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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC  
SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

In the Matter of	)	
	)	Administrative Action
JOSEPH PORTALE, D.D.S.	)	
	)	CONSENT ORDER
Licensed to Practice Dentistry	)	
in the State of New Jersey	)	
<hr/>	)	

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information alleging that in or about the period July 31, 1989 to August 2, 1989, Joseph Portale, D.D.S., demanded and received from patient Patricia Sereico, payment in the amount of approximately \$1300.00 for dental services which ultimately were not rendered. Dr. Portale simultaneously submitted insurance claim forms on behalf of the patient to Delta Dental Plan of New Jersey, Inc. (Delta) which automatically assigns benefits to participating dentists. Delta also paid benefits to Dr. Portale; no reimbursement was made to the patient until after a complaint had been filed with the Board. The Board acquired further information in regard to this case at an investigative inquiry attended by Dr. Portale on September 19, 1990, whereby he testified under oath that he was

not a participating member of Delta having terminated any such agreement in the late 1970's. The Board subsequently received a copy of the "Participation Agreement" between Delta and Dr. Portale which was entered in 1980 and remains active to date.

It appearing that the parties wish to resolve this matter without recourse to formal proceedings and for good cause shown;

IT IS ON THIS 13 DAY OF June, 1991,

HEREBY ORDERED AND AGREED THAT:

1. The license of the respondent to practice dentistry in the State of New Jersey shall be suspended for a period of thirty (30) days. Said suspension shall be effective commencing on the first day of the month following the entry date of this Order. Respondent shall comply with all conditions and restrictions of a suspended licensee as set forth in the document attached to this Order and made a part hereof by reference.

2. Respondent shall pay a civil penalty in the amount of \$5,000.00. Said penalty shall be made by certified check or money order made payable to the State of New Jersey and shall be submitted to the Board of Dentistry within thirty (30) days of the entry date of this Order.

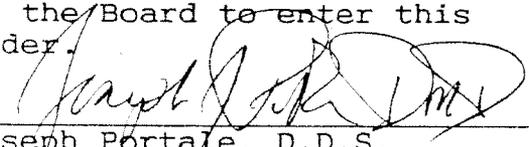
In lieu of the civil penalty, respondent may perform 350 hours of community service in the form of dental services at a facility designated by the Board. The respondent shall be permitted to commence such community service during the 30 day period of suspension, and he shall be required to complete the 350 hours of community service imposed by the Board herein within six (6) months of the entry date of this Order.

In the event the respondent elects to perform community service in lieu of the civil penalty, he shall so advise the Board in writing simultaneous with the return of this Order. He then will be advised by the Board in writing of the facility where the community service is to be performed and name of the person who will schedule, supervise, and report to the Board in regard to the performance of the dental services.



William Cinotti, D.D.S.  
President  
State Board of Dentistry

I have read and understand  
the within Order and agree  
to be bound by its terms.  
Consent is hereby given  
to the Board to enter this  
Order.

  
Joseph Portale, D.D.S.

DIRECTIVE REGARDING FUTURE ACTIVITIES OF  
DENTAL BOARD LICENSEE WHO HAS BEEN DISCIPLINED

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
  - 2) Desist and refrain from the practice of the licensed profession in any form either as principal or employee of another.
  - 3) Inform each patient at the time of any inquiry of the ~~suspended~~ or revoked or retired status of the licensee. When a new professional is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing medical record to the new professional, or to the patient if no new professional is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
  - 4) Not occupy, share or use office space in which another licensee practices the profession.
  - 5) Desist and refrain from furnishing professional services, giving an opinion as to the professional practice or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice the profession or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice the licensed profession. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing, such as listing in a professional directory of any type or a telephone directory or radio or television advertisement.
  - 6) Not use any sign or advertise that such person, either alone or with any other person has, owns, conducts or maintains a professional office or office of any kind for the practice of the profession or that such person is entitled to practice, and such person shall promptly remove any sign suggesting ability of the disciplined practitioner to practice the profession.
- 7) Cease to use any stationery whereon such person's name appears as a professional in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Medications possessed for office use shall be lawfully disposed of, transferred or safeguarded.

8) The disciplined licensee shall require that for a six-month period following the start of a suspension or revocation of license, a message be delivered to those telephoning the former office premises advising former patients where they may obtain their records. The message may inform callers that the practice is now being conducted by (another) named licensee, and the new telephone number of that licensee may be announced. The same information shall be disseminated by means of a notice to be published at least once per month for the same six month period in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted.

9) Not share in any fee for professional services performed by any other professional following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

10) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and/or equipment.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a member of a professional group which uses a group-type name such as the ABC Medical Group. The disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

11) Report promptly to the Board compliance with each, directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

12) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the New Jersey State Board of Dentistry in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

13) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 30 days after the effective date of the Board Order, file with the Secretary of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence address or telephone number shall be promptly reported to the Secretary.