

SETTLEMENT AGREEMENT

The parties to this agreement (“Agreement”) are Pierre J. Tedders, DDS and Forrest Pasanski, in his official capacity as Director of the Bureau of Professional Licensing’s Enforcement Division (collectively, the “Parties”).

RECITALS

- A. On March 20, 2020, Pierre J. Tedders, DDS and the American Academy of Implant Dentistry (“AAID”) (“Plaintiffs”) filed a lawsuit in the United States District Court for the Western District of Michigan, Case No. 1:20-cv-00251 (“Lawsuit”), asserting claims against Orlene Hawks, in her official capacity as Director of the Michigan Department of Licensing and Regulatory Affairs, Debra Gagliardi in her official capacity as Director of the Bureau of Professional Licensing, Forrest Pasanski, in his official capacity as Director of the Bureau of Professional Licensing’s Enforcement Division, and Peter Chiaravelli, Rita Hale, Paula Weiding, Timmothy Schmakel, Vaijanthi Oza, Cheryl Bentley, Mark Johnston, Patricia Roels, Kathleen Inman, Joshua Goodrich, Lori Barnhart, Irene Tseng, Grace Curcuru, Martha Morgan, Hassan Yehia, Deborah Brown, Kathleen Weber, Kristi Thomas, and Fonda Brewer, in their official capacities as members of the Michigan Board of Dentistry (“Defendants”).
- B. In the Lawsuit, Plaintiffs assert claims under 42 U.S.C. § 1983 alleging their rights under the First Amendment’s Freedom of Speech Clause, the Fourteenth Amendment’s Equal Protection Clause, and the Fourteenth Amendment’s Due Process Clause have been violated. Plaintiffs contend the Board of Dentistry’s (“Board’s”) specialty recognition regulation, Mich. Admin. Code R 338.1501, and advertising statute, Mich. Comp. Laws § 333.16226, are unconstitutional facially and as applied to them.
- C. On February 11, 2022, the Court issued an order that dismissed all the original parties except Plaintiff Tedders and Defendant Pasanski and held that Plaintiff Tedders’ claim could proceed against Defendant Pasanski under the *Ex Parte Young* doctrine expressly for prospective relief.
- D. The Parties now wish to resolve all claims asserted by Plaintiffs against Defendants in the Lawsuit.

TERMS OF AGREEMENT

- A. Dr. Tedders will file a notice of dismissal of the Lawsuit within seven days of the date this Agreement is fully executed. The notice will state that the dismissal will be without an award of fees or costs to any Party.
- B. Defendant Pasanski has no intention of filing a complaint in the future against Dr. Tedders, or any other licensed dentist, to allege that the factual conduct at issue in Administrative Complaint No. 29-19-001031 violates the Michigan Public Health Code provisions related to advertising.
- C. Defendant agrees that Dr. Tedders and other similarly situated Michigan-licensed dentists may truthfully advertise themselves as “Specialists” or “Board Certified” or “Having a Specialty” in implantology / dental implants, provided that such a designation is accurate based on credentials awarded by the American Academy of Implant Dentistry (“AAID”), its certifying board, the American Board of Oral Implantology / Implant Dentistry (“ABOI/ID”), or another organization recognized by the American Board of Dental Specialties (“ABDS”).
- D. The parties agree that licensed dentists, such as Dr. Tedders or other similarly situated dentists in Michigan, are permitted to accurately advertise their qualifications using “the insignia, titles, letters, or phrases as granted to the individual by an authorized educational program or institution or professional organization or professional association for the purpose of identifying the individual as having completed or attained specific training or as having established a recognized relationship with a health profession regulated by this article . . .” as authorized by section 16264 of the Public Health Code, Mich. Comp. Laws § 333.16264. This includes advertising their certifications in implantology through AAID, ABOI/ID, ABDS or similar professional organizations or associations.

ENFORCEMENT AND MISCELLANEOUS PROVISIONS

- A. Defendant does not admit liability on any claims.
- B. If any Party believes that another Party is not in compliance with the terms of this Agreement, the Party alleging noncompliance will provide notice as follows: If to Defendants, then by U.S. mail to Amy Gumbrecht, Director, Bureau of Professional


Licensing, 611 W. Ottawa Street, Lansing, Michigan 48933; and if to Dr. Tedders, then by U.S. mail to Justin Withrow, Esq. and/or Colin Callahan, Esq., Flannery | Georgalis, 1375 E. 9th Street, 30th Floor, Cleveland, Ohio 44114.

- C. No sooner than seven calendar days after providing notice under paragraph B above, a party alleging noncompliance with the terms of this Agreement may seek enforcement in the United States District Court for the Western District of Michigan. Should such legal action be deemed necessary, the Parties agree to jurisdiction and venue in the United States District Court for the Western District of Michigan. Michigan law applies.
- D. This Agreement constitutes the entire agreement among the Parties relating to the Lawsuit and no other statement, promise, or agreement, written or oral, made by any Party or any agent of any Party that is not contained in this Agreement shall be enforceable.
- E. The persons executing this Agreement on behalf of the respective Parties warrant that they are duly authorized to accomplish the same and possess all requisite authority to bind the represented Parties to all the provisions of this Agreement.
- F. The Parties agree that they have jointly participated in the preparation of this Agreement and that, accordingly, any rule of interpretation construing terms and conditions against the party preparing this Agreement is inapplicable.
- G. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The Agreement shall become effective on the date that the last counterpart is executed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

BY OUR SIGNATURES BELOW, WE AGREE TO THE FOREGOING:

Plaintiff:



Pierre J. Tedders, DDS

Date: 06/09/2022


Defendant:



By Forrest Pasanski, Director
Bureau of Professional Licensing's Enforcement Division

Date: 06/09/2022

AS TO FORM:



Colin Callahan
Justin Withrow
Flannery | Georgalis, LLC

Date: 06/09/2022

/s/ Bridget K. Smith

Bridget Smith
Assistant Attorney General
Licensing and Regulation Division
Michigan Department of Attorney General

Date: 06/09/2022