

correspondence from Phyllis Black, LCSW, ACSW, dated October 9, 1995, providing the Board with a progress report on Dr. Breen's biweekly therapy sessions with her from December 1994 to the present; 3) a laboratory report from the SmithKline Beecham Clinical Laboratories, dated September 29, 1995, disclosing a positive confirmed urine test for Hydrocodone for a specimen taken from Dr. Breen on September 26, 1995; and 4) a report from the same laboratory dated September 1, 1995, disclosing a positive confirmed urine test for cocaine metabolite for a sampling taken from the respondent on August 29, 1995. These Notice of Motion pleadings alleged that Dr. Breen failed to comply with the terms and conditions of the Reinstatement Order filed with the Board on April 20, 1995, in that a laboratory report for a urine sampling provided by Dr. Breen on September 26, 1995, and a laboratory report for a specimen collected on August 29, 1995, from Dr. Breen, disclosed confirmed positive urine tests for Hydrocodone and a cocaine metabolite, respectively.

The background information in this matter is extensive and summarized here for a complete understanding of the issues concerning the allegations that Dr. Breen produced confirmed positive urine samplings for the presence of Hydrocodone and cocaine. The procedural and factual history of the present matter are detailed in the Board's prior orders of March 28, 1994, August 4, 1994, and April 20, 1995, and are incorporated into this Order by reference herein.

This matter was initially opened to the Board upon receipt of an Investigative Report from the Enforcement Bureau, Division of Consumer Affairs, which disclosed that Nicholas Breen, D.M.D., had prescribed over his own name and/or over the forged signature of

another dentist; purchased under his own name or under a fictitious patient name; and personally used certain controlled dangerous substances for purposes unrelated to the practice of dentistry. To resolve these charges, the Board entered into an Interim Consent Order, filed March 28, 1994, with Dr. Breen in which the respondent stipulated to the truth and accuracy of certain factual statements and agreed to the entry of said facts into the record of the mitigation hearing which was held on May 4, 1994. (A copy of the Interim Order is attached hereto as Exhibit "A").

The purpose of the May 4, 1995, hearing was to determine the ultimate penalty of the respondent's charges following the Board's consideration of the Investigative Report and the allegations contained therein. At this hearing, the Board heard the argument of Deputy Attorney General Kathy Rohr appearing on behalf of the Board, the respondent's attorney and the testimonies of Dr. Breen, Dr. Rotgers from the C.D.P., and Mrs. Kathleen Breen. The Board, at the conclusion of the mitigation hearing, requested additional information from Dr. Breen, specifically, a copy of his Discharge Summary from Princeton House, for its review. Following its consideration of the report, the Board had additional questions for Dr. Breen concerning his discharge and drug usage. Additionally, shortly after the mitigation hearing, the Board was advised that Dr. Breen had failed to comply with the provisions of the March 28, 1994, Interim Order in that he had not surrendered his most recent Drug Enforcement Administration ("DEA") registration. To address these issues, the Board scheduled a supplemental hearing on June 22, 1994.

At the June 22, 1994, supplemental hearing, the respondent's attorney advised the Board that his failure to provide the Board with all of Dr. Breen's medical reports was not an intentional failure. Further, Dr. Breen's attorney indicted that it was an oversight that Dr. Breen had failed to surrender his current DEA registration and assured the Board that the document would be located and surrendered immediately. Moreover, at this hearing, Dr. Breen admitted his history of drug use, which included his usage of cocaine, speed, crack and other psychedelics prior to graduating from dental school. The Board additionally questioned Dr. Breen on his decision to leave Princeton House on the third day of treatment against medical advice in light of prior testimony at the May 4, 1994, mitigation hearing which suggested that he was fit to leave the program after a three day hospital stay. Dr. Breen maintained that he thought he had gotten out of the program what he anticipated within the three days of his participation.

The Board deliberated on this matter following the June 22, 1994, hearing and was prepared to issue its final decision and order when the Attorney General filed a Notice of Motion for Enforcement of a Board Order and Suspension of License with respect to Dr. Breen that was returnable July 20, 1994. The Board delayed issuing a final decision and order until this motion was heard. The pleadings filed by the Attorney General alleged that Dr. Breen had failed to comply with the terms and provisions of the Interim Order entered on March 28, 1994, in that he had failed to appear for a urine sampling within twenty-four (24) hours of notification on July 12, 1994, by the C.D.P., failed to attend any NA/AA meetings and failed to surrender his current DEA registration.

