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WITH THE
N.J. BOARD OF DENTISTRY
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By: Nancy Costello Miller
Deputy Attorney General

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

IN THE MATTER OF THE
SURRENDER OF THE LICENSE OF

ROBERT MALFARA, D.M.D.
License # DI 17162

TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

:
: Administrative Action
:
: **CONSENT ORDER OF**
: **VOLUNTARY SURRENDER**
: **OF LICENSURE**
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This matter was opened to the State Board of Dentistry upon receipt of information that Robert Malfara, D.M.D. ("respondent"), was suspected of using drugs for non-medical or dental purposes; had no records for purchases of controlled dangerous substances ("CDS") as required by federal law; had written numerous prescriptions for CDS to patients without corresponding dental records to indicate those prescriptions were

for valid dental or medical reasons; and had abandoned his dental practice. Respondent is represented by Anthony LaBue, Esq.

Pending further investigation and in order to avoid the initiation of formal disciplinary action, respondent has agreed to cease practicing dentistry in this State, and will give his biennial registration, CDS registration, DEA registration, and all prescription pads bearing his name to investigators from the Enforcement Bureau, Division of Consumer Affairs. Respondent has agreed to the voluntary surrender of his license to practice dentistry in the State of New Jersey without prejudice and in accordance with the terms of this Order. The Board finds the terms of this consent order to be adequately protective of the public health, safety and welfare.

IT IS, therefore, on this 22nd day of September, 2004,

ORDERED THAT:

1. Respondent, Robert Malfara, D.M.D., shall immediately surrender his license to practice dentistry in the State of New Jersey for a minimum period of six months from the entry date of this Order.
2. Respondent shall comply with the attached directives for dentists whose surrender of licensure has been accepted by the Board.
3. Respondent, Robert Malfara, D.M.D., shall submit to a four day, in-patient assessment at The William Farley Center at Williamsburg Place, Williamsburg, Virginia, at the earliest date as arranged by the Well Being Program of the New Jersey Dental Association or at another facility approved by the Board.
4. Dr. Malfara shall abstain from the use of alcohol and 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. In addition, Dr. Malfara shall advise any and all treating physicians and/or dentists of his history of substance abuse. Dr. Malfara 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.

5. (a) Beginning September 15, 2004 and continuing until further order of the Board, Dr. Malfara shall submit to random urine sampling a minimum of twice a 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. Malfara shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by William Keene, D.D.S., M.A., and/or by Kevin Earle, Executive Director of the Board. 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 Dr. Malfara 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. Malfara 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. Malfara 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 used in this provision shall mean an obstacle beyond the control of Dr. Malfara 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 Dr. Malfara 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.

(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. Malfara 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.

(g.) The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

6. Pending further order of the Board, Dr. Malfara shall continue his participation with the Well Being Program as directed by that program and shall have face to face contact with representatives from that program as directed by Dr. Keene. Dr. Malfara shall attend support groups, including NA or AA if directed by the Well Being Program. Dr. Malfara shall provide evidence of attendance at such groups directly to the Board. If Dr. Malfara discontinues attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

7. Dr. Malfara shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, 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. Any information received by the Board regarding respondent's treatment or participation in a monitoring program may be used in connection with any proceedings pertaining to his license.

8. Nothing in this order shall be deemed to preclude the Board from taking any action it deems appropriate, including the filing of a complaint and/or seeking a temporary suspension of respondent's license, should the Board's review of information cause it to determine that such action is warranted.

9. Prior to any restoration of his license, respondent shall demonstrate a minimum of six months of sobriety and compliance with all terms of this order. In

connection with an application for reinstatement, and upon request of the Board, respondent shall:

a. Appear before the Board or a committee of the Board to discuss his readiness to reenter the practice of dentistry. At that time respondent shall be prepared to propose his plans for future practice in New Jersey.

b. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any CDS or other substance, whether legal or illegal, which could affect his practice.

c. 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.

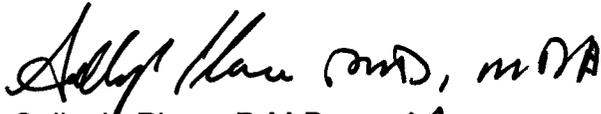
d. Provide the Board with a report from the New Jersey Dental Association Well Being Program detailing the nature and extent of his involvement with that entity.

e. Affirmatively establish his fitness, competence and capacity to re-enter the active practice of dentistry within New Jersey.

f. Provide the Board with a full account of his conduct during the intervening period of time from his entry into treatment to his appearance pursuant to this Order.

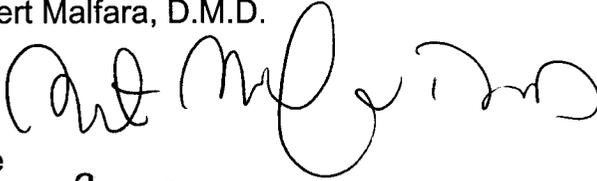
8. Entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from respondent's conduct.

NEW JERSEY STATE BOARD OF DENTISTRY

By: 
Sally-Jo Placa, D.M.D., MPA
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.

Robert Malfara, D.M.D.



Date

9-13-04

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



William Lundsten, Esq.

Date

9-13-04