



**State of Texas
Health and Human Services Commission**

Settlement Agreement

I. Acknowledgment and Recovery of Amounts Due

This Settlement Agreement (the "Agreement"), dated July 29, 2014 and effective when fully executed by all parties, is made by and between:

Trueblood Dental Associates, P.A., TPI Nos. [1889487](#), [2039687](#), [2050239](#), [2050262](#), [2167108](#) and [2167504](#), and Dr. Rachel Trueblood individually, collectively herein after "Provider"

and

the **Texas Health and Human Services Commission** ("HHSC"), an agency of the State of Texas, acting through HHSC's Office of Inspector General ("OIG") (hereafter referred to as HHSC-OIG). This Agreement sets forth the terms of Provider's agreement to repay HHSC-OIG for alleged Medicaid overpayments.

HHSC-OIG's investigation and review of Provider's Medicaid billings and patient records in HHSC-OIG case number P20121334945048248 revealed that Provider submitted to the Texas Medicaid Program claims for services that HHSC-OIG contends were out of compliance with Medicaid policy. The investigation, which included claims with dates of service ranging from September 1, 2007 through June 30, 2012, alleges the following violations: (The following described conduct is hereafter referred to as "the Covered Conduct.")

- a. Failed to maintain for the period of time required by the rules relevant to Provider records and other documentation that Provider was required to maintain in order to participate in the Medicaid or other HHS program or to provide records or documents upon written request by HHSC-OIG. Specifically, Provider failed to maintain or provide:
 - Signed medical health history forms;
 - Clinical notation documenting information from legal guardians of recipients concerning medical health history or updates;
 - Documentation of recipient weight, including but not limited to, prior to administration of anesthesia or Nitrous Oxide;
 - Documentation of all components of comprehensive oral examination assessments;
 - Signed informed consents;
 - Documentation that all components of First Dental Home services of were rendered;

- Documentation to substantiate justification for Texas Medicaid General Anesthesia Guidelines;
 - Documentation of Behavior Scale Scores;
 - Documentation demonstrating that services billed were rendered;
 - Documentation in the clinical record of the recipient's condition, medical necessity for treatment rendered, or narrative of treatment;
 - Radiographs that were billed to and paid for by Medicaid; and
 - Radiographs that were of diagnostic quality;
- b. Billed for and received payment for services that substantially exceeded recipients' needs, were not medically necessary, were not provided economically or were of a quality that failed to meet professionally recognized standards of health care. Specifically, Provider billed and was paid for:
- Invasive treatments, including but not limited to stainless steel crowns and pulpotomies for which medical necessity was not corroborated by radiographs;
 - Removal of teeth without radiographic justification;
 - Restorations of teeth without justification or for which a less invasive treatment would have been appropriate or for which medical necessity was not corroborated by radiographs;
 - Treatment for which clinical notes and/or recipient records did not match or were in conflict with pre-operative narratives for completed general anesthesia cases; and
 - Administering local anesthesia, Nitrous Oxide or both, without documenting recipient weight;
- c. Billed or caused claims to be filed for dental services that were not provided to recipients, including but not limited to, claims for higher-paying services when recipient records indicate that lower-paying services were rendered.;
- d. On or about December 23, 2009, Provider provided services to Medicaid recipient Y.B. that substantially exceeded the recipient's needs, were not medically necessary, were of a quality that failed to meet professionally recognized standards of health care and/or that were negligently rendered and were likely to result in injury, or a substantial probability of injury, to Y.B.

The Covered Conduct resulted in a 99% error rate to all Providers patients during the period from September 1, 2007 through June 30, 2012.

Provider disputes these allegations, and the execution of this agreement does not constitute any admission of the claims asserted. To avoid the uncertainty and expense of litigation of the disputed claims, Provider and HHSC-OIG (hereafter referred to as the Parties) agree to settle all claims arising from the Covered Conduct as described above, in exchange for the Provider's agreements and for the Agreed Settlement Amount.

