BEFORE THE ARIZONA STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF: **Michael D. Margolis, D. D. S.** Holder of License No. D 2957 For the Practice of Dentistry In the State of Arizona.	Case No. 201200237 **DISCIPLINARY CONSENT AGREEMENT AND ORDER**

In order to resolve this case quickly and judiciously, the Arizona State Board of Dental Examiners ("Board") and Michael D. Margolis, D.D.S. enter into this Disciplinary Consent Agreement and Order ("Consent Agreement") in lieu of further administrative and judicial proceedings. It is consistent with the public interest and the requirements and statutory authority of the Board, specifically, A.R.S. §§ 32-1263.01, -1263.02, 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, Michael D. Margolis, D.D.S. admits and understands that:

1. Any record prepared in this matter, 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. Margolis waives any right to a hearing or re-hearing of this matter and any right to judicial review of the attached Findings of Fact, Conclusions of Law, and Order.

3. Dr. Margolis has the right to consult with an attorney prior to entering into this Consent Agreement.

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. In the event that the Board, in its discretion, does not approve this Consent Agreement, it will be deemed withdrawn, will be of no evidentiary value and shall not be relied upon or introduced in any disciplinary proceeding by any party.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. Margolis agrees that should the Board reject this Consent Agreement and this case continues 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. Margolis 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. Margolis agrees to the Board approving the following Findings of Fact, Conclusions of Law and Order.

DATED this 9th day of May 2013.

Michael D. Margolis, D.D.S.

FINDINGS OF FACT

1. Dr. Margolis holds license no. D 2957 initially issued by the Board on June 22, 1983.

2. On March 12, 2012, patient AM presented to Dr. Margolis' office for a consultation regarding pain in tooth #2 and #3 and pain in her jaws. A periodontal evaluation was done which showed no probings over 4mm. Dr. Margolis did a "Cavitat" evaluation on AM and took radiographs, which, together with her complaints of pain, resulted in the following diagnosis: neuralgia induced cavitational osteonecrosis ("NICO") for teeth #'s 1, 16, and 17; existing root canal treatment on teeth #'s 2 and 3;

and, extraction of tooth # 32. There is no corroborating clinical evidence in AM's treatment record other than the Cavitat, the radiographs, and her complaints of pain supporting the diagnosis.

3. There is no documentation of an informed consent process or discussion regarding proposed treatment in AM's treatment records.

4. The diagnosis of NICO (a clinical term used for facial pain generated by osteonecrosis of the jaw), is controversial and it is not recognized by the World Health Organization, American Dental Association, American Medical Association, American Association of Oral and Maxillofacial Surgeons, or the American Association of Endodontics.

5. Dr. Margolis treatment planned AM for the following procedures: the extraction of teeth #'s 2 and 3 and the removal of odontogenic cysts in those areas; the extraction of tooth # 32 (full bony impaction); radical resections of "NICO/cavitations" in the areas of teeth #'s 1, 16 and 17; and, bone grafting at teeth #'s 1, 2, 3, 16 and 17.

6. On April 10, 2012, AM presented to Dr. Margolis' office for surgery. Prior to the appointment, AM took .025 mg of Xanax, as prescribed by Dr. Margolis. AM signed a blanket, non-specific consent form and the treatment plan just prior to her surgery while under the influence of Xanax.

7. Dr. Margolis performed the following procedures on AM at the April 10, 2012 appointment: extraction of teeth #'s 2, 3, and 32; intra-bony biopsy and dental DNA sample taken of tooth #1; biopsy of tooth #3 and dental DNA sample taken at area of tooth #3; and puros grafting at areas of teeth #'s 1, 2, and 3.

8. Dr. Margolis failed to document any referral of AM to an oral surgeon for the extraction of tooth #32 which was full bony impacted with close nerve proximity. Dr. Margolis experienced complications with the extraction of tooth #32. AM experienced pain during the extraction and requested Dr. Margolis to stop. Dr. Margolis stopped to

allow AM to rest but then continued with the extraction. He did not consider emergent referral to an oral surgeon.

9. After extracting teeth #'s 2, 3 and 32, Dr. Margolis "cleaned" the sockets with a #10 round bur. This was an atypical and improper surgical technique for tooth #32 because it was a full, bony impacted tooth with extremely close proximity to the inferior alveolar nerve.

10. Dr. Margolis' treatment records for AM indicate that during the April 10, 2012 appointment, he administered 810 mg of Mepivicaine over 3 hours, which exceeded the maximum recommended dose of 400mg.

11. Following the April 10, 2012 treatment, AM experienced significant and lasting right inferior alveolar nerve parasethesia. AM returned to see Dr. Margolis on three occasions to address the parasethesia. AM's treatment record indicates that Dr. Margolis treated the parasethesia with Periolase, an off-label, non-FDA approved treatment, along with homeopathic remedies to attempt to rejuvenate the damaged nerve. Dr. Margolis failed to adequately address AM's paresthesia. There is no documentation in AM's treatment records of a discussion regarding micro-nerve exploration and possible repair and Dr. Margolis failed to document a referral to an oral surgeon to evaluate and treat the paresthesia.

CONCLUSION OF LAW

The conduct and circumstances described in the above Findings of Fact constitute unprofessional conduct as defined by A.R.S. § 32-1201 21(n). Such conduct is grounds for discipline under A.R.S. § 32-1263(A)(1).

ORDER

1. **IT IS HEREBY ORDERED** that, within twelve (12) months from the effective date of this Consent Agreement and Order, Dr. Margolis shall take and complete the following continuing education: twelve (12) hours in record keeping, six (6) hours in appropriate medication prescribing, six (6) hours in treatment of surgically caused parasthesia. Home study or online courses are not acceptable. At least ten business days prior to the date of the continuing education course(s), Dr. Margolis shall obtain pre-approval for the continuing education from the Board's Executive Director. Within five days of completion of each continuing education course, Dr. Margolis shall submit to the Board verification of completion of the course(s). Verification shall be by canceled checks, attendance slips, if any, and/or a certificate of completion. The continuing education ordered in this Consent Agreement is in addition to the continuing education hours required for license renewal.

2. **IT IS FURTHER ORDERED** that, Dr. Margolis' scope of practice is restricted in the area of oral surgery until completion of the continuing education ordered.

3. **IT IS FURTHER ORDERED** that, in the event Dr. Margolis fails to comply with any of the terms of this Consent Agreement and Order, the Board may take further disciplinary action, after notice to Dr. Margolis and an opportunity to be heard.

DATED this 12th day of June, 2013.

ARIZONA STATE BOARD OF
DENTAL EXAMINERS

Elaine Hugunin
Executive Director

A copy of the following mailed by CERTIFIED MAIL this 8th day of June 2013 to:

Michael D. Margolis, D.D.S.
2045 S. Vineyard Rd., Suite 153
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A.M.

A copy mailed by US MAIL to:

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