BEFORE THE ARIZONA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

Terry J. Lee, D.D.S.,
Holder of License No. D1555
For the Practice of Dentistry
In the State of Arizona.

Case No. 250157

CONSENT AGREEMENT
AND ORDER

In order to resolve this case quickly and judiciously, the parties submit this Consent Agreement and Order ("Consent Agreement") for approval by the Arizona State Board of Dental Examiners ("Board"). It is consistent with the public interest and the requirements and statutory authority of the Board, specifically, A.R.S. §§ 32-1232, -1263.01, and 41-1092.07(F)(5). This Consent Agreement shall resolve all issues the Board has reviewed and investigated regarding the allegations in this matter.

Therefore, in lieu of further proceedings, Terry J. Lee, D.D.S. admits and understands that:

1. Any record prepared in these matters, all investigative materials prepared and 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.

2. Dr. Lee waives any rights to request a rehearing of this matter and any right to judicial review of the attached Findings of Fact, Conclusions of Law, and Order.

3. Dr. Lee has the right to consult with an attorney prior to entering into this Consent Agreement and has done so.

4. The findings contained in the Findings of Fact portion of the Consent Agreement are conclusive evidence of the stated facts. The Board may consider this Consent Agreement when and if future disciplinary proceedings arise.

5. This Consent Agreement is subject to the Board’s approval and will be effective only when the Board accepts it and it is signed on behalf of the Board.
event that the Board, in its discretion, does not approve this Consent Agreement, it will be
deemed withdrawn, will be of no evidentiary value and shall not be relied upon or
introduced in any disciplinary proceeding by any party. Dr. Lee agrees that should the
Board reject this Consent Agreement and this case proceeds through the administrative
process, he shall assert no claim that the Board was prejudiced by its review and
discussion of this document or any related records.

6. Dr. Lee further understands that this Consent Agreement, if approved and
signed by the Board, constitutes a public document that may be disseminated as a formal
action by the Board, including being reported to the National Practitioner Data Bank.

7. Dr. Lee agrees to the Board approving the following Findings of Fact,
Conclusions of Law and Order.

DATED this 12 day of May, 2008.

FINDINGS OF FACT

1. Dr. Lee holds license no. D1555 for the practice of dentistry in the State of
Arizona. The Board initially licensed Dr. Lee in 1969.

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

3. The 1999 Board Order found, in part, that Dr. Lee engaged in
unprofessional conduct by repeatedly failing to maintain adequate treatment
records for his patients.

4. The 1999 Board Order censured Respondent, and placed his license on
probation for a period of five years, the terms of which required him to take forty-eight hours of continuing education and subjected him to quarterly audits of his diagnostic, treatment planning and record keeping methods.

5. As a result of the first audit which found continued deficiencies in Dr. Lee's recordkeeping, the Board and Dr. Lee entered into a consent agreement in December of 2002 (the “2002 Consent Agreement”). The terms of the 2002 Consent Agreement placed Dr. Lee’s license on probation for a period of three years, ordered him to take eight hours of continuing education in risk management and subjected him to semi-annual audits of his patient treatment records. The 2002 Consent Agreement also ordered Dr. Lee to maintain treatment records that contain a recognizable, legitimate diagnostic method, within the standard of care, that support his diagnosis and treatment of a patient, complied with A.R.S. § 32-1264 and contained clinical and treatment information within the standard of care.

6. In January 2005, the Board, through an approved auditor, conducted the final audit of Dr. Lee’s treatment records under the 2002 Consent Agreement. The auditor reviewed fifty patient treatment records and found several recordkeeping deficiencies which resulted in the Board opening complaint no. 250157 against Dr. Lee.

