

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (the "Agreement") is made and entered into by and between the State of Connecticut ("State"), acting through the Connecticut Attorney General ("Attorney General") and Thomas DeRienzo, D.M.D. ("DeRienzo") (hereafter collectively "the Parties").

II. BACKGROUND

WHEREAS, the Attorney General has conducted an investigation of suspected violations of the Connecticut False Claims Act, Connecticut General Statute §4-274, *et seq.*, by DeRienzo relating to the alleged submission of false claims for payment to the State of Connecticut Department of Social Services ("DSS") for services rendered to Connecticut Medical Assistance Program ("CMAP") recipients for the period between January 1, 2010 and August 6, 2014 by DeRienzo (hereinafter the "Investigation").

WHEREAS, the Attorney General is prepared to make the following allegations based upon the Attorney General's investigation, which allegations DeRienzo neither admits nor denies:

- A. DeRienzo is a dentist licensed by the State of Connecticut to provide dental services.
- B. The State, through the DSS, administers the CMAP, which includes the State's Medicaid program. The Commissioner of the DSS is authorized to promulgate regulations to administer the CMAP including adopting regulations governing voluntary provider participation in the CMAP. Regulations of Connecticut State Agencies §17b-262-522.

- C. In September 2008 DeRienzo enrolled as a dental provider in the CMAP and subsequently reenrolled as a CMAP provider thereafter. DeRienzo is currently an active CMAP provider.
- D. DeRienzo is a practicing dentist and the sole proprietor of Plantsville Family Dental, a dental office in the Plantsville section of Southington, CT. During the time period covered by the Attorney General's Investigation, DeRienzo participated as a provider in the CMAP and provided services to CMAP recipients.
- E. As a provider in the CMAP, DeRienzo is a party to a Provider Agreement with the DSS, and is thereby required to follow all the laws, rules, regulations and policies governing the CMAP and also "abide by the DSS' Medical Assistance Program Provider Manual(s), as amended from time to time, as well as all bulletins, policy transmittals, notices and amendments..." Connecticut Department of Social Services Medical Care Administration Provider Enrollment Agreement, Paragraph 10 (2008).
- F. Pursuant to the Provider Agreement, DeRienzo agreed to "submit only those claims for goods and services that are covered by the Connecticut Medical Assistance Program and documented by Provider as being...for compensation that Provider is legally entitled to receive..." *Id.* Paragraph 15.
- G. Pursuant to the Provider Agreement with the DSS, DeRienzo also expressly acknowledged and understood the prohibitions of the Connecticut False Claims Act, including the prohibition against (a) making "false statements, misrepresentation, concealment, failure to disclose and conversion of benefits; and (b) "charging or receiving reimbursement in excess of that provided by the State." *Id.* Paragraph 26.

- H. Regulations of Connecticut State Agencies §17b-262-533 provides that "any payment, or part thereof, for Medical Assistance Program good or services which represents an excess over the payment authorized, or a violation due to abuse or fraud, shall be payable to the department." The regulations define overpayment to mean "any payment that represents an excess over the allowable payment under state law including, but not limited to, amounts obtained through fraud and abuse". Regulations of Connecticut State Agencies §17b-262-523 (18).
- I. The Attorney General's Investigation concluded that DeRienzo engaged in a pattern and practice of submitting claims for dental services to the DSS for resin-based composite fillings that were not provided to CMAP recipients.
- J. The Attorney General's Investigation concluded that DeRienzo knowingly submitted or caused to be submitted false and fraudulent claims to the DSS for dental services that were not provided to his CMAP recipients. The Attorney General further concluded that DeRienzo knowingly improperly retained overpayments made by the DSS pursuant to DeRienzo's submission of false and fraudulent claims.

WHEREAS, DeRienzo has cooperated with the Attorney General's Office's Investigation.

III. TERMS AND CONDITIONS

WHEREAS, the allegations in Section II are referred to as the "Covered Conduct".

WHEREAS, the State contends that it has certain civil claims against DeRienzo arising from his submission of false claims to the CMAP, in violation to the Connecticut False Claims Act, Connecticut General Statute §§4-274—4-289.

WHEREAS, neither this Agreement, nor its execution, nor the performance of any obligation arising under it, including any payment, nor the fact of settlement, are an admission of liability nor intended to be evidence of any liability or wrongdoing by DeRienzo.

WHEREAS, the State finds that the relief and other provisions contained in this Agreement are appropriate and are in the public interest.

WHEREAS, the parties are entering into this Agreement in lieu of engaging in protracted litigation and to resolve this matter in a timely manner.

