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N.J. BOARD OF DENTISTRY  
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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  
:  
:  
JOHN A. KIRKOWSKI, D.M.D.  
License No. 22 DI0089400  
:  
:  
LICENSED TO PRACTICE DENTISTRY  
IN THE STATE OF NEW JERSEY  
:

Administrative Action  
CONSENT ORDER

This matter was originally opened to the New Jersey State Board of Dentistry ("the Board") in 1991 based upon receipt of information that the dental office of John A. Kirkowski, D.M.D. ("respondent"), was observed to be operating in an unsanitary manner. As a result, on January 15, 1991, respondent entered into a consent order with the Board whereby he agreed to have his autoclave tested by an independent company, agreed to be reprimanded for being negligent in permitting his dental office to become unsanitary, and agreed to a one thousand dollar (\$1,000.00) civil penalty.

In 1996, the Board received a patient complaint, again alleging unsanitary conditions in the office of respondent. On July 31, 1996, an investigator from the Enforcement Bureau, Division of Consumer Affairs, ("Enforcement Bureau") conducted an inspection of the premises which disclosed unsanitary conditions in respondent's office. Following the inspection, respondent entered into a consent order with the Board dated December 23, 1996. Respondent was assessed a twenty-five hundred dollar civil penalty (\$2,500.00) and costs of investigation in the amount of four-hundred, ninety-two dollars and fifty-five cents (\$492.55). Respondent also agreed to maintain his office in a clean and sanitary condition. Finally, respondent was reprimanded by the Board and agreed to submit proof to the Board that his autoclave was being inspected.

On May 19, 2008, two investigators of the Enforcement Bureau conducted an inspection of respondent's dental office in response to receipt of a patient complaint alleging unsanitary conditions. The inspection revealed that respondent's practice was again being operated in an unsanitary manner. Specifically, the inspection revealed there was a layer of dust present on the equipment and counter tops, there were stains present on portions of the rug throughout the office, and some of the ceiling tiles were stained and bulging. During the inspection, respondent was wearing a smock that was stained and wrinkled.

The findings of the inspection concluded that the rug in respondent's lone operatory was stained and dirty. There was a layer of dust present on the bracket table, x-ray unit and dental light. A bloody fingerprint was present on the x-ray unit. The counter top in the operatory was dusty and cluttered with dental supplies. The exterior of the cabinets were stained and dirty. Instruments and supplies located in the cabinets were haphazardly arranged. Many of the instruments in the office were rusty, bloody or had debris on them. One of the trays on which the instruments were stored was bloody and all of the trays were dirty and dusty.

Although respondent agreed in the 1991 and 1996 consent orders to have his autoclave tested by an independent agency, no independent tests are conducted. Also, the cold sterilization solution present in the ultrasonic cleaner was gray and extremely cloudy. Respondent does not maintain an emergency kit.

Respondent's x-ray unit did not contain a Department of Environmental Protection sticker and respondent was unable to produce any documentation that the unit had ever been inspected. Additionally, no thyroid collar was present in the office.

Respondent stated he does not disinfect his impressions, instead he washes his impressions with water. While a Sharps container was present in the laboratory, respondent does not have a medical waste disposal contract. Whenever respondent needs to have his medical waste removed from the office, he contacts a medical waste disposal company. Respondent's last medical waste pick-up was on September 2, 2006.

Having reviewed the entire record, including the photographs of respondent's practice taken on May 19, 2008, the report of inspection on that date, as well as the consent orders entered into by respondent in 1991 and 1996, it appears to the Board that respondent is unable to maintain his professional practice in a safe and sanitary condition. These facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(d), in that respondent has engaged in repeated acts of

negligence, malpractice and incompetence by failing to have his autoclave tested by an independent agency, failing to maintain an emergency kit in the office, failing to have his x-ray unit inspected and failing to obtain a medical waste disposal contract. These facts also establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional misconduct by failing to maintain his office in a safe and sanitary condition. Finally, these facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional misconduct by failing to comply with an order duly entered and served upon the respondent, that is the consent orders filed January 15, 1991 and December 23, 1996, in violation of N.J.A.C. 13:45C-1.4.

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

IT IS ON THIS 30<sup>th</sup> DAY OF July, 2008

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall immediately cease and desist practice at and close the practice located at 223 Sparta Avenue, Sparta, New Jersey. The office must remain closed until such time as respondent can demonstrate, and the Board is satisfied after reviewing documents submitted by respondent and reviewing an inspection to be performed by the Enforcement Bureau of the Division of Consumer Affairs, that respondent is complying with the Center for Disease Control guidelines for sterilization and the disposal of medical waste and that respondent's x-ray unit has been inspected by the New Jersey Bureau of Radiologic Health and that respondent's office premises are sanitary and that the practice will be conducted in a safe and sanitary manner. Specifically, respondent must demonstrate that the office and his practice conforms with the following requirements:

- a) Employment of an office cleaning service which cleans the office on a regular basis, a minimum of once per week.
- b) Sterilization unit subject to appropriate sterilization monitoring. All hand pieces and critical patient instruments must be bagged and autoclaved. Respondent shall contract with a sterilization monitoring service and shall maintain a log of when test strips are submitted and the test reports of the monitoring service.
- c) Proper storage of all patient records and charts to maintain patient confidentiality and the integrity of radiographs.

