

IN RE:	*	IN THE CONSUMER
BATZ-WEINER	*	PROTECTION DIVISION
LAKE DENTAL	*	THE OFFICE OF
	*	THE ATTORNEY GENERAL
	*	OF MARYLAND
* * * * *		

**ASSURANCE OF DISCONTINUANCE**

This Assurance of Discontinuance (“Assurance”) is being entered into between the Consumer Protection Division, Office of the Attorney General (the “Division”) and Batz-Weiner Lake Dental, P.C. (“Batz-Weiner”). The Division and Batz-Weiner agree as follows:

**PARTIES**

1. The Division is responsible for enforcement of Maryland consumer protection laws, including the Maryland Consumer Protection Act, Md. Code Ann., Com. L. §13-101 through §13-501, and the Consumer Debt Collection Act, Md. Code Ann., Com. L. §14-201 through §14-204.

2. Batz-Weiner is a Maryland professional services corporation that provides dental care and treatment to patients and has billed patients/consumers and received payment for dental services. Batz-Weiner has regularly conducted, and continues to conduct, business in Maryland. Batz-Weiner maintains an office in Maryland at 8363 Cherry Lane, Laurel, Maryland.

**ALLEGATIONS**

3. Since January 1, 2014, Batz-Weiner has billed patients/consumers and received payment for dental services for personal, family and household uses.

4. The Division alleged that Batz-Weiner engaged in unfair or deceptive practices, in violation of the Consumer Protection Act, Md. Code Ann., Com. L. §13-101 through §15-501

when it allegedly (1) misrepresented amounts patients/consumers owed for dental services by failing to account for payments received, failing to timely submit insurance claims, or failing to submit accurate insurance claims, thereby seeking payment from patients/consumers of amounts they did not owe; (2) provided pre-treatment estimates that failed to inform patients/consumers of all charges that would be incurred; and (3) failed to disclose to patients/consumers the insurance participation status of each of its practitioners.

5. The Division further alleges that Batz-Weiner violated the Consumer Debt Collection Act, Md. Code Ann., Com. L. §14-201 through §14-204, when it attempted to collect or collected amounts from patients/consumers for debts that the patients/consumers did not, in fact, owe.

6. Batz-Weiner denies the allegations against it and denies that it violated the Maryland Consumer Protection Act and/or the Consumer Debt Collection Act.

#### DEFINITIONS

7. “Covered Services” is defined pursuant to Md. Code Ann., Insurance, § 15-112.2(g)(1) as “health care services that are reimbursable under a policy or contract for dental services between an enrollee and a carrier, subject to any contractual limitations on benefits, including deductibles, copayments, or frequency limitations.”

8. “Coinsurance” means the share of costs an insured individual pays for covered health services calculated as a percent of the allowed amount for Covered Services.

9. “Copayment” means a predetermined flat fee that an insured individual pays for covered health care services.

10. “Deductible” means an amount an insured individual must pay for health care expenses before insurance will reimburse the cost for Covered Services.

11. “Participating provider” or “In-Network Provider” means a provider that has agreed to be part of a health plan’s network and who the health plan has accepted as a “participating provider” or “in network provider,” and who has agreed to accept a negotiated payment rate for Covered Services.

12. “Insurance Carrier” means the party to a contract that promises to indemnify or to pay or provide a specified or determinable amount or benefit on the occurrence of a determinable contingency.

#### CEASE AND DESIST PROVISIONS

13. For purposes of resolving disputes concerning the Division’s allegations, but without admitting any liability, Batz-Weiner agrees to do as is set forth below.

14. The Cease and Desist provisions of this Assurance shall apply to Batz-Weiner and its owners, officers, employees, agents, successors, assignees, affiliates, merged or acquired entities, parent or controlling entities, wholly-owned subsidiaries and all other persons acting in concert or in participation with Batz-Weiner. The Cease and Desist Provisions of this Assurance do not relate to any professional services provided by Batz-Weiner to which the Consumer Protection Act does not apply pursuant to Md. Code Ann., Com. L. §13-104(1).

15. Batz-Weiner shall comply with the Maryland Consumer Protection Act.

16. Batz-Weiner shall not make any misrepresentations or omissions of material fact that have the capacity, tendency or effect of misleading any patient/consumer in connection with its collection of any debt.

