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

IN THE MATTER OF :

:
:
: Administrative Action
:
:

PHYLLIS DETWILER, D.M.D. :
License No. DI 11304 :

: 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 receipt of information that Phyllis Detwiler, D.M.D. ("respondent"), had administered certain sedative medications to a patient in connection with his dental treatment and the patient, shortly after the treatment, was involved in a fatal motor vehicle collision. Specifically, it has been alleged that respondent gave doses substantially in excess of the recommended therapeutic doses and that she failed to recognize and diagnose the patient's underlying medical condition (substance abuse) which contributed to the patient's conduct and death.

On April 20, 2005, respondent appeared with counsel, Joseph Cooney, Esq., at an investigative inquiry into the matter held by the Board. At that time, respondent testified about her assessment and treatment of the patient, the medications administered, and their effects. She further testified that the patient gained access to his wife's keys (she had accompanied him to provide him transport following treatment) and drove from the parking lot despite advice to the patient's wife that the keys should not be entrusted to the patient. Almost immediately thereafter, the patient hit another vehicle in a head on collision, killing him. An autopsy conducted on the patient revealed that he had a narcotic patch on his shoulder, which patch had not been prescribed for him. Respondent was not aware that the patient was taking that medication.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that the facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(c) and pursuant to N.J.S.A. 45:1-21(h), as respondent failed to notify the Board of the death of a patient following dental treatment as required by N.J.A.C. 13:30-8.8(b).

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

IT IS ON THIS *2nd* DAY OF *November*, 2005

HEREBY ORDERED AND AGREED THAT:

1. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22 in the amount of \$15,000 for conduct with respect to her management of the patient and failure to notify the Board of the death of a patient following treatment. Payment of civil penalties of \$15,000 shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to Kevin B. Earle, M.P.H., Executive Director, P.O. Box 45005, 124 Halsey Street, Sixth Floor,

Newark, New Jersey 07101. Respondent may pay the civil penalty in one sum within 30 days of the entry of this Consent Order or in the alternative, may make twelve monthly payments of \$1,250 per payment. The first payment shall be due by November 1, 2005 and subsequent payments shall be due by the first of each month until all twelve payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

2 Respondent is assessed the costs of the investigation to the State in this matter in the amount of \$1,791.83. 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 no later than thirty (30) days from the entry of this Consent Order. Payment shall be sent to Kevin B. Earle, Executive Director at the address described in paragraph #1

3. Failure to remit any payment as required by this Order will result in the filing of a certificate of debt.

4. Respondent shall successfully complete the following continuing education: Seven (7) hours in medical management of substance abusers; seven (7) hours of pharmacology; and seven (7) hours of management of medical emergencies in the dental office. These courses shall be completed within six (6) months of the entry of this Consent Order. Further, these courses, which are in addition to the regularly required continuing education hours, shall be approved by the Board in writing prior to attendance. Respondent shall complete the attached continuing education course approval and shall provide proof of successful completion of the required course work. The attached form is made a part of this Consent Order. A separate form shall be used for each course.

5. Respondent shall cease and desist from using sedation in her dental practice until she demonstrates to the Board's satisfaction her competency to use such sedation. Any application by respondent for a permit to administer enteral conscious sedation in her practice shall include proof of successful completion of required course work pursuant to N.J.A.C. 13:30-8.4(f) and completion of continuing education as required by this order. The Board specifically reserves the right to require respondent's appearance before the Board or a committee of the Board in connection with an application for such permit as well as the right to place restrictions on respondent's practice in connection with sedation. For purposes of this order, sedation shall include the administering, dispensing or prescribing of one or more pharmacological agents to be used concurrently or sequentially for the purposes of causing a depressed level of consciousness and anxiolysis. Pharmacological agents include any non-parenteral agent. Further, as respondent does not possess a permit to administer parenteral conscious sedation or general anesthesia, respondent shall not administer any agent by any means that would cause deep sedation or effect general anesthesia.

6. Respondent shall cease and desist from all advertising referring to the use of sedation dentistry in her practice until such time as she has been granted a permit by the Board to administer sedation. This proscription includes all media, whether print or electronic, and shall include but not be limited to web sites and links to web sites as well as stationery and business cards.

7. Respondent shall cease from using nitrous oxide inhalation analgesia in her practice until such time as the equipment that delivers the nitrous oxide inhalation analgesia is inspected and certified by a professional medical device company to ensure that the gauges on the machine are accurate and that the delivery of nitrous oxide and oxygen is consistent with manufacturer specifications. Upon completion of the inspection and certification of equipment, respondent shall

provide a copy of the inspection report and certification of compliance with manufacturer's specifications to the Board office.

8. At the point in time when respondent may reintroduce the use of nitrous oxide inhalation analgesia into her practice, respondent shall ensure that in every administration of nitrous oxide inhalation analgesia, the mixture delivered to the patient shall be at least 50% oxygen.

9. Failure to comply with any of the terms of this consent order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Herbert B. Dolinsky D.D.S.
Herbert B. Dolinsky, D.D.S.
President

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

Phyllis H. Detwiler
Phyllis H. Detwiler, D.M.D.

10-20-05
Date

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

Joseph K. Cooney
Joseph K. Cooney, Esq.

10-24-05
Date