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RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	INTERIM CONSENT ORDER
DAVID I. KALTER, D.M.D.	:	
	:	
TO PRACTICE DENTISTRY IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Dentistry upon receipt of investigative reports from the Enforcement Bureau, Division of Consumer Affairs, which disclosed that David I. Kalter, D.M.D., had prescribed, purchased under fictitious patient names and/or over the forged signature of another dentist; and personally used certain controlled dangerous substances for purposes unrelated to the practice of dentistry. It appears that respondent wishes to cooperate with the Board until such time as the investigation of this matter is completed.

THEREFORE, IT IS ON THIS 28 DAY OF Sept, 1994;
ORDERED AND AGREED THAT:

1. Respondent shall submit to a chemical dependency monitoring program as more particularly set forth in the attachment to this Order providing the terms and conditions of such monitoring program.

2. Respondent shall be required to place a telephone call to Agnes Clarke, Executive Director of the Board, on the Monday of any week when he has not been called by and or has not in fact provided to the NJDA Chemical Dependency Program two urine samples during the immediately preceding seven (7) days. Further, respondent shall advise Agnes Clarke immediately in the event he is notified by the Chemical Dependency Program that a urine test will not be made for a period of seven (7) days or longer for any reason whatsoever including but not limited to, vacations, office closures, or illness.

STATE BOARD OF DENTISTRY

By: Stephen Candio
Stephen Candio, D.D.S.
President

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.

David I. Kalter
David I. Kalter, D.D.S.

ATTACHMENT TO ORDER

CHEMICAL DEPENDENCY MONITORING PROGRAM

1. Respondent shall enroll in the N.J.D.A. Chemical Dependency Program (C.D.P.) and shall comply with a monitoring program supervised by C.D.P. which shall include, at a minimum, the following conditions:

(a) Respondent shall have his urine monitored under the supervision of the C.D.P. on a random, unannounced basis, twice weekly. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the C.D.P. The initial drug screen shall utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry (G.C./M.S.). Respondent expressly waives the right to raise the defense that a positive urine sample is not his urine or other chain of custody defense in consideration of the Board's waiving the requirement that the testing procedure utilize a forensic chain of custody protocol.

All test results shall be provided in the first instance directly to the C.D.P., and any positive result shall be reported immediately by the C.D.P. to the Executive Director of the Board, or a designee in the event the Executive Director is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is

required in order to guarantee the accuracy and reliability of the testing.

Any failure by the respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event the respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Dr. Frederick Rotgers or Dr. Barbara McCrady of the C.D.P. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, respondent must provide the C.D.P. with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that the respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day. The C.D.P. shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each such case.

In the event respondent will be out of state for any reason, C.D.P. must be so advised and arrangements must be made for a urine test prior to the resumption of dental practice upon return to the State.

The Board may in its sole discretion modify the frequency of testing or method of reporting during the monitoring period.

(b) Respondent shall attend support groups including the impaired professionals group and AA/NA at a frequency of no less than three times per week. Respondent shall provide evidence of attendance at such groups directly to the C.D.P. on a form or in a manner as required by the Program. The C.D.P. shall advise the Board immediately in the event it receives information that respondent has discontinued attendance at any of the support groups.

2. The C.D.P. shall provide quarterly reports to the Board in regard to its monitoring of respondent's program as outlined herein including, but not limited to, the urine testing and the attendance at support groups. The Program shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program.

3. Respondent shall engage in substance abuse counseling as recommended by the C.D.P. at a frequency of one time per week. Respondent shall cause the therapist to provide quarterly reports directly to the Board with respect to his attendance and progress in therapy.

4. Respondent shall not prescribe or dispense controlled dangerous substances nor shall he possess such substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Respondent shall

immediately submit to the Board his federal D.E.A. and state C.D.S. registration certificates. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid any confusion which may be caused by a confirmed positive urine test as a result of such medication.

5. Respondent shall provide adequate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

6. Respondent shall submit to a psychological or psychiatric evaluation by a Board appointed consultant within six (6) months from the entry of this order and again one (1) year from the entry date of this Order. The Board shall assume the responsibility of identifying a professional who is located in an area that is reasonably close to Atlantic County to perform the required evaluations. Respondent shall be responsible for the fee of the consultant for the evaluation and report.

7. All costs associated with the monitoring program as outlined herein shall be paid directly by the respondent.

8. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any

term of the within Order has been violated in any manner whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that respondent has used an addictive substance, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue. Any confirmed positive urine test shall be presumed valid, and respondent shall bear the burden of demonstrating its invalidity.

9. Respondent may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein.

I have read and understand
the terms and conditions
of the Chemical Dependency
Monitoring Program.


David I. Kalter, D.M.D.