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants and obligations set forth in this Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. DeRienzo agrees that:
 - a. DeRienzo shall pay to the State of Connecticut the sum of Fifty Five Thousand Dollars (\$55,000.00) ("Settlement Amount") by electronic funds transfer pursuant to written instructions to be provided by the Attorney General, no later than the Effective Date of this Agreement.
 - b. DeRienzo hereby gives up and releases all right, title and interest to any and all payments that have been suspended and retained by Connecticut Medicaid (the "Suspended Payments").
 - c. Contemporaneous with executing this Settlement Agreement, DeRienzo shall execute the document, attached hereto as Exhibit A, which consents to the Connecticut Commissioner of Social Services permanently

excluding and suspending DeRienzo from participating in the CMAP (the "DSS Suspension Agreement").

2. Subject to the exceptions in Paragraph 3 (concerning excluded claims) below, and conditioned upon DeRienzo's full payment of the Settlement Amount, the State of Connecticut releases DeRienzo from any civil claims the State of Connecticut has, or could have asserted, for the Covered Conduct under Section 4-274, *et seq.*, of the Connecticut General Statutes (Connecticut False Claims Act).

3. This Agreement has no bearing on any criminal liability, federal liability or administrative liability that DeRienzo may have. Notwithstanding any term of this Agreement, the State of Connecticut does not release DeRienzo from any of the following liabilities:

- a. Any criminal, civil or administrative liability arising under revenue and taxation statutes and regulations enforced by the State Department of Revenue Services;
- b. Any criminal, civil or administrative liability arising under statutes and regulations enforced by the State Department of Public Health;
- c. Any civil or administrative liability DeRienzo has or may have to the State of Connecticut not expressly covered by the release in Paragraph 2 above;
- d. Any liability to the State of Connecticut (or any of its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

- g. Any liability for failure to deliver goods or services due; and
- h. Any liability for personal injury or property damage for other consequential damages arising from the Covered Conduct.

4. DeRienzo fully and finally releases the State of Connecticut, its agencies, employees, servants and agents from any claims in their official and individual capacities (including attorney's fees, costs and expenses of every kind and however denominated) that DeRienzo could have asserted, or may assert in the future against the State of Connecticut, its agencies, employees, servants and agents, related to the Covered Conduct and the State of Connecticut's investigation and prosecution thereof.

5. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity.

6. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

7. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion

8. This agreement is governed by the laws of the State of Connecticut. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the Superior Court for the Judicial District of Hartford, Connecticut. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

9. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

10. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

11. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

12. Nothing in this Agreement shall be construed to create a waiver of the State of Connecticut's sovereign immunity.


13. All Parties consent to the State of Connecticut's disclosure of this Agreement, and information about this Agreement, to the public.

14. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.


THE STATE OF CONNECTICUT

GEORGE JEPSEN
ATTORNEY GENERAL

DATED: 12/18/15

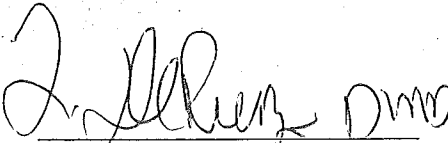
BY: 
MICHAEL E. COLE
Assistant Attorney General
Chief, Antitrust and Government
Program Fraud Department
Office of the Attorney General
State of Connecticut

DATED: 12/18/15

BY: 
ANTONIA CONTI
Assistant Attorney General
Office of the Attorney General
State of Connecticut

THOMAS DERIENZO, D.M.D.

DATED: 12/15/2015

BY: 
THOMAS DERIENZO, D.M.D.

DATED: 12/15/2015


BY: 
ROBERT F. KAPPES, Esq.
Sylvester and Kappes
Counsel for DeRienzo

Exhibit A

**STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES**

RE: Thomas DeRienzo, D.M.D.

SUSPENSION AGREEMENT

This Suspension Agreement ("Agreement") is entered into among the State of Connecticut Department of Social Services and Thomas DeRienzo, D.M.D. (collectively, "the Parties") through their authorized representatives.