7. The auditor found Dr. Lee’s patient treatment records deficient in the following areas:

   a. Several treatment records contained insufficient radiographs to support extensive treatment plans. Specifically, Dr. Lee did not take periapical radiographs prior to formulating the treatment plans. Dr. Lee claims that his practice to take only bite wing and panographic radiographs was based on his understanding of what the standard of care required;

   b. Several treatment records lacked a recognizable, documented diagnosis
supporting the need for crown and bridge work.

c. Several treatment records lacked a recognizable, documented diagnosis
supporting the need for the extraction of asymptomatic endodontically treated
teeth;

d. Several treatment records lacked a recognizable, documented diagnosis
supporting the need for the removal and replacement of amalgam fillings or
implants;

e. Several treatment records contain a notation that Dr. Lee administered
intravenous vitamin C to patients. The treatment records, however, do not contain
a documented diagnosis or health history notation justifying the use of the IV-C.

8. Dr. Lee testified at the Investigative Interview held in case no. 250157 that
he uses devices and methods such as the computron, the amalgameter, and applied
kinesiology for diagnostic purposes but that they were not the sole diagnostic
devices/methods used to formulate treatment plans.

9. The auditor found that, in general, Dr. Lee’s treatment records were neat
and readable and contained good, consistent medical history, periodontal and
initial examination documentation.

CONCLUSIONS OF LAW

1. The treatment record deficiencies described in the foregoing Findings of
Fact constitute unprofessional conduct under A.R.S. §§ 32-1201(20) (y) and (t) and a
violation of A.R.S. § 32-1264(A).

2. The treatment record deficiencies described in the foregoing Findings of
Fact constitute a violation of the 2002 Consent Agreement and unprofessional conduct
under A.R.S. §§ 32-1201(20) (w).
ORDER

1. **IT IS HEREBY ORDERED** that Dr. Lee's license to practice dentistry is placed on probation for a period of one year beginning on the effective date of this Consent Agreement subject to the following terms and conditions:

   a. Within thirty days from the effective date of the Consent Agreement, Dr. Lee shall, at his own expense, engage the services of Affiliated Monitors, Inc. to conduct quarterly audits of a random sample of Dr. Lee's treatment records, with specific focus on the recordkeeping deficiencies identified in paragraph no. 7 of the Findings of Fact. The first audit shall be conducted October 2008 for the period July through September 2008, and quarterly thereafter. Dr. Lee shall ensure that Affiliated Monitors, Inc. prepares and submits to the Board, with in thirty days following the completion of the quarterly audit, a detailed report of the audit findings. Dr. Lee shall also ensure that he complies with all state and federal laws and regulations regarding the release of confidential patient information to Affiliated Monitors, Inc. and its representatives. In the event an audit results in findings of continuing recordkeeping deficiencies, Dr. Lee understands that such findings may result in further disciplinary action by the Board, including suspension or revocation, following notice to Dr. Lee and an opportunity to be heard.

   b. Within three months from the effective date of the Consent Agreement, Dr. Lee shall successfully complete an eighteen (18) hour remedial dental education course at an accredited dental school. The course should address general diagnosis and treatment planning and documentation of diagnosis and treatment planning, as well as the specific recordkeeping deficiencies identified in paragraph no. 7 of the Findings of Fact. Dr. Lee shall obtain pre-approval for the course from the Board's Executive Director or Chief Investigator at least ten days prior to the commencement date for the course. Within ten days after completion of the course, Dr. Lee shall submit proof of successful completion
to the Board. Dr. Lee understands that his failure to comply with any of the terms of this paragraph will constitute non-compliance with the Consent Agreement and may result in further disciplinary action by the Board, including suspension or revocation, following notice to Dr. Lee and an opportunity to be heard.

DATED this 12th day of February 2008.

ARIZONA STATE BOARD OF DENTAL EXAMINERS

Kevin B. Egle
Executive Director
A COPY of the foregoing served by CERTIFIED MAIL this 12th day of June 2008 to:

Dr. Terry J. Lee
4210 N. 32nd St.
Phoenix, Arizona 85018
Article No. 7207730200000049072359

A copy mailed by US MAIL to:

Lori A. Curtis, Esq.
Davis Miles, PLLC
PO Box 15070
Mesa, Arizona 85211

A copy of the foregoing HAND-DELIVERED to:

Mary DeLaat Williams, Assistant Attorney General
CIV-LES Division
1275 W. Washington
Phoenix, AZ 85007

By: _____________________________