

RECEIVED AND FILED
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N.J. BOARD OF DENTISTRY
ON 6-16-10 DA

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

IN THE MATTER OF : Administrative Action
:
WAYNE T. FABER, D.D.S. : FINAL ORDER OF DISCIPLINE
License No. 22 DI 01125500 :
:
LICENSED TO PRACTICE DENTISTRY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Dentistry upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent has been licensed to practice dentistry in the State of New Jersey since June 22, 1977 and has been a licensee at all times relevant hereto.

2. On April 6, 2005, respondent entered into a stipulation of settlement with the State of New Jersey ("Settlement") regarding a violation of N.J.S.A. 17:33A-1, et seq. Specifically, respondent capped four teeth on patient M.E. with porcelain veneer crowns for \$938, a service fully covered by M.E.'s insurance carrier, Guardian Life Insurance Company ("Guardian").

3. Respondent filed an insurance claim with Guardian for porcelain and gold crowns, billing \$3,724 for the service.

4. Guardian considered \$2,024 to be a covered charge and paid \$1,214.40 to respondent. M.E. was responsible for and paid \$809.60 to respondent.

5. The April 6, 2005 stipulation of settlement ordered respondent to pay a civil penalty to the State of New Jersey in the amount of \$5,000.

6. Respondent paid the civil penalty to the State of New Jersey in the amount of \$5,000.

7. Prior to entering into the Stipulation of Settlement, respondent provided restitution to M.E. in the amount of \$3,052.

CONCLUSIONS OF LAW

These above preliminary findings of fact establish a basis for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(k), in that respondent entered into the Settlement whereby he acknowledged he violated N.J.S.A. 17:33A-1, et seq.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was served upon respondent on August 5, 2009 by regular and certified mail with return receipt requested 7008 1830 0003 4264 1412 to his address of record at 2 Dean Drive, Tenafly, New Jersey 07670-2765. The returned receipt card was returned to the Board office with a signature. The regular mail was not returned to the Board office. The Board office has no record that a response was received to the POD that was sent to respondent.

The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification

or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

On the same day, the POD was also sent to respondent's attorney, Bertram Siegel, Esq., at 300 Route 4 East, P.O. Box 279, Teaneck, New Jersey 07666 by regular and certified mail with return receipt requested 7008 1830 0003 4264 1405. The Board has no record that the returned receipt card was signed or returned to the Board office. The Board office has no record that a response was received to the POD that was sent to the attorney.

On May 11, 2010, the Board again sent the POD by regular and certified mail with return receipt requested 7008 1830 0003 4264 0507 to respondent's address of record at 2 Dean Drive, Tenafly, New Jersey 07670-2765. The USPS Track and Confirm Search Results for the certified mail indicated that the POD was delivered at 9:50 A.M. on May 13, 2010 in Tenafly, NJ 07670. The regular mail was not returned to the Board office.

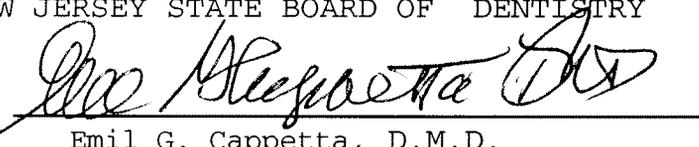
Counsel for the respondent, Bertram Siegel, Esq., responded by telephoning the Board office in May 2010 and conveyed to a member of the administrative staff that respondent accepts the sanction herein and does not request a hearing nor did he provide any information in mitigation, thus respondent through counsel agreed to the finalization of the POD as written. Accordingly, The Board determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 16th day of June , 2010,

ORDERED that:

1. Respondent is hereby reprimanded, pursuant to N.J.S.A. 45:1-21(k), for his admitted violation of N.J.S.A. 17:33A-1, et seq.

NEW JERSEY STATE BOARD OF DENTISTRY

By: 

Emil G. Cappetta, D.M.D.
Board President