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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

**GORDON R. BARNES, D.D.S.**  
**License No. 17770**

TO PRACTICE DENTISTRY IN  
THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER  
OF DISCIPLINE

CERTIFIED TRUE COPY

The New Jersey State Board of Dentistry ("Board") received information indicating that between in or about 1993 through 1995 Gordon R. Barnes, D.D.S. ("respondent"), had provided anesthesia services within a medical practice for patients undergoing non-dental procedures. The Board conducted an investigative inquiry in June 1999 during which respondent acknowledged the practice. Further information available to the Board demonstrated that respondent had failed to complete continuing education credits as required for renewal of licensure. On May 1, 2002, the Board issued a Provisional Order of Discipline, preliminarily finding that respondent had administered anesthesia outside the scope of his practice as a licensed dentist and had failed to complete continuing education requirements for the 1997-1999 renewal period. Those findings supported the preliminary conclusions of law that respondent had engaged in acts that give rise to disciplinary action pursuant to N.J.S.A. 45:1-21.

Respondent sought and received additional time to respond to the Provisional Order of Discipline. By letter dated July 18, 2002, respondent acknowledged that he had provided anesthesia services for medical procedures in the practice of Mayank Patel, M.D.,

and Peter Lontai, M.D. He asserted that the regulation governing the administration of general anesthesia , N.J.A.C. 13:30-8.3, was “not clear” as to a limitation on the types of patients who may be treated by a dentist holding a general anesthesia permit. Further, respondent asked that the Board reduce the amount related to costs of investigation stating that he had admitted the conduct at the investigative inquiry conducted by the Board and therefore the Board should not have had to incur substantial costs in investigating the matter. Dr. Barnes subsequently agreed to pay the costs.

Dr. Barnes provided proof of continuing education taken during the period September 1999 through February 2002. Those proofs did not include any credits for the 1997-1999 biennial renewal period (courses to have been taken between November 1, 1995 and October 31, 1997) which was a basis for discipline in the Provisional Order. Respondent did provide proof of 20 credits plus proof of completion of a basic life support course, for which the Board will give 4 hours of credit, thus totaling 24 credit hours for the 1999-2001 biennial renewal period (courses to have been taken between November 1, 1997 and October 31, 1999). For the 2001-2003 biennial renewal period (courses to have been taken between November 1, 1999 and October 31, 2001), Dr. Barnes has submitted proof of 23.5 credit hours. He has also provided proof that in February 2002 he completed 200 hours of continuing education credit in anesthesia. Believing that he had excess credit hours in the 1999-2001 cycle, he asked the Board to apply the excess to the 1997-1999 biennial cycle. Finally, he asked that he be permitted to pay penalties and costs over a period of time.

In response to his submission, Deputy Attorney General Jodi C. Krugman noted that Dr. Barnes had failed to provide any proof that he had completed the continuing education

for the 1997-1999 renewal cycle, the period for which the Board had provisionally found a deficiency. Moreover, she argued that the proofs submitted demonstrated a failure to have completed continuing education for the subsequent renewal cycles, evidencing an ongoing disregard of the Board's rules. Finally, she suggested that respondent failed to appreciate that he was practicing outside the scope of his license.

Based on a thorough review of the submissions of the parties, the Board has determined that its provisional findings of fact and conclusions of law have not been refuted. While there is evidence to suggest that respondent has failed to complete continuing education requirements for renewal periods subsequent to the one for which he was provisionally disciplined, those failures have not been presented to the Board for action. The Board has, however, considered the evidence presented by respondent and, far from providing mitigation, respondent's proofs, or more accurately lack of proofs, demonstrate that either he lacks an understanding of his responsibility as a licensee to comply with Board regulations or he chooses to ignore those requirements.

Notwithstanding the Board's displeasure at respondent's failure to comply with its regulations, the Board will accept the 24 credits taken between 1997 and 1999 toward the deficiency for the 1997 renewal. The Board declines to attribute any portion of the 200 hours of continuing education respondent took in February 2002 to the deficiency for the period in question. Therefore, respondent must complete an additional 16 hours for the 1997-1999 renewal period.