A hearing on this motion was held on July 20, 1994. Dr. Breen testified that he had been notified by the C.D.P. to appear for a urine sampling on July 12, 1994, and that he scheduled a specific time to appear with the relevant personnel at the C.D.P. on July 13, 1994, to provide the urine sample. However, the respondent testified that at the appointed hour of the meeting, he was treating patients in his office and was unable to leave his patients to provide the urine sample.

The Board, subsequent to July 20, 1994, deliberated on the several issues before it concerning Dr. Breen, namely its determinations from the mitigation hearing, the supplemental hearing and the motion hearing. The Board concluded that Dr. Breen had failed to comply with three substantive terms of the March 28, 1994, Interim Order, in that he failed to submit or provide a urine sample within twenty-four (24) hours of a request by the C.D.P., failed to attend any NA/AA meetings for at least the last three months and that he failed to surrender his current DEA registration. Moreover, the Board found that the respondent's employment of fraudulent means to obtain controlled dangerous substances for personal consumption was a gross abuse of his license to practice dentistry and, therefore, constituted a basis for ordering disciplinary sanctions.

Hence, the Board directed, in an Order filed August 4, 1994, that the license of Dr. Breen to practice dentistry in New Jersey was suspended as of July 20, 1994, for an indefinite period of time. The August 4, 1994, Order further mandated that during the period of suspension, Dr. Breen could not derive any financial remuneration directly or indirectly related to patient fees, that he must submit his

dentistry license to the Board of Dentistry and that he was permanently barred from obtaining a Controlled Dangerous Substance and DEA registration in this State. Finally, the August 4, 1994, Order mandated that Dr. Breen could not apply for reinstatement of his license to practice dentistry no sooner than ninety (90) days from the entry of the Order, subsequent to demonstrating to the satisfaction of the Board that he was capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and other conditions. (A copy of the Board's Final Decision and Order is attached hereto as Exhibit "B").

On April 5, 1995, Dr. Breen appeared personally before the Board, with counsel, to request reinstatement of his license to practice dentistry. The Board's Order of August 4, 1994, required that prior to applying for reinstatement, Dr. Breen had to submit to a psychological evaluation, demonstrate clean urine samples and attend NA/AA meetings at least five (5) days per week. Prior to appearing before the Board in April 1995, the respondent filed an Application for Reinstatement of the License. This application was supported by numerous documents attesting to the respondent's participation in a program of rehabilitation with respect to his personal use of drugs. Additionally, the Board considered evidence concerning a February 8, 1995, positive urine specimen belonging to the respondent which tested positive for codeine and morphine.

Dr. Breen testified, on April 5, 1995, in response to the positive urine specimen, that he had made a harmless mistake by taking cough medication identified as promethazine, brand name Phenergan, which had been prescribed for Kathleen Breen, his wife. The respondent

submitted documentation from his physician indicating that he had been under the physician's care for treatment of bilateral tonsillitis in early January 1995. Further, the respondent submitted a copy of the prescription for Phenergan for Kathleen Breen dated February 11, 1995.

After its deliberations, the Board concluded that Dr. Breen had met the minimum requirements set forth in the Board's Order of August 4, 1994, and that the respondent was capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare. The Board issued a Reinstatement Order dated April 20, 1995, which provided that Dr. Breen could practice dentistry only as an employee and under the direct supervision of a New Jersey licensed dentist. The respondent was further required to inform the employing dentist of his prior drug addiction problems. Further, the April 20, 1995, Order implemented a full monitoring program including urine testing. Moreover, Dr. Breen was mandated to continue in counseling with Phyllis Black at a frequency of one (1) time per two week period and attend support groups, including NA/AA, at a frequency of no less than three (3) times per week. Finally, the Order specifically provided that both parties understood and agreed that Dr. Breen's continued licensure with restrictions as ordered by the April 20, 1995, Order was contingent upon the strict compliance with all of the aforementioned conditions. (A copy of the Reinstatement Order is attached hereto as Exhibit "C").

