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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
PHILIP A. FOTI, D.D.S. :
: CONSENT ORDER
Licensed to Practice Dentistry:
in the State of New Jersey :

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the receipt of a patient complaint from M.B.K. concerning dental treatment performed by Philip A. Foti, D.D.S. ("respondent") and unsanitary conditions observed by the patient. In particular, M.B.K. alleged that respondent failed to correctly perform root canal therapy on tooth #3. Further, M.B.K. alleged that when one of her treatments was completed, respondent put away the bloodied handpiece he had used on her without cleaning it. On March 20, 1996, the Board held an investigative inquiry into the matter. Respondent was present and represented by R.B. Veeder, Esq.

Having reviewed the entire record, including patient treatment records, an Enforcement Bureau Inspection Report, and the testimony of respondent at the investigative inquiry, it appears to the Board

that respondent did not conform to standard dental practice in the State of New Jersey. This review disclosed, among other things, that respondent had difficulty performing the root canal therapy on tooth #3, but did not refer M.B.K. to an endodontist. Further, respondent did not use a rubber dam when appropriate during M.B.K.'s treatment and did not properly clean the handpiece he had used on her. Moreover, respondent's testimony revealed that his office practices and equipment were deficient in a number of respects including, but not limited to, the office X-ray machine was not registered with the Department of Environmental Protection; medical waste was not properly disposed of from the office; the office had no emergency kit; and the dry heat sterilizer had not been tested.

It appearing that respondent desires to resolve this matter without recourse to formal proceedings and for good cause shown:

IT IS ON THIS 17th DAY OF ~~JUNE~~^{July} 1996,

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall make restitution to the patient for fees charged in connection with the root canal therapy on tooth #3 by submitting a certified check or money order payable to Mary Beth Kirwan in the amount of \$105.00 to be sent to the State Board of Dentistry at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102, no later than fourteen days from the entry of this Order.

2. Respondent is hereby assessed civil penalties in the amount of \$3,500.00 for failing to have his X-ray machine inspected and registered, and for failing to properly dispose of medical waste in a timely fashion, conduct which is deemed to be

professional misconduct within the meaning of N.J.S.A. 45:1-21(e). The total amount of \$3,500.00 in civil penalties shall be submitted by certified check or money order made payable to the State of New Jersey. Respondent shall make payments on a monthly installment basis over a fourteen (14) month period. Each one of the payments shall be in the amount of \$250.00 and shall be due by the first day of each month with the first payment of \$250.00 being due by August 1, 1996. Payments shall be sent to Ms. Agnes Clark, the Board of Dentistry, 14 Halsey Street, Sixth Floor, Newark, New Jersey 07102. If any monthly installment is not made in a timely manner, the entire remaining balance shall immediately become due and payable without further notice.

3. Respondent shall successfully complete fourteen hours of continuing education in basic endodontic treatment, seven hours of continuing education in courses addressing OSHA requirements, and seven hours of continuing education in pharmacology. These courses, which are in addition to the regularly required continuing education hours, shall be approved by the Board in writing prior to attendance, utilizing the attached Pre-Approval Sheet. The courses must be completed within six months of the entry of this Order. Respondent also shall be required to complete the attached Continuing Education Report and Proof of Attendance as proof of successful completion of the required course work. The attached forms are made a part of the within Order, and a separate form is to be used for each course.

4. Respondent is hereby assessed the costs of the investigation to the State in this matter in the amount of \$832.99.

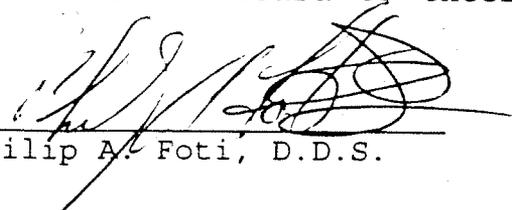
Payment for the costs shall be submitted by certified check or money order made payable to the State of New Jersey and submitted to the Board of Dentistry no later than fourteen days from the entry of this Order.



SAMUEL FURMAN, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY

2/12/86

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.



Philip A. Foti, D.D.S.



7/17/94