- d) Proper disposal of all regulated medical waste including obtaining a medical waste registration number with the Department of Environmental Protection. Respondent must contract with a proper medical waste disposer and must maintain all records pertaining to the disposal of medical waste.
- e) Non-heat stable items, such as plastic impression trays, that cannot be autoclaved shall be disposed of after single use.
- f) All instruments placed in sterile containers, cassettes or bags, in order to prevent the open-air contamination of the instruments.
- g) Utilization of the ultra-sonic cleaner to treat all instruments with appropriate materials such as enzymatic solution. The enzymatic solution shall be changed on a regular basis.
- h) Utilization of appropriate barrier techniques in all treatment rooms.
- i) All surfaces must be cleaned with Environmental Protection Agency registered intermediate level disinfectant with tuberculocidal claim.
- j) Respondent shall wear appropriate protective gear for all patients and services provided. Respondent shall ensure that he wears a clean lab coat when treating patients.
- k) All patient records shall be maintained consistent with the New Jersey patient record regulations found at N.J.A.C. 13:30-8.7.
- l) Respondent shall ensure his x-ray equipment complies with the Performance Standards of the New Jersey Radiation Protection Code, N.J.A.C. 7:28 et seq.
- m) Respondent shall take x-rays, and utilize other proper diagnostic criteria, in accordance with the appropriate standard of care.
- n) Respondent shall remove the dust and dirt film which is present throughout many areas of the office and hereafter maintain the office in a clean and sanitary manner.
- o) Respondent shall maintain on the premises appropriate personal hygiene supplies including liquid soap and disposable hand towels.
- p) Respondent shall rectify the situation concerning the stained and bulging ceiling tiles present throughout the office and correct the situation concerning stains that are present on portions of the rug throughout the office.
- q) Respondent shall maintain an emergency kit in his office.

2. Prior to applying for permission to reopen the practice, respondent must successfully complete seven hours (7) of continuing education in sterilization techniques. Additionally, respondent must complete an Occupational Safety and Health Administration course. Respondent shall complete the attached continuing education Report and Proof of Attendance as proof of successful completion of the courses. The attached form is made part of this Consent Order.

3. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of one thousand seven hundred dollars (\$1,700.00) for engaging in repeated acts of negligence, malpractice and incompetence, pursuant to N.J.S.A. 45:1-21(d), in that respondent failed to have his autoclave tested by an independent agency, failed to maintain an emergency kit in the office, failed to have his x-ray unit inspected, and failed to obtain a medical waste disposal contract. Additionally, respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of one thousand seven hundred dollars (\$1,700.00) in that respondent has engaged in professional misconduct by failing to maintain his office in a safe and sanitary condition. Finally, respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of one thousand seven hundred dollars (\$1,700.00) for engaging in professional misconduct in that respondent failed to comply with an order duly entered and served upon the respondent, that is the consent orders filed January 15, 1991 and December 23, 1996, in violation of N.J.A.C. 13:45C-1.4. Payment of the civil penalties totaling five thousand one hundred dollars (\$5,100.00) shall be made no later than thirty (30) days from the entry of this Consent Order. Payment of the civil penalty shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to Jonathan Eisenmenger, Executive Director, Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark New Jersey 07101.

4. Respondent is hereby assessed the costs of the investigation to the State in this matter in the amount of three thousand, three hundred, forty-two dollars and fifty-six cents (\$3,342.56). Payment of the investigative costs by respondent are stayed and shall be activated should respondent engage in any violations of this order.

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

6. Respondent is hereby reprimanded by the Board for the violations outlined above.

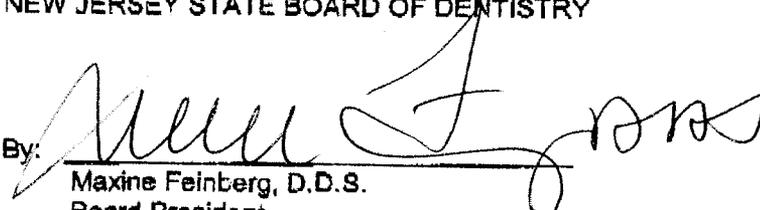
7. Upon the reopening of his dental practice, respondent shall afford access to his dental practice for periodic, random inspections by the Enforcement Bureau for the purpose of assuring the Board that he is maintaining his office in a safe and sanitary condition and in conformance with the requirements of this order. Respondent shall be responsible for paying the costs of these inspections.

8. Failure to comply with any of the terms of this consent order may result in further disciplinary action. Respondent hereby consents to the entry of an order of automatic suspension of license without notice, upon the Board's receipt of 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 Interim Consent Order.

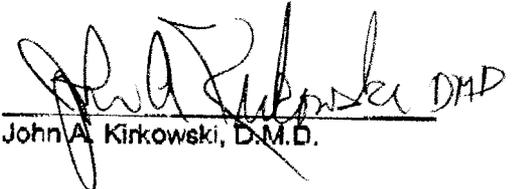
9. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the information submitted regarding a violation of this Consent Order was false.

NEW JERSEY STATE BOARD OF DENTISTRY

By:

  
Maxine Feinberg, D.D.S.  
Board 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.

  
John A. Kirkowski, D.M.D.

Date

7/29/08

New Jersey State Board of Dentistry  
Application for Course Approval  
(Please Type or Print Legibly)



124 Halsey Street . 6th Floor . Newark, NJ . 07101  
phone: 973.504.6405  
fax: 973.273.8075

The Board cannot assure approval for courses provided. Applications must be submitted at least 30 days prior to the course date.

**A separate form is to be used for each course.** A copy will be returned to you after approval or denial by the Board.

Dentist name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

The following course is designed to fulfill a portion (or all) of \_\_\_\_\_ hours required in the area of \_\_\_\_\_

Number of credit hours requested for this particular course: \_\_\_\_\_

Course Title: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sponsor Phone Number: \_\_\_\_\_

Date(s) you will be attending course: \_\_\_\_\_

Time course begins and ends: \_\_\_\_\_

**Please attach a course brochure. (Required)**

**For Board use only**

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_

Approved

Denied

Reason for denial: \_\_\_\_\_  
\_\_\_\_\_