BEFORE THE BOARD OF DENTAL EXAMINERS
OF THE STATE OF ARIZONA

IN THE MATTER OF:                   CASE NO. 200235 & 220366

Terry J. Lee, D.D.S.                  CONSENT AGREEMENT

Holder of License Number D1555 For the Practice of Dentistry In the State of Arizona

Consistent with the public interest, statutory requirements and responsibilities of the Arizona State Board of Dental Examiners ("Board"), and pursuant to A.R.S. §§ 32-1263, -1263.01, -1263.02, -41-1092.07(5), Terry J. Lee, D.D.S. ("Respondent"), and the Board enter into this Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

CONSENT AGREEMENT

Respondent understands and agrees that:

1. Any record prepared in this matter, all investigative materials prepared or received by the Board concerning the
allegations, and all related materials and exhibits may be retained in the Board’s file pertaining to this matter. In the event that the Board accepts and approves this Consent Agreement, Respondent hereby irrevocably waives his right to any rehearing or judicial review relating to the allegations contained in this Consent Agreement.

2. Respondent has the right to consult with an attorney prior to entering into this Consent Agreement and has done so.

3. The findings contained in the Findings of Fact portion of this Consent Agreement are conclusive evidence of the facts stated herein.

4. This Consent Agreement is subject to the Board’s approval and will be effective only when the Board accepts it. In the event that the Board in its discretion does not approve this Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value, nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except that Respondent agrees that should the Board reject this Consent Agreement and this case proceeds through the administrative process, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or of any records related thereto.

5. Respondent further understands that once the Board approves and signs this Consent Agreement, it shall constitute a public record that may be disseminated as a formal action with the Board.
The Board issues the following Findings of Fact, Conclusions of Law and Order:

**FINDINGS OF FACT**

1. Respondent holds license no. D 1555 for the practice of dentistry in the State of Arizona. Respondent's license was issued in 1969.

2. On February 24, 1999, the Board issued an Order in case nos. 95083, 95084, 95135, 95178, 95312, 96024, 96054, 96175, and 97341 (consolidated) (the "1999 Board Order").

3. The 1999 Board Order censured Respondent, placed him on probation for 5 years, the terms of which required him to take 48 hours of continuing education and subjected him to peer review and quarterly audits by the Board's chief investigator. The purpose of the quarterly audits was to review Respondent's diagnostic, treatment planning and record keeping methods.

4. Respondent did not appeal the 1999 Board Order thereby rendering final the findings of fact and conclusions of law.

5. The 1999 Board Order addresses the following diagnostic techniques/methods and treatment practices and procedures used by Respondent:
(a) The amalgameter, the computron and applied kinesiology, which were found not to be acceptable diagnostic devices upon which to base dental treatment and their use as the sole diagnostic basis for treatment is not within the standard of care.

(b) The removal of endodontically treated teeth and the recommendation that patients avoid root canal therapy based solely on the findings of the amalgameter, the computron and applied kinesiology and without any clinically acceptable reason.

(c) Inadequate diagnosis and justification for cavitalional surgeries.

(d) Failure to maintain adequate patient treatment records by not including clinical examination notes, written diagnoses and/or written treatment plans and sufficient periodontal charting.

(e) Making statements or taking actions which caused patients to hope or anticipate that certain treatments would cure or ameliorate non-dental conditions or uncorrectable conditions.

6. Pursuant to a peer review audit, the Board’s investigator reviewed patient records obtained from Respondent’s office. Thirteen records were reviewed and indicate that Respondent continued to use the computron, the amalgameter, applied kinesiology, radiographs and/or biopsies as the sole basis for dental treatment without any clinically acceptable
justification for the treatment contained in the records.

7. The majority of the audited records contained no periodontal charting. Some of the patients were referred to Respondent by periodontists or other general dentists. Respondent began treating these patients without receiving their records from the referring dentist or verifying the patients' periodontal status.

8. Respondent has obtained approval from the American Association of Acupuncture and Bioenergetic Medicine, an Institutional Review Board, to conduct a research project to collect data using electrodermal screening devices, applied kinesiology and microampere measurements of intraoral galvanism. The research project is approved to run until January 1, 2003 (or for such time as such may be amended or extended by the Institutional Review Board from time to time).

CONCLUSIONS OF LAW

1. Respondent's continued use of the computron, the amalgameter and applied kinesiology as the sole bases upon which to base treatment constitutes unprofessional conduct pursuant to A.R.S. § 32-1201(18)(n) and (w).

