration dates for four years.

5. As a result of BNDD’s investigation, BNDD and Licensee entered into a Settlement Agreement in August 2018. Pursuant to the Settlement Agreement, BNDD issued Licensee a new controlled substance registration on two years’ probation. Licensee signed the Settlement Agreement on August 6, 2018, BNDD on August 9, 2018, making it effective on or about August 24, 2018. In the Settlement Agreement, Licensee stipulated that he wrote controlled substance prescriptions from January 1, 2015 through June 26, 2018 without a valid controlled substance registration in that his previous registration expired on December 31, 2014, and despite two reminders to renew from BNDD, Licensee did not apply for a new registration until June 27, 2018 in violation of section 195.030.2, RSMo, and 19 CSR 30-1.017(2). Further, the Settlement Agreement stipulated that Licensee did not provide adequate security to prevent the diversion of drugs into unauthorized channels in violation of regulation 19 CSR 30-1.031(1). Accordingly, the Settlement Agreement stipulated that cause existed to discipline his registration pursuant to section 195.040.7, RSMo.

6. Section 195.030.2, RSMo, states, in relevant part:

No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, dispense or prescribe any controlled substance and no person as a wholesaler shall supply the same, without having first obtained a registration issued by the department of health and senior services in accordance with rules and regulations promulgated by it. No registration shall be granted for a term exceeding three years.

7. Section 195.040, RSMo, states, in relevant part:

... 3. The department of health and senior services shall register an applicant to manufacture, distribute or dispense controlled substances unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:
(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
(2) Compliance with applicable state and local law;
...
(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;
...
(7) Any other factors relevant to and consistent with the public health and safety.
...
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:

(1) Has furnished false or fraudulent material information in any application filed under this chapter;
(2) Has been convicted of a felony under any state or federal law relating to any controlled substance;
(3) Has had his or her federal registration to manufacture, distribute or dispense suspended or revoked;
(4) Has violated any federal controlled substances statute or regulation, or any provision of this chapter or chapter 579 or regulation promulgated under this chapter; or
(5) Has had the registrant's professional license to practice suspended or revoked.

8. The department of health and senior services may warn or censure a registrant; limit a registration to particular controlled substances or schedules of controlled substances; limit revocation or suspension of a registration to a particular controlled substance with respect to which grounds for revocation or suspension exist; restrict or limit a registration under such terms and conditions as the department of health and senior services considers appropriate for a period of five years; suspend or revoke a registration for a period not to exceed five years; or deny an application for registration. In any order of revocation, the department of health and senior services may provide the registrant may not apply for a new registration for a period of time ranging from one to five years following the date of the order of revocation. All stay orders shall toll this time period. Any registration placed under a limitation or restriction by the department of health and senior services shall be termed "under probation."

8. Section 332.071, RSMo, states, in relevant part:

A person or other entity "practices dentistry" within the meaning of the chapter who:

(2) Diagnoses or professes to diagnose, prescribed for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition
9. Section 332.361, RSMo, states, in relevant part:

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, prescribed, 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 or dispense 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.

10. Regulation 19 CSR 30-1.017(2) states, in relevant part:

(2) Period of Registration.

(A) Any registration shall be current and effective for twelve (12) months from the date issued or until the expiration date assigned at the time the registration is issued. No person who is required to be registered shall conduct any activity for which registration is required without a current registration. No controlled substance activities shall take place after a registration expires until a new registration has been issued.

(B) At the time any registration is issued, the registration shall be assigned to one of twelve (12) groups which shall correspond to the months of the year. The expiration date of all registrations within any group shall be the last day of the month designated for that group.

(C) Registrations for manufacturers and distributors may be assigned to a single group, and the expiration date may be less than twelve (12) months from the date the registration was issued.

(D) Training program registrations may be assigned to a single group, and the expiration date may be less than twelve (12) months from the date the registration was issued.

(E) A certificate of registration shall be made available online and printable to the registrant which shall include the name and
address of the registrant, the expiration date of the registration, and a registration number for the convenience of identifying a registration or a registrant. The same registration number may be used for a new registration for the same person.

11. Regulation 19 CSR 30-1.031(1) states, in relevant part:

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.

12. Licensee’s actions as described above in paragraphs 3 through 5 constitute cause to discipline Licensee’s license pursuant to section 332.321.2(6) and (15), RSMo.

13. 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:

14. The terms of discipline shall include that the dental license, license number 013682, be CENSURED.
15. 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.

16. 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.

17. 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.

18. 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, P.O. Box 1557, United States Post Office Building, 131 West High St, Jefferson City, MO 65102.

19. 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. If Licensee does not request review by the Administrative Hearing Commission, the settlement agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

Michael D. Woody, D.D.S.

Date 11/14/18

BOARD

Brian Barnett,
Executive Director
Missouri Dental Board

Date 11/20/2018