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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

HARRY CYGLER, D.M.D.
License No. DI 10245

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

CERTIFIED TRUE COPY

This matter was opened to the State Board of Dentistry upon receipt of patient complaints that Harry Cygler, D.M.D. ("respondent"), had engaged in behavior that was unprofessional, specifically that he had verbally abused the patients. Based on those complaints, Dr. Cygler appeared before the Board at an investigative inquiry on January 16, 2002, accompanied by Pamela Mandel, Esq. He testified that his behavior toward patients was attributable to a stressful period in his personal life. Following the inquiry, the Board deferred taking any action on the complaints pending receipt of an evaluation of respondent by the Physicians' Health Program of the Medical Society of New Jersey.

Respondent complied with the Board's request for evaluation. The Board has received and reviewed reports from Ricardo J. Fernandez, M.D., and George E. Piper, D.O. Louis Baxter, M.D.,

Executive Medical Director of the Physicians' Health Program, provided a letter indicating that Dr. Cygler was fit to practice. Dr. Baxter made that assessment despite the results of drug screens for Dr. Cygler, one of which was positive for cannabis.

Based on the information provided, the testimony of respondent, and arguments of counsel, the Board determined that the entry of a consent order requiring Dr. Cygler to participate in psychotherapeutic counseling to address issues related to his deportment with patients and issues related to cannabis use was appropriate and adequately protective of the public health, safety and welfare. Dr. Cygler, through counsel, was informed of the terms and agreed to comply.

Since that time, Dr. Cygler has continued to be monitored by the Physicians' Health Program. Initially, respondent was tested four times per month. In October 2002, he requested a reduction the number of urine screens. Based on information provided, the Board, in November 2002, reduced the frequency of urine testing to two times per month. The Board indicated that it would consider further modification of the monitoring and counseling regimes in or about May 2003.

The entry of this consent order does not limit the right of the Attorney General to pursue an application for relief before the Board, including an application for the temporary suspension of respondent's license pursuant to N.J.S.A. 45:1-22 should the Board

or the Attorney General determine that Dr. Cygler has engaged in further use of illegal substances or has otherwise failed to comply with this order.

THEREFORE, IT IS ON THIS 5th DAY OF ~~APRIL~~ ^{May}, 2003,

CONSENTED AND ORDERED:

1. (a.) Dr. Cygler shall submit to random urine sampling as directed by the Board a laboratory facility approved by the Board. The urine testing requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques 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.

(b.) All test results shall be provided to Kevin B. Earle, Executive Director of the Board, or his designee in the event he 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.

(c.) Any failure by 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 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 Kevin B. Earle, or his designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, Dr. Cygler must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that he 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 Dr. Cygler 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.

(d.) In the event respondent will be out of the State for any reason, the Board and the Physicians' Health Program shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(e.) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall be deemed a confirmed positive urine test.

(f.) Dr. Cygler shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

2. Dr. Cygler, having submitted to a psychiatric assessment, shall comply with the recommended therapeutic regime for treatment or counseling, including weekly sessions to focus on anger management. Respondent shall continue his participation with the Physicians' Health Program ("PHP") and shall have face to face contact with representatives from that program as directed. Respondent shall comply with after care as directed by the PHP. Respondent shall be responsible for ensuring that any treating psychologist and any other person(s) providing therapy shall provide the Board with quarterly reports regarding his progress in counseling.

3. Dr. Cygler shall abstain from the use of controlled dangerous substances and shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by

a physician or dentist for good medical or dental cause in his own treatment. 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 two (2) 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.

4. Dr. Cygler shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

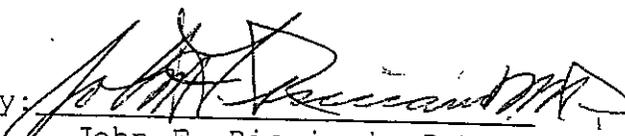
5. Dr. Cygler shall pay costs in this matter in an amount to be determined by the Board. Should the costs exceed \$1,500 Dr. Cygler reserves the right to provide objections relating to the amount and/or request a payment schedule. Once determined, costs shall be paid by certified check or money order payable to the State of New Jersey and forwarded to Kevin B. Earle, Executive Director, New Jersey State Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Newark, New Jersey 07101.

6. Dr. Cygler may seek to modify the restrictions set forth in this order not sooner than May 6, 2003. In support of an application to modify the restrictions, Dr. Cygler shall cause a

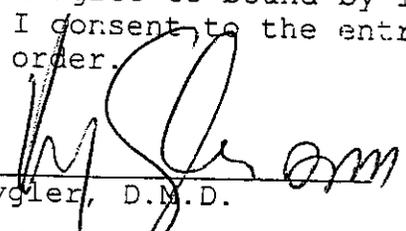
representative from the Physicians' Health Program and those mental health professionals by whom he has been treated to submit a report to the Board outlining respondent's current status and providing a recommendation regarding the continuation of monitoring and therapy.

7. Dr. Cygler shall be subject to an order of suspension of his license on short notice upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse.

New Jersey Board of Dentistry

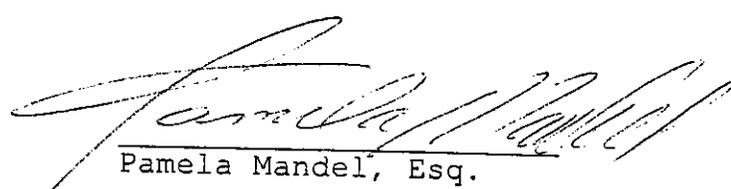
By: 
John F. Ricciani, D.M.D.
President

I have read the terms of this order and agree to bound by its terms. I consent to the entry of this order.


Harry Cygler, D.M.D.

April 17, 2003

I consent to the entry of this order as to form.


Pamela Mandel, Esq.

April 21, 2003