2. Respondent's continued failure to record a clinically acceptable justification for treatment in patients records and to properly chart patients' periodontal condition constitutes unprofessional conduct pursuant to A.R.S. §§ 32-1201(18)(y), and (t) via a violation of A.R.S. § 32-1264(A).
ORDER

1. Respondent’s license no. D1555 is placed on probation for three (3) years beginning on the effective date of this Consent Agreement.

2. Respondent shall take 8 hours of continuing education in the area of risk management. The continuing education must be completed within one year from the effective date of this Consent Agreement and all courses must be pre-approved by the Board. This continuing education ("CE") is in addition to the triannual renewal requirements and to that ordered in 1999 Board Order.

3. During the period of probation, Respondent will be subject to semi-annual unannounced audits by an auditor appointed by the Board. The Auditor will examine not more than fifty (50) patient records to determine whether Respondent’s diagnostic and treatment planning methods are within the standard of care and whether Respondent is complying with this Consent Agreement. All costs of the audit will be borne by Respondent but shall not exceed $2,500 per audit. The auditor shall submit a written report of his/her findings and result to the Board within ninety (90) days of the conclusion of the audit.

4. Within thirty (30) days of the effective date of this Consent Agreement, Respondent shall pay an administrative penalty in the amount of $2,000.00, payable in certified funds.

5. Respondent shall cease performing cavitational surgeries on any of his patients.

6. Respondent shall cease using non-diagnostic devices,
i.e., the comptron, amalgameter and/or applied kinesiology as his sole basis for extracting root-canal treated teeth, for extracting teeth that require endodontic treatment and for diagnosing NICO. Respondent’s treatment records shall contain a recognizable, legitimate diagnostic method, within the standard of care, that support his diagnosis and treatment of a patient.

7. Respondent’s treatment records shall comply with A.R.S. § 32-1264 and shall contain clinical and treatment information that is within the standard of care.

8. Respondent’s failure to comply with any of the terms of this Consent Agreement is grounds for disciplinary action by the Board, including suspension or revocation, after notice to Respondent and as opportunity to be heard.

9. This Consent Agreement will be effective on the date it is signed on behalf of the Board.

Dated this 9th day of December, 2002.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

By: Julie Chapko
Executive Director
Licensee acceptance of Consent Agreement (Case Nos. 200235 & 220366):

Date: 12-2-02

Terry J. Lee, DDS, License No. D1555
BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF ARIZONA

IN THE MATTER OF

Terry J. Lee, DDS
Holder of License Number D 1555
For the Practice of Dentistry
In the State of Arizona

BOARD ORDER
CASE NUMBER 200235

On June 8, 2001, the Board of Dental Examiners of the State of Arizona considered information presented by the investigative staff, and voted to:

TABLE this matter until the August 3, 2001 meeting to allow additional time to the parties to prepare a proposed consent agreement.
Board Order
Case No. 200235
Page 2

ISSUED this 26th day of June, 2001 at Phoenix, Arizona.

THE BOARD OF DENTAL EXAMINERS
OF THE STATE OF ARIZONA

By
Julie N. Chapko
Executive Director
Pamela J. Paschal
Deputy Director

Copies of the foregoing mailed to:

Terry J. Lee
BDE
Date mailed: June 27, 2001

Gregory L. Miles
Assistant Attorney General Mary DeLaat Williams

Certified No.
7006 0520 0018 6288 2689
By Mario H. Guevara
BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF ARIZONA

IN THE MATTER OF

Terry J. Lee, DDS
Holder of License Number D 1555
For the Practice of Dentistry
In the State of Arizona

BOARD ORDER
CASE NUMBER 200235

On April 6, 2001, the Board of Dental Examiners of the State of Arizona considered information presented by the investigative staff, and voted to:

DENY the "Motion for Reconsideration of decision of February 2, 2001" and to CONTINUE with FORMAL HEARING PROCESS giving the attorneys until the June 8, 2001 Board Meeting to negotiate a Consent Agreement.
Board Order  
Case No. 200235  
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ISSUED this 7th day of May, 2001 at Phoenix, Arizona.

THE BOARD OF DENTAL EXAMINERS  
OF THE STATE OF ARIZONA

By  
Julie N. Chapko  
Executive Director

Pamela J. Paschal  
Deputy Director

Copies of the foregoing mailed to:  
Terry J. Lee

Date mailed: 5-8-01

Certified No.

By:  
Kim Stern

Gregory L. Miles  
Assistant Attorney General Victoria Martin