On or about October 10, 1995, the Attorney General filed a Notice of Motion for Enforcement of a Board Order and Suspension of License with respect to the respondent that was returnable October 18, 1995. The pleadings filed by the Attorney General alleged that the

respondent failed to comply with the terms of the Board's April 20, 1995, Order in that Dr. Rotgers had advised that the C.D.P. had received a laboratory report from SmithKline Beecham Clinical Laboratories, dated September 29, 1995, disclosing a positive confirmed urine test for Hydrocodone, the active ingredient for Vicodin, for Dr. Breen. Further, in a correspondence dated October 13, 1995, Dr. Rotgers advised that Dr. Breen had requested that his urine collection and testing be performed by another SmithKline Beecham Laboratory. This change of laboratories was made without the knowledge or authorization of the Board. As a consequence of this collection change, test results and reports were not timely received by Dr. Rotgers and the C.D.P. Therefore, on or about October 13th, Dr. Rotgers was notified that a second specimen of Dr. Breen's, collected on August 29, 1995, tested positive for cocaine metabolite.

A hearing was scheduled before the Board for October 18, 1995, in order to address the Attorney General's Notice of Motion and to determine whether Dr. Breen presented a danger to the public in that he had not complied with the terms and conditions of the Board's April 20, 1995, Order. The respondent appeared on this date pro se. The Attorney General of New Jersey appeared through Kathy Rohr, Deputy Attorney General. D.A.G. Rohr advised the Board of the procedural history in this matter. Further, she advised the Board of the test results regarding Dr. Breen's urine samples of September 26, 1995, and August 29, 1995, and the allegations against the respondent which were deemed to be violations of the terms and conditions of the Board's April 20, 1995, Order.

The Deputy Attorney General contended that Dr. Breen violated the April 1995 Board Order in several substantive respects. Firstly, the deputy advised the Board of the respondent's first violation of the Board's Order, namely the positive test results received, concerning Dr. Breen's September 26, 1995, urine sample, for Hydrocodone. In addition, the deputy maintained that the respondent again violated the terms and conditions of the Board's Order with a second positive urine test for cocaine from a specimen provided by Dr. Breen on August 29, 1995, which was not brought to the Board's attention until October 13, 1995. Finally, the deputy contended that the respondent failed to comply with the Board's requirements in that Dr. Breen chose to use another laboratory for geographical reasons which was not authorized by the Board. Thus, the urine samples of September 26, 1995 and August 29, 1995, were received without the requisite chain of custody protocol as mandated by the Board's April 20, 1995, Order.

Dr. Breen testified on his own behalf at the October 18, 1995, hearing. He admitted that he had made a stupid mistake and had taken some samples of Vicodin from the dental office in Philadelphia where he was currently working. The respondent maintained that he took the Vicodin samples as a result of being overwhelmed at work, working six (6) days a week and because he felt that he was under a lot of pressure. Dr. Breen admitted that he took approximately four (4) tablets of Vicodin in a two to three day period. Further, Dr. Breen advised that the dentist with whom he was working and who had direct supervision over him was not aware of his drug history at the time he took the Vicodin samples. Moreover, the respondent apologized to the

Board for this relapse into drug usage. Since this incident, Dr. Breen advised that he has reduced his working days to five (5) per week. In addition, he has advised the dentist in his office of his drug history and the restrictions on his dental license.

Dr. Breen denied having used cocaine for several years and therefore offered no explanation for the August 29, 1995, positive urine test for cocaine. Additionally, the respondent indicated that he changed laboratories because the facility was closer to his residence and office and because the services of the new laboratory were covered completely by his wife's insurance company.

On cross-examination, Dr. Breen admitted that he took the Vicodin tablets in the morning for two days and treated a full day of patients on both days. Further, he admitted that he is not working in New Jersey, but instead is practicing dentistry in Darby, Pennsylvania. Further, the respondent admitted that the owner of the dental office and the name of the dentist he provided to the Board as his employing dentist, Dr. P.G. Patel, does not have any dental practices in New Jersey.