RECITALS

- A. The State of Connecticut Department of Social Services ("DSS") is the single state agency responsible for administering the Connecticut Medical Assistance Program ("CMAP"), which includes the Medicaid Program, pursuant to Conn. Gen. Stat. §17b-2(8).
- B. Thomas DeRienzo, D.M.D. ("DeRienzo") is a dentist and owner of Plantsville Family Dental. DeRienzo is enrolled in the CMAP as a provider of dental services to CMAP recipients. As a CMAP provider, DeRienzo is subject to all lawful CMAP requirements established by applicable state and federal rules, regulations, standards and laws. DeRienzo exercised management authority and control over Plantsville Family Dental, related to the practice of dentistry in Connecticut. Hereinafter, DeRienzo and Plantsville Family Dental will be collectively referred to as the "Respondent".
- C. The Respondent was the subject of a Connecticut False Claims Act investigation (the "Investigation") conducted by the Office of the Connecticut Attorney General ("OAG"). In addition, DeRienzo was arrested and is a defendant in the state criminal matter of *State of Connecticut v. Thomas DeRienzo*, HHD-CV114H-CR15-0681270-S, pending in the Connecticut Superior Court ("Criminal Matter"). The allegations in the Investigation and Criminal Matter involve, among other things, that DeRienzo defrauded the CMAP and the DSS by knowingly

submitting false claims for services that were not provided. The OAG investigation alleged that DeRienzo committed violations of the Connecticut False Claims Act Conn. Gen. Stat. §4-274, *et. seq.* DeRienzo denies that he has committed violations of the Connecticut False Claims Act.

- D. As a result of the Investigation, DeRienzo has knowingly and voluntarily agreed to enter into a Settlement Agreement with the OAG on behalf of the State of Connecticut (the "Settlement Agreement"). An express condition of the Settlement Agreement is that DeRienzo execute this Agreement, and this Agreement is attached to the Settlement Agreement as Exhibit A.
- E. Pursuant to Conn. Gen. Stat. § 17b-99 and Regulations of Conn. State Agencies §§ 17-83k-1 through 17-83k-7, the DSS may bring an administrative Notice of Regulatory Violations and Proposed Sanctions against DeRienzo to suspend him from participation as a provider in the CMAP or any other program administered by the DSS for the conduct alleged in the Investigation.
- F. This Agreement is neither an admission of liability by DeRienzo, nor a concession by the DSS that its administrative claims are not well founded.
- G. This Agreement is being entered into to avoid the delay, uncertainty and expense of protracted litigation of the disputed conduct.

NOW THEREFORE, in consideration of the provisions in the Settlement Agreement, as well as the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

- 1. Pursuant to Connecticut General Statutes § 17b-99 and Regulations of Connecticut State Agencies §§ 17-83k-1 through 17-83k-7, inclusive, and the Consent Order, below, Thomas DeRienzo knowingly and voluntarily agrees to a permanent exclusion and suspension from providing any goods or services or otherwise participating in the CMAP, the Medicaid Program, and/or any and all other programs administered by the DSS (hereinafter, the "Suspension"). The Suspension shall become effective upon execution of this Agreement.

2. DeRienzo understands this Suspension may result in an exclusion from all Federal health care programs under 42 U.S.C. §1320a-7(b)(5) which will have national effect, thereby affecting DeRienzo's ability to participate in Federal health care programs to the same extent as described herein for the programs administered by the DSS.
3. DeRienzo acknowledges that pursuant to this Suspension, the DSS shall not reimburse any enrolled provider for goods or services, including administrative and management services, furnished, ordered, or prescribed by DeRienzo in any capacity. The prohibition against payment for administrative and management services extends to all services directly related, or indirectly related, to patient care, and that are a necessary component of providing goods and services to program beneficiaries including, but not limited to, services related to dental services, data entry, claims processing, preparation for providing goods or services, transportation, delivery, or providing equipment, goods, or services used to provide goods and services to program beneficiaries. This payment prohibition applies to DeRienzo and all other individuals and entities (including, for example, anyone who employs or contracts with DeRienzo and any hospital, clinic, group practice or other provider where the DSS reimburses for services). The Suspension applies regardless of who submits the claim or other request for payment.
4. DeRienzo shall not submit or cause to be submitted to any program administered by the DSS any claim or request for payment for goods or services, including dental, administrative and management services, furnished, ordered, or prescribed by DeRienzo.
5. DeRienzo understands that violation of the conditions of this Suspension may result in, among other things, criminal prosecution, civil prosecution, and the imposition of civil monetary penalties and assessments.
6. DeRienzo agrees to not operate, have or acquire any ownership interest in, share in the profits of, receive any payments from, or loan any money to, any person or entity that applies for reimbursement for goods or services from any program administered by the DSS. DeRienzo shall

not apply directly or indirectly for reimbursement for goods or services from any program administered by the DSS. DeRienzo shall not be employed by any person or entity that obtains reimbursement from any program administered by the DSS for services performed by DeRienzo, nor shall DeRienzo receive compensation as an agent or contractor from any such entity or person for services performed by DeRienzo.

