COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN DENTISTRY

In the Matter of **Kimberly Ann Consoli, RDH** **License No. DH87141** **Expires March 31, 2017**	))))))	**Docket No. DEN-2013-0066**

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Dentistry ("Board") and Kimberly Ann Consoli, RDH ("Licensee"), license[1] no. DH87141 ("License") do hereby stipulate and agree the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board.

1. The Licensee hereby states she voluntarily enters into this Consent Agreement for Probation ("Consent Agreement") in order to resolve the complaint against the Licensee pending before the Board at Docket No. DEN-2013-0066 (the "Complaint").

2. The Licensee and the Board stipulate and agree to resolve the Complaint without making any findings and without proceeding to a formal adjudicatory hearing on the Complaint based on the allegations as follows:

   (a) Licensee violated M.G.L. c. 112, §51 and 234 CMR 9.05(2), by administering nitrous oxide to patients.

3. In order to resolve this matter without further proceedings before the Board, the Licensee and the Board agree that on the date of the execution of this Consent Agreement by the Board ("Effective Date") the Board will order that the Licensee be placed on Probation for six (6) months from the Effective Date ("Probation Period").

4. The Licensee shall successfully pass the *Massachusetts Dental Ethics and Jurisprudence Exam* within thirty (30) days of the Effective Date. A copy of the completed exam answer sheet must be submitted to the Board no later than thirty (30) days from the Effective Date.

5. Within six (6) months from the Effective Date, the Licensee shall provide written

[1] The term "license" or "License" applies to both a current and expired license as well as the right to renew an expired license.

proof satisfactory to the Board that she has taken and successfully completed Board approved continuing education courses in the following areas:

Risk Management (3 hours)
Ethics (3 hours)

(a) The course descriptions shall be submitted to the Board for pre-approval prior to taking the courses.

(b) All courses must be attended and shall not be self-study or taken through a computer based on-line program.

(c) The Board approved continuing education courses shall be taken in addition to the continuing education courses required to maintain her License pursuant to 234 CMR 8.00.

(d) Within thirty (30) days of the Effective Date, Licensee shall provide a copy of this Consent Agreement to all jurisdictions in which she holds a license to practice as a dental hygienist.

(i) Licensee shall provide written documentation to the Board demonstrating her compliance with paragraph 5(d).

(ii) If Licensee is not licensed to practice as a dental hygienist or another health profession in any other jurisdiction, she shall submit an attestation to the Board stating such.

(e) Licensee has the burden to prove compliance with the requirements of the Consent Agreement.

6. If the Licensee fails to successfully complete the requirements of paragraphs 4 or 5, the Board may take further disciplinary action. Such action may include, but not be limited to, extension of the Probation Period, suspension of the Licensee's License, suspension of Licensee's right to renew her License or other disciplinary action as is deemed appropriate by the Board.

7. During the Probation Period, the Licensee further agrees she shall not:

(a) Violate any law or regulation (state or federal) relating to the practice of dental hygiene;

(b) Commit any act that constitutes deceit, malpractice, gross misconduct in the practice of dentistry, unprofessional conduct, or conduct which undermines public confidence in the integrity of the profession; and

(c) Violate any regulations promulgated by the Board set forth in 234 CMR

2.00 *et seq.*

(d) The Licensee agrees to fully cooperate and respond to any inquiry or request made by the Board during the Probation Period.

8. The Licensee agrees her failure to satisfy any of the terms of the Consent Agreement set forth in paragraph 7 shall result in further disciplinary action by the Board pursuant to subparagraph 8(a) and (b).

(a) The Licensee shall be entitled to a hearing only as to whether she violated the conditions in paragraph 7 of the Consent Agreement. This hearing shall be conducted in accordance with the State Administrative Procedure Act, M.G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03.

(b) After a hearing, if the Board determines a violation did occur during the Probation Period, it will impose a further sanction deemed appropriate in its discretion.

(c) The Licensee agrees she is not entitled to a hearing to dispute the underlying allegations in the Complaint or the sanction to be imposed upon a finding of failure to comply with the terms of her Probation. The Licensee acknowledges and agrees by entering into the Consent Agreement, she is relinquishing important procedural rights.

9. The Licensee understands entering into the Consent Agreement is a final act and not subject to reconsideration, collateral attack or judicial review in any form or forum.

10. The Licensee acknowledges and understands this Consent Agreement is subject to the Commonwealth of Massachusetts's Public Records Law, M.G.L. c. 4, § 7(26).

11. The Board agrees as consideration for the Licensee entering into the Consent Agreement, the Board will not prosecute the allegations in the Complaint. Any further prosecution regarding the Complaint will relate only to whether the terms and conditions of the Consent Agreement were violated.

12. The Licensee states she enters into this Consent Agreement of her own free will. The Licensee further states that she is aware that she has a right to counsel in this matter and has either conferred with counsel prior to signing this Consent Agreement or waives her right to have counsel.

13. A waiver by the Board of any provision of the Consent Agreement at any time shall not constitute a waiver of any other provision of the Consent Agreement, nor shall it constitute a waiver by the Board of its right to enforce such provision at any future time.

14. The Licensee has read the Consent Agreement. The Licensee understands she has the right to a formal adjudicatory hearing concerning the allegations set forth in the Complaint and that at a hearing she would have the right to confront and cross-examine witnesses, call witnesses, present evidence, testify on her own behalf, contest the allegations, present oral argument, seek judicial review and to all other rights set forth in the State Administrative Procedure Act, M.G.L. c. 30A and 801 CMR 1.00 *et seq*. By executing this Consent Agreement, Licensee knowingly and voluntarily waives her right to a formal adjudicatory hearing and to all of the above-enumerated rights set forth in the State Administrative Procedure Act M.G.L. c. 30A and 801 CMR 1.00 *et seq*., except as provided in subparagraph (8)(a) and (b).

Licensee

Kimberly Ann Consoli, RDH

Kimberly Ann Consoli, RDH

4/21/15
Date Signed

Board of Registration in Dentistry

Barbara A. Young RDH

Barbara A Young, RDH
Executive Director

4/27/15
Date Signed

4/27/15
Effective Date