Dr. P.G. Patel provided testimony to the Board in this matter on behalf of the respondent. The doctor advised the Board that he is licensed to practice dentistry in Pennsylvania, not New Jersey. Dr. Patel further advised the Board that, starting in 1991, Dr. Breen worked for him for approximately one (1) year and three (3) months. At that time, as is true today, the doctor asserted, there have been no problems or complaints concerning Dr. Breen's work or his treatment of the patients. Dr. Patel indicated that the respondent contacted him and requested employment. He advised Dr. Patel of his current

licensure problems, however, Dr. Patel testified that he was not aware of Dr. Breen's long history of drug usage. The doctor indicated that narcotic drugs are not usually located on site in Dr. Breen's office, but that a salesman had recently come to the office and left the Vicodin samples thereby providing Dr. Breen access to the drugs. Finally, Dr. Patel offered to monitor Dr. Breen and to continue his urine sampling in Pennsylvania because Dr. Patel testified that the respondent was a "terrific" dentist with the patients and that he wishes to help Dr. Breen rehabilitate himself.

In his closing statement, Dr. Breen reiterated that he regretted having to appear in front of the Board again. He indicated that he is doing his best but that he made a mistake which he fully recognizes and for which he accepts responsibility. However, he indicated that he would like to continue practicing dentistry as he continues in his drug recovery process.

The Deputy Attorney General argued that the State had established that Dr. Breen had violated the terms of the April 20, 1995, Board Order in several respects. The evidence conclusively indicated, maintained the deputy, that the respondent had personally used Vicodin on two separate days and that as a result, tested positive in a urine test. Further, the deputy argued that a laboratory report dated September 1, 1995, indicated that Dr. Breen's August 29, 1995, urine sample tested positive for cocaine metabolite. Additionally, the deputy argued that the respondent had violated the Board's Order by failing to comply with the proper protocol for urine testing with the C.D.P. Finally, the deputy asserted that the evidence gathered at the October 18, 1995, hearing had revealed additional violations of the

Board's Order. Specifically, the deputy emphasized that the respondent advised the Board that he was under the direct supervision of Dr. Patel. While Dr. Patel was his employer, the evidence clearly demonstrated that Dr. Patel, who had knowledge of Dr. Breen's problems, was not physically at Dr. Breen's location daily. The respondent's direct supervisor, Dr. Hendrickson, was the only other dentist at Dr. Breen's location and he was unaware of Dr. Breen's problems and also unaware that he was required to directly supervise the respondent.

While the Deputy Attorney General represented that the Office of the Attorney General had no specific recommendation to make to the Board with respect to the issue of penalty, she maintained that Dr. Breen has a major addiction problem and that he succumbed to the temptation to utilize narcotics when the opportunity was presented to him. Further, the deputy contended that Dr. Breen's violations of the Order were substantial, however, she left it to the Board's discretion to determine how to resolve the relevant issues.

All of the documents submitted by the Attorney General in support of the Notice of Motion were made part of the record at the hearing, in addition to the documents submitted into the evidence during the hearing. After hearing closing arguments, the Board resolved to move into executive session to deliberate on the matter. The Board conducted its deliberations of the record before it in Executive Session on October 18, 1995 and again on November 1, 1995. The Board thoroughly considered the record before it. The Board finds that the respondent has failed to comply with several terms of the Reinstatement Order filed with the Board on April 20, 1995. The Board found that Dr. Breen had personally taken Vicodin on two separate days

and tested positive in a urine test taken on September 26, 1995. Further, the Board determined that the respondent had a positive urine specimen for cocaine metabolite in a sampling collected on August 29, 1995. The Board was not convinced or persuaded by the respondent's position that his August 29, 1995, sample was not positive for cocaine because he has not used that drug in years. Further, the Board finds that Dr. Breen violated the April 20, 1995, Reinstatement Order by failing to comply with the proper protocol for urine testing with the C.D.P. and utilizing a laboratory of his own choosing which did not use the forensic chain of custody protocol as required by the Board. Additionally, the Board finds that the respondent violated the Board's Order by failing to practice dentistry as an employee and under the direct supervision of a New Jersey licensed dentist as mandated by the April 1995 Reinstatement Order and by failing to have the test result reports of his urine samples forwarded to the C.D.P. Finally, the Board finds that Dr. Breen has again failed to recognize that strict compliance is required with the terms and conditions of the Board's Reinstatement Order of April 20, 1995.