7. DeRienzo fully and finally releases the DSS, the State of Connecticut, and their respective agencies, officers, agents, employees, attorneys and servants, from any legal claims (including attorney's fees, costs and expenses of every kind and however denominated) that DeRienzo has asserted, could have asserted or may assert in the future against the DSS, the State of Connecticut and their respective agencies, officers, agents, employees, attorneys and servants, related to the conduct alleged in the Investigation and the prosecution thereof.
8. DeRienzo waives and shall not assert any defenses to this Suspension.
9. DeRienzo waives any further notice of this Suspension and agrees not to contest the Suspension, under Connecticut General Statutes § 17b-99 and Regulations of Connecticut State Agencies §§ 17-83k-1 through 17-83k-7, inclusive, either administratively or in any state or federal court.
10. Any notice necessary under this Agreement shall be in writing and delivered by facsimile or certified mail return receipt requested. Such notice shall be effective upon receipt. Notice shall be addressed to the DSS to the following:

**John F. McCormick, Director
Office of Quality Assurance
Department of Social Services
25 Sigourney Street
Hartford, CT 06106**

**Michael E. Cole, Assistant Attorney General
Antitrust & Government Program Fraud Department
Office of the Connecticut Attorney General
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120**

Notice shall be addressed to DeRienzo as follows:

**Robert Kappes, Esq.
Sylvester & Kappes
118 Oak Street
Hartford, CT 061036-1514**

11. DeRienzo admits all jurisdiction of the Commissioner to issue the Consent Order. DeRienzo understands the Consent Order shall have no force or effect, nor shall it become a part of the official record, unless or until it is accepted in writing by the Commissioner. Upon written acceptance by the Commissioner, the Consent Order shall become final without further notice to DeRienzo and shall relieve the Commissioner from all responsibility to render a final decision regarding the suspension under Connecticut General Statutes § 17b-99 and Regulations of Connecticut State Agencies §§ 17-83k-1 through 17-83k-7, inclusive. The Consent Order shall have the same force and effect of law as an Order entered into as a final decision after a full hearing with Findings of Fact and Conclusions of Law. The Consent Order shall be enforceable by the DSS in the same manner in which a final decision by the Commissioner is enforceable. The Consent Order shall be governed by the laws of the State of Connecticut. DeRienzo agrees that exclusive jurisdiction and venue for any dispute arising under the Consent Order shall be the Superior Court for the Judicial District of Hartford, Connecticut.
12. Except as explicitly stated, this Agreement shall not create or extinguish any of the Parties' rights or obligations. This Agreement and Consent Order has no bearing on any criminal, civil, or federal administrative liability the Defendants may have. This Agreement shall have no precedential effect whatsoever adverse to the Parties, and is based upon the unique circumstances surrounding this case. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties. By their signature below each signatory warrants that they have full power and authority to enter into this Agreement on behalf of the Parties for which they sign, and that the signatory has been properly authorized and empowered to enter into this Agreement. The Parties consent to the disclosure of

this Agreement to the public.

- 13. Should any part of this Agreement be rendered or declared invalid by a court of the State of Connecticut, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.
- 14. DeRienzo warrants he has full power and authority to enter into this Agreement, and that the signatory has been properly authorized and empowered to enter into this Agreement. The Parties consent to the disclosure of this Agreement to the public, DeRienzo has read this Agreement, consulted with his counsel, understands it, and agrees to be bound by it. DeRienzo is knowingly and voluntarily signing this Agreement. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement. This Agreement is binding on the Parties' successors, transferees, heirs and assigns.

WITNESS

THOMAS DERIENZO, D.M.D.

[Signature]
PRINT NAME

[Signature]
PRINT NAME

Acknowledged before me on the 15th day of December, 2015.

[Signature]
Commissioner of the Superior Court/
Notary Public
My commission expires on:

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES

Date 12/15/15

[Signature]
John F. McCormick, Director
Office of Quality Assurance
Department of Social Services

CONSENT ORDER

The provisions of the Suspension Agreement between Thomas DeRienzo, and the State of Connecticut Department of Social Services, set forth in paragraphs A through G, and paragraphs 1 through 14, above, are hereby incorporated by reference and accepted as an order of the State of Connecticut Department of Social Services.

Accepted and approved and Consent Order entered by the Commissioner on the 15th day of December, 2015.

Kathleen M. Brennan
Deputy Commissioner

for
Roderick L. Bremby
Commissioner
Department of Social Services