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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

Administrative Action

DAVID J. GARBOLINO, D.M.D.  
License # DI 14053

ORDER OF REINSTATEMENT  
WITH RESTRICTIONS  
ON LICENSE

LICENSED TO PRACTICE DENTISTRY  
IN THE STATE OF NEW JERSEY  
\_\_\_\_\_

This matter was initially opened to the State Board of Dentistry upon receipt of information that David J. Garbolino, D.M.D. ("respondent"), had been arrested in December 2002 for inhalation of nitrous oxide gas for the purpose of causing intoxication. Following his arrest, respondent entered into a consent order with the Board in which he agreed to practice with restrictions on his license, including submitting to random urine monitoring. In July 2003, respondent's urine tested positive for marijuana and in August 2003, respondent voluntarily surrendered his license for a minimum period of three months.

In November 2003, respondent sought to reinstate his license to practice dentistry. In support of his application, Dr. Garbolino provided reports from his treating psychologist and a chemical dependency counselor as well as a report from William Keene, D.D.S., M.A., Executive Director of the New Jersey Dental Association's Chemical Dependency Program. All attested to Dr. Garbolino's progress in recovery. Respondent, as contemplated by the order of voluntary surrender, appeared before the Board on December 3, 2003 with John Paul Dizzia, Esq. .

Having considered the testimony of respondent and the reports provided, the Board has determined that the public health, safety and welfare will be adequately protected by Dr. Garbolino's return to practice with the restrictions outlined in this order. Respondent's return to practice is conditioned on strict compliance with the terms of this order. Violation of the terms of this order will result in immediate action by the Board.

IT IS, therefore on this <sup>3<sup>rd</sup></sup> day of December , 2003,

ORDERED THAT:

1. The license of respondent, David J. Garbolino, D.M.D., to practice dentistry in this State is reinstated effective December 3, 2003, subject to the restrictions in this order.
2. Respondent shall abstain from any and all intoxicating substances, including but not limited to nitrous oxide and alcohol as well as any controlled dangerous substances except as outlined in this order.
- 3.(a.) Dr. Garbolino shall submit to random urine sampling a minimum of two times per week at a laboratory facility approved by the Board. The urine testing requirement

shall continue until further order of the Board expressly reducing or discontinuing testing. Dr. Garbolino shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designated 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 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 Dr. Garbolino 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 Dr. Garbolino 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. Garbolino 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. Garbolino that is so unsurmountable 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 Dr. Garbolino will be out of the State for any reason, the Board 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 1.003 shall be deemed a confirmed positive urine test.

(f.) Dr. Garbolino 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.

4. Dr. Garbolino shall continue his participation in the New Jersey Dental Association's Chemical Dependency and shall have at a minimum monthly face to face contact with representatives from that program. Dr. Garbolino shall comply with any recommended therapeutic regime for treatment or counseling. Dr. Garbolino shall be responsible for ensuring that any treating psychologist and any other person(s) providing therapy for his addiction provide the Board with quarterly reports regarding his progress in counseling.

5. Dr. Garbolino shall attend support groups, including NA or AA not less than four times per week. Dr. Garbolino shall provide evidence of attendance at such groups directly to the Board. If Dr. Garbolino has discontinued attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

6. Dr. Garbolino shall abstain from the use of all 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. In addition, Dr. Garbolino shall advise any and all treating physicians and/or dentists of his history of substance abuse. Dr. Garbolino 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.

8. Dr. Garbolino 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. With regard to any requirement for submission of the quarterly reports to the Board, the beginning of the first quarter is deemed to have commenced December 1, 2003.

9. Respondent shall provide a copy of the log maintained in his office listing all purchases and acquisitions of any controlled dangerous substances and the dispensing of those

substances to patients. The log shall be provided to the Board on a quarterly basis. For purposes of this order, the first quarter shall have commenced on December 1, 2003.

10. Respondent may seek modification of the terms of this order not sooner than one year from its entry. Prior to any modification or removal of restrictions set forth in this order, respondent shall:

a. Appear before the Board or a committee of the Board to discuss his recovery and to demonstrate to the satisfaction of the Board that he is not then suffering from any impairment or limitation resulting from the use of any substance, whether legal or illegal, which could affect his practice;

b. Prior to his appearance, respondent shall provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment for the disability in this matter during the period of time from his entry into treatment to his appearance;

c. Prior to his appearance, provide the Board with a report from the Physicians' Health Program detailing the nature and extent of his involvement with that entity and its recommendations concerning the modification and removal of restrictions; and

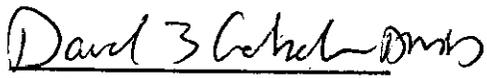
11. Dr. Garbolino shall be subject to an order of suspension of his license on short notice upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent is not capable of carrying out the functions of a licensee consistent with the public's health, safety or welfare or that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to

report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of drug use. A hearing on that application may be before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be immediately effective and subject to ratification of the full Board at its next scheduled meeting.

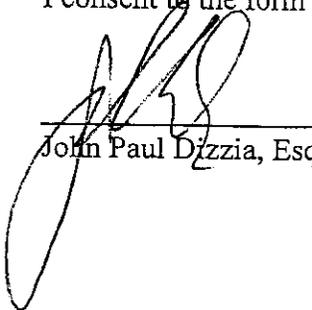
New Jersey Board of Dentistry

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

I have read and I understand the terms of this order and agree to be bound by it. I consent to the entry of this Order.

 12-8-03  
David J. Garbolino, D.M.D.      Date

I consent to the form of this order.

  
John Paul Dizzia, Esq.      12/12/2003  
Date