Thus, the Board further finds there is a basis for ordering sanctions against the respondent in light of his failure to comply with the Board's Order of April 20, 1995. That Order permitted Dr. Breen to remain in practice only so long as he complied with the terms and conditions placed on his licensure and that any lapse in Dr. Breen's conduct would be reported immediately to the Board and result in a hearing on short notice before the Board. The Board finds it necessary to impose sanctions in this matter for the purposes of deterring the respondent from violating the Board's Order and for the protection of

the public. The Board continues to believe that the unlawful use and possession of both prescription and illicit drugs by its licensees presents a serious threat to the health, safety and welfare of dental patients. Since the respondent's conduct disregarded the Board's prior Order, and because of his history of relapses of the use of drugs and his continuing pattern of this misconduct, the Board finds it again necessary to impose sanctions for the public's protection. Therefore, in accordance with the Board's findings herein and for other good cause shown,

IT IS ON THIS 11th DAY OF DECEMBER 1995,

HEREBY ORDERED THAT:

1. The license of Nicholas F. Breen, D.D.S., to practice dentistry in the State of New Jersey shall be and is hereby immediately revoked for a period of at least six (6) months and shall commence on December 6, 1995. During the period of revocation, the respondent shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered by other licensees for patients of respondent's respondent. He shall comply with the Directives applicable to disciplined licensees which are attached hereto.

(a) During the period of time in which respondent's dentistry license is revoked, the respondent shall not own or otherwise maintain a pecuniary or beneficial interest in a dental practice or function as a manager, proprietor, operator, or conductor of a place where dental operations are performed, or where drugs and/or narcotics necessary to the practice of dentistry are accessible, or otherwise practice dentistry within the meaning of N.J.S.A. 45:6-19.

2. The respondent shall not apply to the Board for reinstatement of his license to practice dentistry no sooner than six (6) months from the date of this Order. In the event the respondent wishes to petition the Board for reinstatement of his license to practice dentistry in the State in New Jersey, he shall appear personally before the Board and demonstrate to the satisfaction of the Board that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare. Additionally, the Board, at a minimum, requires evidence of attendance at NA/AA meetings at a frequency of no less than five (5) days per week and proof of clean urine samples twice a week during this period. Following its review of all of the relevant documents and submissions, the Board, in its discretion, will determine whether the respondent is physically and psychologically fit to practice dentistry in the State of New Jersey.

3. Respondent shall continue participation in the New Jersey Dental Association 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 designed 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.). The testing procedure shall include a

forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The C.D.P. shall be responsible to ensure that all urine samples are handled by a laboratory competent to provide these services.

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 Agnes Clarke, Executive Director or the Board, or her designee in the event she 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 guaranteed 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. The Board may in its sole discretion modify the frequency of testing or method of reporting during the monitoring period.

(b) The respondent shall cause the C.D.P. to 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.

(c) Respondent shall continue in counseling with Phyllis Black at a frequency of one time per two week period. Dr. Breen shall cause Phyllis Black to provide the Board with quarterly reports in regard to his attendance and progress in counseling.

(d) The respondent shall attend support groups, including NA/AA at a frequency of no less than three (3) times per week. Dr. Breen 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 the respondent has discontinued attendance at any of the support groups.

(e) Respondent shall not prescribe controlled dangerous substances nor shall he possess such substances except pursuant to a

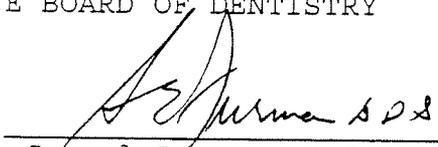
bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, Dr. Breen shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribed medication 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 confusion which may be caused by a confirmed positive urine test as a result of such medication.

(f) Respondent shall provide appropriate 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. With regard to the requirement for submission of the quarterly reports to the Board, beginning of the first quarter is deemed to commence January 1, 1996.

4. All costs associated with the monitoring program as outlined herein shall be paid directly by Dr. Breen.

5. Prior to filing a petition for reinstatement of his licensure in the State of New Jersey to practice dentistry, the respondent shall submit to a psychological evaluation by Dr. Dyer, a licensed psychologist.

STATE BOARD OF DENTISTRY

By: 
Samuel Furman, D.D.S., President

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES

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 dentistry in any form either as principal or employee of another licensee.

3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee 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 dentistry.

5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry 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 dentistry. 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.

6) Cease to use any stationery whereon such person's name appears as a dentist 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. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee 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.

8) 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 either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(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 Dental 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.

(9) 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.

(10) 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 Board 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.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director 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 Executive Director.