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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

ALAN A. SCHWARTZ, D.M.D.
License No. 22DI 01881800

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

INTERIM
CONSENT ORDER

The New Jersey State Board of Dentistry ("Board") received information that Alan A. Schwartz, D.M.D. ("respondent"), had written prescriptions for controlled dangerous substances, including Xanax, for family members and others. When notified of the Board's investigation, respondent, on April 15, 2009, enrolled in the Professional Assistance Program (PAP), whose medical director indicated that respondent would be monitored to rule out substance use disorder.

On May 6, 2009, respondent appeared at an investigative inquiry before the Board with his counsel, Robert J. Conroy, Esq. During his appearance respondent detailed the

nature of his practice and provided his rationale for writing prescriptions for family members and close friends.

Since his appearance, Louis Baxter, M.D., Executive Medical Director of the PAP, notified the Board that respondent's urine had tested positive for THC. Dr. Baxter, by letter dated June 19, 2009, stated that respondent offered a "reasonable medical explanation" for the positive test results, that is he had eaten candy laced with hemp.

Based on the information available, the Board has determined that respondent's continued practice without restrictions is not consistent with the public health, safety, and welfare. The Board has not determined what sanction, if any, is appropriate based on respondent's conduct including, but not limited to prescribing practices and failure to maintain proper records as required by Board regulations. While reserving the right to pursue any action it deems appropriate, the Board will enter this Interim Consent Order. Respondent, without making any admissions and reserving his right to defend against any charges that may be brought, agrees to the entry of this Interim Consent Order. Any violation of the terms of this order, including a positive urine screen, will result in the automatic suspension of respondent's license subject to a hearing on short notice.

THEREFORE, IT IS ON THIS 5th DAY OF August 2009

HEREBY ORDERED AND AGREED THAT:

1. Alan A. Schwartz, D.M.D., may continue to practice dentistry in this State subject to the conditions and restrictions in this Consent Order.

2. Respondent shall be permitted to write prescriptions and administer and dispense medications only for patients as required in the course of dental treatment in accordance with the following terms and conditions:

(a) Respondent shall not prescribe, administer or dispense controlled dangerous substances.

(b) Respondent shall use sequentially numbered, triplicate prescription blanks for all prescriptions written.

(c) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy, along with a copy of the patient record, to the Board, attention: Jonathan Eisenmenger, Executive Director, on a monthly basis. For purposes of this order, the first month commences on July 1, 2009. However, the first submission shall be due no later than August 1, 2009, for all prescriptions written in July starting on the entry date of this order.

(d) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.

3. At all times when he is engaged in the practice of clinical dentistry, respondent shall have a licensed dentist, a licensed dental hygienist or a registered dental assistant present in the office to assist him.

(a) The dentist or dental auxiliary shall hold a valid license or registration issued by the State Board of Dentistry.

(b) The dentist or dental auxiliary shall agree to report to the Board any conduct or observations that indicate that respondent may be impaired, may be using, prescribing, administering or dispensing controlled dangerous substances or prescribing, dispensing or administering medications for a non-dental purpose.

(c) Respondent shall provide a copy of this and any further orders of the Board to the dentist or dental auxiliary and shall ensure that the dentist or dental auxiliary initials the patient's chart indicating that she or he was present in the office at the time treatment was rendered. Respondent shall ensure that the dentist or dental auxiliary signs a copy of the order, which respondent shall submit to the Board.

4. Respondent shall undergo an independent psychiatric evaluation by a Board approved psychiatrist within 30 days of the entry of this order. Respondent shall sign all necessary releases so the report from the evaluating psychiatrist is submitted to the Board.

5. Respondent shall continue his enrollment in the PAP and shall comply with all recommendations of the PAP for treatment and/or evaluation.

6. Respondent shall complete a course in pharmacology provided by Dr. William Vilensky within six (6) months of the entry of the within Consent Order. Proof of completion shall be sent to the Board within 30 days of completion.

7. Respondent shall abstain from the use of any and all intoxicating substances, including but not limited to alcohol, as well as 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. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Professional Assistance Program and the Board together with patient records indicating the need for such medication. Such report shall be provided 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. (a) Respondent shall submit to random urine screens at a minimum of five times per week for the first six months after entry of this Consent Order, with reductions thereafter to be consistent with his duration in recovery but not less frequent than three times a week for the subsequent six months. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing must be approved by the Board. The Board shall provide respondent and the PAP with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols outlined and prescribed

by the Board. The urine screen requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall 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. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided to the executive director of the Board, or his designee in the event he is unavailable. The Board retains sole discretion to modify the manner and the extent 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 respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent 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 the Professional Assistance Program. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the PAP with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that she 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 respondent 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 respondent will be out of the State for any reason, the PAP 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 dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means.

(f) Respondent 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 Professional Assistance Program shall provide the results of all urine tests to the Board on a quarterly basis. The PAP shall report any positive urine test to the Board orally and in writing within 48 hours of receiving the results of the test. The PAP shall also report any other information indicating that respondent has failed to comply with any terms of this order. Such notification shall be made to the Board orally and in writing within 48 hours of discovering the non-compliant conduct.

9. Respondent shall attend Alcoholics Anonymous and/or Narcotics Anonymous not less than three times per week. Respondent shall provide evidence of attendance at AA/NA directly to the PAP. If respondent has discontinued attendance at AA/NA without obtaining approval of the Board, he shall be deemed in violation of this order.

10. Respondent shall have face-to-face follow-up with a clinical representative of the Professional Assistance Program as directed by the Executive Medical Director of the Professional Assistance Program.

11. Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information that the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to prescribing, administering or dispensing controlled dangerous substances, having a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice, but in the case of urine testing, shall be limited to a showing that the urine tested was not his or was a false positive, or that other information was false.

12. 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, including but not limited to respondent's testing positive for controlled dangerous substances, cause it to determine that such action is warranted.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Alexander Hall, D.M.D.
Alexander Hall, D.M.D.
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.

Alan A. Schwartz, D.M.D.

Date

7-15-09

I have read the terms of this consent order and agree on behalf of the Professional Assistance Program to comply with its terms as pertaining to the Professional Assistance Program.

Louis E. Baxter, M.D.

Date

I have read this consent order and agree to comply with the terms of paragraph 4 concerning the duties of a dentist or dental auxiliary.

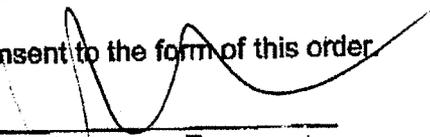
Jamie L. Attardi

(Print name)

7-15-09

Date

I consent to the form of this order.



Robert J. Conroy, Esq.

7/15/09

Date