By executing this Agreement, Provider waives any right to confidentiality that may exist under Tex.Gov.t Code §[531.1021\(g\)](#) relating to HHSC-OIG investigations and stipulates that Provider and HHSC-OIG may respond to press inquiries about this matter in a manner consistent with the letter and intent of this Agreement.

Provider agrees to pay HHSC-OIG **Thirty-nine thousand two hundred eleven dollars and no cents (\$39,211.00)** (the "Agreed Settlement Amount"). Provider agrees to pay the Agreed Settlement Amount in accordance with the terms and conditions of this Agreement.

II. Settlement Terms

Provider agrees to pay the Agreed Settlement Amount of \$39,211.00 as set forth below:

. Payment Holds

Within five (5) business days of the full execution of this Agreement, HHSC-OIG shall direct the release of the payment hold at Texas Medicaid and Healthcare Partnership ("TMHP") and shall inform managed care contractors to the Medicaid program that HHSC-OIG has lifted the payment hold and that this case has been resolved by settlement. After execution of this Agreement, HHSC-OIG shall direct TMHP and managed care contractors to the Medicaid program to pay all of reimbursements currently on hold for TPI Nos. [1889487](#), [2039687](#), [2050239](#), [2050262](#), [2167108](#), and [2167504](#), NPI Nos. associated with TPI Nos. [1889487](#), [2039687](#), [2050239](#), [2050262](#), [2167108](#) and [2167504](#) and NPI No. [1891850103](#) to HHSC-OIG. The Parties agree the amount on hold which HHSC-OIG receives will offset the Agreed Settlement Amount. The Parties agree that any amount on hold in excess of the Agreed Settlement Amount will be released to Provider.

. New Credentials

Provider agrees to voluntarily terminate her current Medicaid contracts within 5 business days of the full execution of this Agreement, Provider further agrees not to apply for a new provider contract or any other type of Medicaid contract in the future or to seek reactivation of the Medicaid provider enrollment. In addition Rachel Trueblood, D.D.S., Texas State Board of Dental Examiners License No. 22743, that she will no longer treat or file claims for any Medicaid clients or recipients and that she will no longer be a Texas Medicaid or health and human services provider.

III. Authority

Pursuant to 1 TEX. ADMIN. CODE §§ [371.1601](#) – [371.1719](#) (2014), HHSC-OIG has the authority to settle all Medicaid claims arising in this case and to recover any overpayments made to providers and to collect any other assessments or liabilities in all Medicaid programs, whether such overpayments are the result of error, misunderstanding, or otherwise.

IV. Default

- A.** Default of this Agreement shall include:
1. A determination by HHSC-OIG that any material representations made by Provider in this Agreement are false;
 2. Failure of the Provider to perform any conditions or adhere to any of the settlement terms set forth herein, including timely payment of the Agreed Settlement Amount.
- B.** If HHSC-OIG determines that Provider has defaulted, HHSC-OIG shall provide written notice of the default to Provider via certified mail. Provider has ten (10) days from receipt of this notice to cure the default. The parties may agree to extend the time to cure the default, provided that the agreement is in writing and the extension does not exceed thirty (30) days from the date of receipt. If the default is not cured by Provider within the allotted time, any subsequent action to sanction or exclude Provider as a result of the default is not subject to appeal or review, and Provider expressly waives any further rights to appeal.
- C.** Provider hereby acknowledges, agrees, and stipulates that upon Provider's default, and failure to cure, as defined in this Agreement, HHSC-OIG shall be entitled to:
1. Exclude Provider or Provider's principals, including but not limited to Dr. Rachel Trueblood, D.D.S., from Medicaid participation subject to bankruptcy limitations, if applicable; and/or
 2. Take other sanction, administrative action, or other collection action authorized by law or agency rule.
- D.** HHSC-OIG is required to send written notice to Provider notifying Provider of its actions and/or intentions to avail itself of any and all remedies and sanctions authorized by law.