17. Batz-Weiner shall comply with the Consumer Debt Collection Act.

18. Batz-Weiner shall not collect or attempt to collect any payment for services that are not documented in the patients'/consumers' dental record in accordance with generally accepted standards for dental documentation.

19. Batz-Weiner shall not attempt to collect payment from patients/consumers for amounts that may be paid by an insurance carrier before submitting a claim to the insurance carrier(s) or while any such claim is pending. Nothing in this paragraph, however, shall prevent Batz-Weiner from collecting or attempting to collect payments from patients/consumers for any known copayment, coinsurance, or deductible before submitting or while a dental insurance claim is pending. Additionally, nothing in this paragraph shall prevent Batz-Weiner from collecting payment from patients/consumers for: (i) services that are specifically excluded by the patient's/consumer's dental insurance plan; or (ii) services that are not customarily reimbursable under dental insurance plans.

20. To the extent practicable, based upon the information available to it at the time of treatment, if Batz-Weiner believes that a service will not be covered by a patient's/consumer's insurance plan, it will notify the individual before the treatment is provided of the likely non-coverage and the estimated cost of the treatment.

21. Batz-Weiner will employ a qualified third-party billing company or ensure that its billing is supervised by an individual who has training in dental billing and coding.

22. Batz-Weiner shall respond to inquiries from patients/consumers regarding invoices issued for dental services provided to consumers no later than ten (10) business days from first receiving the inquiry.

23. If an individual makes an advance appointment, to the extent possible based upon the information available to Batz-Weiner and its dental providers at the time the appointment is

made, Batz-Weiner will notify the patient/consumer at the time the appointment is made whether the practitioner who will provide dental treatment to them is (or is not) an in-network, participating provider with the individual's insurance carrier based on the insurance information provided by the patient/consumer, if any. Batz-Weiner will not be held responsible for a violation of this Assurance if the patient/consumer provides incorrect or outdated information regarding their dental insurance, or if the patient/consumer, at the time that services are rendered, requires and consents to receiving dental care from a practitioner who is not a participating provider with the individual's insurance carrier, provided Batz-Weiner notifies the patient/consumer at the time services are rendered, to the extent possible, that the dental services may not be covered by insurance.

24. To the extent possible, based upon the information available to it at the time, Batz-Weiner shall inform all patients/consumers, in writing, before dental treatment is rendered or the patient/consumer incurs any charge whether the practitioner who will provide dental services to them is (or is not) an in-network, participating provider with their insurance carrier. Batz-Weiner will not be held responsible for a violation of this Assurance if the patient/consumer provides incorrect insurance information.

25. Batz-Weiner shall provide patients/consumers an invoice or bill within thirty (30) days of providing the dental services for which the invoice or bill is seeking reimbursement or receiving a determination of the claim from an insurance carrier (whichever is later) and, if necessary, every thirty (30) days thereafter. The invoice or bill shall include the date on which each service was rendered, a brief description of each service, the CDT code for each service, whether an insurance carrier has paid any part of the charge, to the extent this information has

been provided by the carrier to Batz-Weiner, and a statement of the patients'/consumer's balance due for each service.

26. Batz-Weiner shall not refer any account to a collection agency unless the patient/consumer was previously provided an accurate invoice or bill and has been provided at least thirty (30) days to pay any amounts owed by the patient/consumer.

27. Where Batz-Weiner submits a claim for dental services provided on behalf of a patient/consumer to their insurance carrier for payment, Batz-Weiner shall not attempt to collect from the patient/consumer any amounts that would have been covered by the patient's/consumer's insurance policy but for which the insurance carrier has denied payment solely due to an error that was within the control of Batz-Weiner (including, but not limited to, submission to the incorrect carrier when correct information was on file; submission with incorrect patient/consumer, policy, or policy holder information; untimely submission; failure to obtain prior authorization if required under a dental/health maintenance organization insurance policy; or missing supporting documentation required by an insurance carrier. Batz-Weiner will not be held responsible for a violation of this Assurance if the denial of any claim submitted for payment of dental services rendered to a patient's/consumer's insurance carrier is due to patient/consumer error, or reasons outside of Batz-Weiner's control and solely within the control of the insurance carrier or the patient/consumer.

