

2007. The conduct giving rise to the conviction is that respondent, while treating S.C., a nineteen year old female for removal of wisdom teeth, repeatedly touched her breasts.

On July 25, 2007, respondent appeared with counsel, Howard Weinstein Esq., at an investigative inquiry into the matter held by the Board. During questioning, Dr. Hwang denied that he had touched the patients breasts for a non-medical or non-dental purpose. He testified that the patient experienced respiratory distress and that he had attempted to perform cardio-pulmonary resuscitation using his elbow. He testified that he had administered six carpules of 3% Carbocaine to the patient but, upon questioning, was unfamiliar with the concept of lethal dosage limitations for that drug. Further, his responses to Board questions on his knowledge of physiology and basic life support demonstrated a fundamental lack of knowledge in these areas. In addition, respondent testified that he had did not have positive pressure oxygen in his office, although he had an ambu bag.

During the inquiry, when asked whether he had disclosed the arrest on his renewal application for the 2005-2007 licensing period, respondent testified that he had left the response blank. In fact, respondent had answered the question "no." The Board had previously reprimanded and imposed a civil penalty of \$2,500 on respondent in 1999 for his failure to disclose an arrest on his 1997-1999 renewal.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that respondent was not credible in his response to inquiries regarding the incident with S.C., that he lacks fundamental knowledge regarding physiology, basic life support, and pharmacology, that he falsely answered the question relating to arrests and convictions on his biennial renewal, and that he engaged in professional misconduct while treating S.C.

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21(b), (c), (d), (e) and (f). Respondent's conviction for harassment in connection with care of patient constitutes a crime or offense involving moral turpitude or relating adversely to an activity regulated by the Board, N.J.S.A. 45:1-21(f); conduct in touching the breasts of a female patient constitutes professional misconduct, N.J.S.A. 45:1-21(e); respondent's conduct in answering "No" on his renewal application in October 2005 to the question that asked if he been arrested since his last renewal, constitutes engaging in the use or employment of dishonesty, fraud, deception, or misrepresentation, N.J.S.A. 45:1-21(b); and respondent's failure to have appropriate equipment and knowledge of basic physiology constitutes gross and/or repeated acts of incompetence, N.J.S.A. 45:1-21(c) and (d).

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

IT IS ON THIS 30th DAY OF *July*, 2009,

HEREBY ORDERED AND AGREED THAT:

1. Robert Hwang's license to practice dentistry shall be suspended effective on August 1, 2009, for a period of three years, of which a minimum of 90 days shall be served as a period of active suspension, the remainder of which shall be stayed and served as a period of probation. The active period shall run from August 1, 2009 through and including October 31, 2009, provided respondent complies with the provisions of this Consent Order. If respondent fails to comply with the provisions of this Consent Order, the active portion of the suspension may be continued until such compliance is achieved.

2. During the period of active suspension, respondent shall cease and desist from the practice of dentistry in this State and shall comply with the directives applicable to

Board licensees who have been suspended or revoked by the Board. A copy of those directives is attached to and made a part of this Consent Order.

3. Prior to his return to active practice, respondent shall submit to a psychological evaluation conducted by Jeffrey Allen, Ph.D., or another licensed psychologist approved by the Board. Respondent shall sign a release to permit Dr. Allen or any other psychologist conducting the evaluation to submit a report of his findings and all relevant underlying information to the Board. The Board specifically reserves the right to require respondent to appear before the Board or a committee of the Board, to impose further restrictions on respondent's practice, or require respondent to undergo treatment if the psychological evaluator recommends such treatment. If the Board orders respondent to attend any program or counseling, respondent agrees that he shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, or other program, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Respondent agrees that 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.

4. Upon return to active practice following his suspension, respondent shall cease and desist from extracting third molars and from performing all dental alveolar surgery. This restriction shall remain in effect until further order of the Board. Respondent may petition the Board for relief from this provision after completion of the continuing education set forth in paragraph 6 below. The Board specifically reserves the right to continue this restriction until respondent can demonstrate competency to perform such surgery.

5. Upon respondent's return to active practice:

(a) Respondent shall only practice in the presence of a monitor who is licensed as a dental hygienist or a registered dental assistant in this State.

(b) The monitor must be physically present and in direct line of sight at all times when respondent is with a female patient. The monitor(s) shall sign the patient chart to reflect his or her presence for the entire period of interaction with the patient.

(c) The monitor shall report to the Board within 24 hours any incident or evidence of conduct suggesting that respondent has improperly touched or abused a patient, violated professional boundaries in connection with treatment of a patient, or failed to abide by the terms of this order. The report may be made telephonically, or by written or electronic means, to Jonathan Eisenmenger, Executive Director (or his designee), State Board of Dentistry, 124 Halsey Street, 6th Floor, Newark, New Jersey, 973 504-6405.

6. Respondent shall cause the monitor(s) to submit a letter to the Board identifying his or her name and the license or registration held, and stating that he or she has read this Consent Order and agrees that he or she will comply with its terms.

7. Respondent shall successfully complete the following continuing education: twenty-one (21) hours in oral surgery techniques; seven (7) hours in cardio-pulmonary resuscitation/Basic Life Support, to include medical emergencies; and seven (7) hours in pharmacology to include anesthesia and antibiotic therapy. These courses shall be completed within six 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 within six (6) months of the entry of this Consent

Order. The attached form is made a part of this Consent Order. A separate form shall be used for each course.

8. Respondent shall fully attend, successfully complete, and pass an ethics course within six (6) months of the entry of this order. Respondent shall complete the ProBE (Professional Problem Based Ethics) course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903, or another ethics course of similar content that is approved by the Board. Documentation of full attendance and successful completion of the course shall be provided to the Board within 30 days of completion of the course.

9. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22 in the amount of ~~\$5000~~ ^{\$3000.} for falsely certifying on his biennial renewal application in October 2005 that he had not been arrested for any crime or offense since his last renewal. Payment of the civil penalties of ~~\$5000~~ ³⁰⁰⁰ 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, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101 no later than thirty (30) days from the entry of this Consent Order. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

10. Failure to remit any payment as required by this Order will result in the filing of a certificate of debt and such other proceedings as authorized by law.

11. Prior to resuming active practice following suspension, respondent shall provide proof to the Board: that he has updated the emergency kit in his office to include appropriate, positive pressure oxygen, and suction; that he has a current medical waste

disposal contract; and that he has a protocol in place for testing of sterilizing equipment, and provide the results of those sterilization tests.

12. 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: 
Alexander Hall, D.M.D.
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.


Robert Hwang, D.D.S.

Date 7/30/2009

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 part _____ / or all _____ of _____ hours required for:

- a. incomplete general CE requirements _____ b. remediation CE in _____

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 CE Committee _____

Approved _____ for _____ hours in _____

Denied _____ Reason for Denial: _____

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

6. Reports of Reimbursement

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

7. Report of Changes of Address

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.