V. Mutual Release

Upon Provider's timely payment of all sums due and owing under this Agreement, said sums becoming final transfers and not subject to avoidance in the event Provider files bankruptcy, and fulfillment of the terms of this Agreement, including Provider's timely completion of payment of the Agreed Settlement Amount, subject to a Default under Section IV above, HHSC-OIG will release Provider from further Medicaid review, investigation, recovery or recoupment actions, and penalties that could be recovered by or through HHSC-OIG, sanctions referral, and other administrative actions arising from the Covered Conduct described in Section I of this Agreement for the time period from September 1, 2007 through June 30, 2012.

The Parties agree that payments made pursuant to this Agreement constitute the full and complete administrative settlement by the Parties of all overpayments, costs and administrative penalties owed by Provider for claims subject to this Agreement. In the event Provider commences a voluntary petition in bankruptcy, or becomes an adjudicated debtor pursuant to an involuntary petition in bankruptcy, Parties expressly agree, as a material element of this Agreement, that nothing shall preclude HHSC-OIG from further investigation of Provider and seeking a judicial determination that all or any portion of any sums still due under this Agreement shall constitute non-dischargeable obligations under 11 USC Section 523 and/or Section 727. Provider expressly acknowledges and agrees that nothing in this Agreement is intended to, nor shall be construed to transform any claims settled by this Agreement into purely contractual claims and thus subject to discharge. Provider agrees not to contest issues and remedies, as described in this Agreement.

HHSC-OIG does not waive any rights, obligations, or causes of action other than those claims arising from the Covered Conduct described in Section I of this Agreement, and all claims the HHSC-OIG with the exercise of reasonable diligence knew or should have known of, for the time period from September 1, 2007 through June 30, 2012. This release is applicable only to the Parties expressly identified in Section I of this Agreement, and is not applicable in any manner to any other agency, person, partnership, corporation, or other entity enrolled as a Medicaid Provider.

HHSC-OIG currently has no open investigations on Provider or Rachel Trueblood, D.D.S. HHSC-OIG is not currently in possession of information that would cause HHSC-OIG to open an investigation on Provider or Rachel Trueblood, D.D.S.

Provider agrees not to contest the Agreed Settlement Amount, or the recovery of this amount, as specified in this Agreement. Provider waives all procedural rights, if any, granted under 1 TEX. ADMIN. CODE §§ [371.1601](#) – [371.1719](#) (2014), including, but not limited to, notice, hearing, appeal, and judicial review with respect to the Agreed Settlement Amount due and the recoupment of this amount as specified in this Agreement.

Provider acknowledges that Provider has read, understood, and agreed to this Agreement and all the terms set out herein. Provider further acknowledges that Provider has actively participated in the negotiations leading up to this Agreement and has been represented by legal counsel of Provider's choosing during the negotiations. Provider certifies that Provider is fully capable of executing all the requirements of this

Agreement and entered into this Agreement freely and voluntarily, and not under any duress or compulsion.

Except for a violation of the terms of this Agreement, Provider RELEASES, WAIVES, HOLDS HARMLESS and forever DISCHARGES HHSC-OIG and past and present HHSC-OIG officers, directors, agents, consultants, servants, and employees in their individual and official capacities, from any and all potential federal and state law claims, causes of action, administrative complaints and appeals, and lawsuits of any kind that currently exist or may exist, whether known or unknown, and whether asserted or unasserted, that Provider has or may have against HHSC-OIG or its past and present HHSC-OIG officers, directors, agents, consultants, servants, and employees arising out of the subject matter of this Agreement. Provider further agrees to hold harmless and indemnify HHSC-OIG from any potential claims of any kind that may be asserted against the held funds from any other individual or entity.

The monetary consideration paid to HHSC-OIG and the promises and releases recited and referred to herein are given and accepted to resolve the administrative aspects of the disputed claims and to avoid the uncertainty and expense of litigation, and shall not be construed as an admission of liability on Provider's part, or an admission of the validity of any disputed factual contention.