#### FINDINGS OF FACT

1. Respondent, Gordon R. Barnes, D.D.S., is a dentist licensed to practice in the State of New Jersey and has been a licensee at all times relevant to this matter.

2. During the applicable time period, respondent held a general anesthesia permit issued by the Board.

3. Respondent is not now nor has he ever been licensed to practice medicine in the State of New Jersey.

4. On June 2, 1999, respondent appeared with counsel, Bernadette McFarland Allan, Esq., at an investigative inquiry held by the Board.

5. Respondent admitted to administering anesthesia for medical procedures, including, but not limited to endoscopies and colonoscopies, and practicing anesthesiology in a medical practice with Mayank Patel, M.D. and Peter Lontai, M.D., in an office in Jersey City, New Jersey. Respondent admitted to engaging in this conduct for a period of approximately two years, ending in approximately 1995.

6. Respondent failed to complete the continuing education courses required by the Dental Board for the 1997-99 biennial renewal period.

#### CONCLUSIONS OF LAW

Respondent's administration of anesthesia for medical procedures constitutes practice outside the scope of dentistry as set forth in N.J.S.A. 45:6-19 and of the general anesthesia permit as set forth in N.J.A.C. 13:30-8.3. Respondent's actions constitute professional misconduct and establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e). Respondent's failure to complete required continuing education for the 1997-99 renewal period constitutes a violation of N.J.S.A. 45:6-10.1, and establishes an additional basis for penalty pursuant to N.J.S.A. 45:6-10.8.

ACCORDINGLY, IT IS ON THIS 5<sup>th</sup> DAY OF FEBRUARY, 2003

ORDERED THAT:

1. Respondent shall cease and desist from performing anesthesia services for medical procedures. Respondent may administer anesthesia for dental procedures within the scope of his license provided that respondent maintains a current, general anesthesia permit issued by the Board.

2. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22, in the amount of \$1,500 for practice outside the scope of his dental license and general anesthesia permit, and, pursuant to N.J.S.A. 45:6-10.8, \$500 for failure to complete the required continuing education credits. Payment for the civil penalties totaling \$2,000 shall be made by certified check or money orders payable to the State of New Jersey, and shall be sent to Kevin B. Earle, Executive Director, Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101. In payment of the \$2000 in civil penalties, respondent shall make ten monthly payments of \$200 per payment. The first payment shall be due by March 1, 2003 and subsequent payments shall continue to be due by the first of each month until all ten payments are made. In the event that respondent does not make a payment within ten days of the date due, the full balance will immediately become due. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

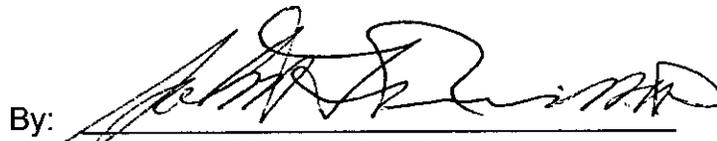
3. Respondent is assessed the costs to the State of the investigation in this matter in the amount \$3,577.64 of which \$195.00 reflects costs associated with the investigative inquiry and \$3,382.64 reflects costs related to the investigation conducted by the Enforcement Bureau. In payment of the \$3577.64 in costs, respondent shall make twelve monthly payments as follows: eleven payments of \$300 and one payment of \$267. The first payment shall be due by March 1, 2003 and subsequent payments shall continue

to be due by the first of each month until all twelve payments are made. In the event that respondent does not make a payment within ten days of the date due, the full balance will immediately become due. Payment for the costs shall be made by certified check or money order, payable to the State of New Jersey, and submitted to Kevin B. Earle, Executive Director, at the address in paragraph #2.

4. Respondent shall successfully complete sixteen hours of continuing education courses required by the Board of Dentistry for the 1997-99 biennial renewal period. These courses shall be completed within sixty days of the entry of the within Order. These courses are in addition to the regularly required continuing education hours. Respondent shall be required to complete the attached continuing education Proof of Attendance Report as proof of successful completion and passing 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.

5. Failure to comply with any provisions of this Order or to remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF DENTISTRY

By:   
John F. Ricciani, D.D.S.  
Board President