28. Batz-Weiner shall include all reasonably anticipated services to the extent practicable on any pre-treatment estimates based on the information available to the provider prior to treatment, including estimates for any follow-up exam or imaging, and will inform patients/consumers that a pre-treatment estimate may no longer be valid if services are not

obtained within thirty (30) days, or if there are any changes made to the patient's/consumer's dental insurance policy.

## RESTITUTION

29. Batz-Weiner shall pay restitution equal to the amounts it allegedly improperly collected from patients/consumers for dental services, as described below.

30. Batz-Weiner shall, without accepting liability for the disputed debt, waive payment of any outstanding balances for dental services provided to patients/consumers from January 1, 2014 through March 3, 2016 that were referred to a third-party for collection to remediate alleged patient/consumer losses and to compromise disputed debt amounts resulting from the alleged unlawful conduct of Batz-Weiner. It is understood and agreed that this is a settlement of a dispute related to a contested liability and was made in good faith.

31. Within thirty (30) days of the effective date of this Assurance, Batz-Weiner shall, review the files of patients/consumers: (i) to whom it provided services from January 1, 2014 through March 3, 2016, and (ii) who filed complaints with the Division regarding the amounts that they were billed for services. For each such patient/consumer, if Batz-Weiner determines that the patient/consumer was charged an amount that would be prohibited by this Assurance or discovers any other error in the amounts it billed the patient/consumer, it shall refund the identified amounts owed to the patient/consumer within thirty (30) days from the date of its determination.

32. For all patients/consumers who: (i) received dental services from Batz-Weiner between January 1, 2014 through March 3, 2016, and (ii) were billed and paid for professional services rendered to them by Batz-Weiner (other than patients/consumers whose payments were limited to a copayment, coinsurance, or deductible under an insurance plan), but who did not file

a complaint with the Division, Batz-Weiner shall mail the patient/consumer, or head of household, a notice, using the form attached as Schedule A, informing them that they may request a review of their account if they believe they may have paid an amount that they did not owe.

The notices shall be sent in three staggered groups representing one-third of the patients/consumers to be notified as follows: (i) the notices to Group 1 will be mailed thirty (30) days after the effective date of this Assurance, (ii) notices to Group 2 will be mailed forty-five (45) days after the effective date of this Assurance, and (iii) notices to Group 3 will be mailed sixty (60) days from the effective date of this Assurance. The notice required by this paragraph shall be sent to the patient/consumer or head of household at the last known address on file with Batz-Weiner. If any notice is returned as undeliverable, Batz-Weiner will attempt to obtain a current address using the contact information contained in the patient's/consumer's chart.

The Division shall notify Batz-Weiner in writing of the identities of the patients/consumers requesting an account review within thirty (30) days from receipt of the patient/consumer request. For any patient/consumer who requests an account review in response to the notice required in this paragraph, Batz-Weiner shall review the patient's/consumer's file and, if it determines that the patient/consumer was charged an amount that would be prohibited by this Assurance or discovers a billing error for which it mistakenly collected payment, it shall refund any identified amounts owed to the patient/consumer within forty-five (45) days.

33. If, pursuant to paragraphs 30 and 31, Batz-Weiner and the patient/consumer cannot agree on the amount to be refunded to the patient/consumer, Batz-Weiner consents to submit the dispute, with the consent of the patient/consumer, for resolution through Division's Arbitration Program ("Arbitration") pursuant to Md. Code Ann., Com. L. § 13- 404. The



Division will attempt to mediate the dispute prior to Arbitration. If mediation efforts are unsuccessful, the dispute will be assigned to Arbitration.

34. When notifying a patient/consumer of the result of an account review, Batz Weiner shall inform the patient/consumer in writing that: "If this review does not resolve your concern, you may file a complaint with the Health Education and Advocacy Unit of the Maryland Office of the Attorney General for resolution through its mediation and/or arbitration program. Complaints can be filed by writing to the Health Education and Advocacy Unit, 200 St. Paul Place, 16<sup>th</sup> Floor, Baltimore, MD 21202 or by filing online at [www.Marylandcares.org](http://www.Marylandcares.org). The Health Education and Advocacy Unit can also be contacted by calling (410) 528-1840."

35. Batz-Weiner agrees to comply with any Arbitration decision entered against it, within thirty (30) days of the later of either (i) the entry of such award, or (ii) the conclusion of any appeal of the arbitrator's decision.