VI. Costs

Each Party to this Agreement shall bear its own costs and attorney's fees incurred during the pendency of SOAH Docket No. [529-14-1740](#) and the negotiation and execution of this Agreement. As a part of each Party's own costs, each shall be responsible for its one-half portion of costs incurred at SOAH. To date, Provider has advanced security costs in the amount of \$17,500.00 received on June 3, 2014. HHSC-OIG will provide an accounting of total costs assessed by SOAH and pay Provider's portion out of the security costs on deposit. Should the amount be insufficient to cover Provider's one-half portion, HHSC-OIG will not seek additional monies. Should a balance remain on Provider's advanced security costs after paying Provider's one-half portion, HHSC-OIG will return the balance to Provider.

VII. Binding Agreement

This Agreement is binding on and shall inure to the benefit of HHSC-OIG, Provider, and their respective representatives, successors and assigns.

The Parties warrant that they have read this agreement and fully understand it to be a compromise and settlement and release of all claims, known and unknown, present or future, that they have or may have against the party or parties released, arising from the Covered Conduct described in Section I of this Agreement for the time period from September 1, 2007 through June 30, 2012.

Each of the undersigned persons represents and warrants that he or she is competent and authorized to execute this Agreement in the capacity in which they are signing and that they have full power and authority to bind the party on behalf of whom they are signing to each and every provision of this Agreement.

VIII. Entire Agreement

This Agreement contains the complete description of the settlement between the Parties. All material representations, understandings, and promises of the Parties are contained in this Agreement. Any subsequent modifications to this Agreement must be made according to Section X of this Agreement.

IX. Governing Law; Venue

This Agreement shall be construed and enforced under the laws of the State of Texas. Venue for all legal proceedings concerning this Agreement will be in the state district court of Travis County, Texas.

The Parties understand and agree that, in the event of a bankruptcy petition or liquidation filed by or involving the Provider, HHSC-OIG's recoupment rights shall be governed by the decisions of the U.S. Supreme Court, Fifth Circuit Court of Appeals, and by other federal precedent applicable in the State of Texas.

X. Amendment

This Agreement may be amended by mutual agreement, in accordance with this section. Any amendment of this Agreement shall be in writing, shall state that it is executed pursuant to this section, shall identify the portions of this Agreement being amended, and shall be signed and dated by all parties to this Agreement.

XI. Severability

If any portion of this Agreement is held or declared to be illegal, invalid, unenforceable, or void, then HHSC-OIG and Provider are relieved of all obligations arising under that portion and are excused from compliance with that portion of the Agreement. Any portion of this Agreement that is not affected by such declaration or finding shall remain in full force and effect.

XII. Acknowledgement and Signature

I acknowledge that I have read and understand the foregoing and agree to the terms and conditions described in this Agreement.



Rachel Trueblood, D.D.S.

8/12/14

Date

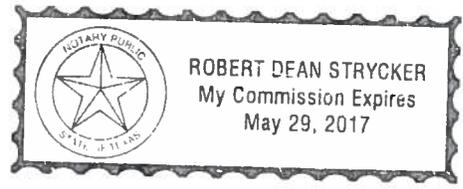
STATE OF TEXAS §
 §
COUNTY OF Williamson §

Before me, a Notary Public, on this day personally appeared Dr. Rachel Trueblood, D.D.S., known to me (or proved to me on the oath of _____ or through TXDL) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 12th day of August, 2014.



Notary in and for the State of Texas
My Commission Expires: May 29, 2017



XIII. Acceptance

Accepted by:



Douglas Wilson, Inspector General
HHSC-OIG

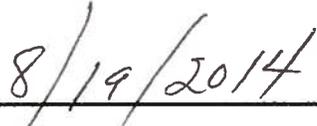


Date

Reviewed by:



Joy Sparks, Chief Counsel
HHSC-OIG
Settlement Agreement- Trueblood Dental Associates, P.A.
Page 8 of 9



Date