36. On the one year anniversary of this Assurance, Batz-Weiner shall:

- a. deliver to the Division copies of each cancelled check deposited or otherwise cashed by any patient/consumer who has received a refund pursuant to this Assurance;
- b. deliver to the Division a list of all patients/consumers who did not deposit or otherwise cash a refund check sent pursuant to this Assurance; and
- c. pay restitution to the Division in the amount of all funds owed under (b).

#### PENALTIES AND COSTS

37. Within thirty (30) days of the effective date of this Assurance, Batz-Weiner shall pay to the Division the sum of Forty-Five Thousand Dollars (\$45,000.00).

38. Within thirty (30) days of the effective date of this Assurance, Batz-Weiner shall pay the Division Three Thousand Dollars (\$3,000.00) for its costs investigating this matter. In the event that more than 500 patients/consumers contact the Division to request an account review in accordance with Paragraph 33, Batz-Weiner shall pay the Division an additional One Thousand Dollars (\$1,000.00) for each additional increment of 500 patients/consumers who request an account review.

39. Batz-Weiner warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and expects to remain solvent following payment of all amounts that are due and owed under this Assurance. Batz-Weiner further warrants that, in evaluating whether to execute this Assurance, it (a) intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Batz-Weiner within the meaning of 11 U.S.C. § 547(c)(1), and (b) concluded that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, Batz-Weiner warrants that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which it is or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

40. This Assurance is effective on the date of signature of the last signatory to the Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

41. No delay or failure by a party in exercising any right, power or privilege under this Assurance shall affect such right, power or privilege; nor shall any single or partial exercise

thereof or any abandonment or discontinuance of steps to enforce such right, power or privilege preclude any further exercise thereof, or any other right, power or privilege.

#### DISPUTES

42. The Chief of the Division, or his designee, shall resolve any disputes concerning this Assurance and enter any supplemental orders needed to effectuate its purpose.

#### ENFORCEMENT

43. Batz-Weiner understands that this Assurance is enforceable by the Consumer Protection Division pursuant to the Consumer Protection Act and that any violation of this Assurance is a violation of the Consumer Protection Act.

44. Batz-Weiner agrees that any future violations of this Assurance or future violations of the Consumer Protection Act similar to those in Division's Allegations shall constitute a subsequent violation of the Consumer Protection Act for purposes of Consumer Protection Act §13-410, and shall be subject to the penalty provisions for subsequent violations contained therein.

#### CONSUMER PROTECTION DIVISION

BRIAN E. FROSH  
Attorney General for the State of Maryland

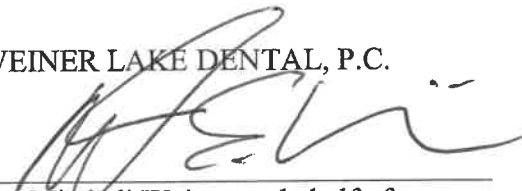
DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Shelly Marie Martin  
Assistant Attorney General  
Consumer Protection Division

DATED: 12/14/19

BATZ-WEINER LAKE DENTAL, P.C.

BY: \_\_\_\_\_

  
Dr. Mitchell Weiner on behalf of  
Batz-Weiner Lake Dental, P.C.

DATED: 12-11-19

BY:

A handwritten signature in black ink, appearing to read 'R. Batz', is written above a horizontal line.

Dr. Richard Batz on behalf of  
Batz-Weiner Lake Dental, P.C.

Schedule A

Letter to Consumers

Dear XXXXX:

Batz-Weiner Lake Dental has learned that some patients who received dental services from Batz-Weiner between January 1, 2014 and March 3, 2016 may have been mistakenly charged for some dental services. Pursuant to a settlement agreement that we entered into with the Maryland Office of the Attorney General, but under which no liability was admitted, if you received services during this time period and believe that a billing mistake was made, you may request a review of your account. To request an account review, please contact the Maryland Office of the Attorney General, Consumer Protection Division, Health Education and Advocacy Unit. You may reach the Consumer Protection Division at 410-528-1840 or 1-877-261-8807, by email at [heau@oag.state.md.us](mailto:heau@oag.state.md.us), or by writing to Office of the Attorney General, Health Education and Advocacy Unit, 200 St. Paul Place, Baltimore, MD 21202.

If you request a review, Batz-Weiner will review your account and notify you within forty-five days of the result of its review.

Sincerely,