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N.J. BOARD OF DENTISTRY  
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PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for State Board of Dentistry

By: Swang Oo  
Deputy Attorney General  
(973) 648-4447

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

IN THE MATTER OF THE APPLICATION OF: Administrative Action  
:  
**NICHOLAS F. BREEN, D.M.D.** : CONSENT ORDER OF  
**License No. DI 1710400** : REINSTATEMENT  
:  
FOR REINSTATEMENT OF LICENSURE TO :  
PRACTICE DENTISTRY IN THE STATE OF :  
NEW JERSEY :

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the application of Nicholas F. Breen, D.M.D. ("respondent"), seeking to reinstate his license to practice dentistry in the State of New Jersey. Respondent's license to practice dentistry was most recently suspended by a Final Order of Discipline filed with the Board on February 21, 2007. The history pertaining to respondent also includes prior orders of the Board which were filed on March 28, 1994, August 4, 1994, April 20, 1995, December 15, 1995, and May 17, 2005.

The matter was initially opened to the Board upon receipt of information disclosing that respondent had personally used controlled dangerous substances ("CDS") for purposes unrelated to

the practice of dentistry. Following entry of an Interim Consent Order, filed March 28, 1994, the Board directed, in a Final Decision and Order filed August 4, 1994, that respondent's license to practice dentistry be indefinitely suspended and respondent was ordered, among other things, to submit to a mental health evaluation prior to reinstatement, to participate in rehabilitation and to submit proof of sobriety. The Order was based in part upon a finding that respondent had failed to comply with three substantive terms of the March 28, 1994 Interim Order.

Based on respondent's request, the Board issued an Order dated April 20, 1995 reinstating respondent's license with restrictions and subject to specific conditions. Soon thereafter, respondent again failed to comply with the provisions of the Board Order. Thus, the Board revoked respondent's license to practice dentistry for a minimum of six (6) months, pursuant to a Final Decision and Order filed on December 15, 1995 which was based upon a finding that respondent had failed to comply with several terms of the Reinstatement Order filed on April 20, 1995.

After Respondent again requested reinstatement, the Board issued an order dated May 15, 2005 reinstating respondent's license contingent upon compliance with and subject to restrictions. On or about September 26, 2005, the Board received notice from the Director of the former New Jersey Dental Association Well Being Program that respondent violated the terms of the May 17, 2005

Reinstatement Order by testing positive for marijuana and not attending the required AA/NA meetings.

On or about August 3, 2006, the Board entered a Provisional Order of Discipline ("POD"), which was finalized after respondent failed to respond, via Board issuance of a Final Order of Discipline on February 21, 2007. Pursuant to the Final Order, respondent's license was suspended for a minimum of one (1) year and respondent was ordered to surrender his biennial, CDS and DEA registrations and prescription pads bearing his name, and abstain from the use of alcohol and CDS. In addition respondent was ordered to enroll in the Professional Assistance Program ("PAP") and comply with the recommended treatment including, but not limited to, an intensive outpatient treatment program addressing issues of addiction and personal responsibility; face-to-face contact with PAP representatives; attend support groups including AA/NA not less than five (5) times a week; and undergo random urine monitoring at least once a week. Prior to an application for reinstatement, respondent was required to appear before the Board to demonstrate fitness and competency, provide reports from the PAP and mental health professionals.

On or about September 28, 2009, respondent again applied for the reinstatement of his dentistry license. In support of respondent's application for reinstatement, Dr. Louis E. Baxter, M.D., FASAM, Executive Medical Director PAP, in a letter dated

September 11, 2009 stated that respondent had been enrolled in the PAP since November 24, 2008, had seven months of documented recovery as of that time and had complied with the treatment plan that was established for him, including random, twice weekly urine monitoring; psychiatric evaluation; enrollment in group counseling; attendance at a minimum of three meetings of NA/AA; and routine follow up with a PAP representative. Dr. Baxter stated that all of respondent's urine drug screens were reported as negative for the presence of psychoactive substances including alcohol.

In addition, Dr. Baxter included a recent psychiatric evaluation submitted by Dr. Laurie Deerfield, D.O., Psy.D., LLC, respondent's psychiatrist, who has been seeing respondent since 2008. Dr. Deerfield confirmed that respondent's attendance at meetings and progress in therapy. Dr. Deerfield supported respondent's reinstatement, recommending in part that respondent should practice on a part-time basis, in a group practice, and continue PAP supervision and therapy.

On November 18, 2009, respondent appeared at an investigative inquiry before the Board accompanied by Dr. Edward G. Reading of the PAP. Respondent testified that although he had been practicing in Pennsylvania for about eight years, he has not practiced for the last year. Respondent stated that he is involved with the PAP, regularly attends meetings, and has been seeing a psychiatrist for almost a year. He stated that he now realizes how important his

continued recovery and practice of dentistry are to his family. Respondent further explained that he never responded to the Board's POD because he believed that enrollment in the PAP would be too costly. In support of respondent's reinstatement, Dr. Reading testified that respondent now has one year of documented recovery and that the PAP recommends that respondent be in an employment situation and not in a solo practice.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry and the statements of Dr. Reading and Dr. Baxter of the PAP, it appears to the Board that respondent has now demonstrated sufficient rehabilitation, fitness and ability to practice dentistry and that he is likely to comply with the conditions set forth in this Order. Respondent has provided the Board with the required records, has obtained a positive evaluation from a mental health professional, and he continues to have negative drug and alcohol screens. Respondent appears to be in recovery at this time, however, the Board is keenly aware of respondent's history of relapse and will not tolerate any deviation from the terms of this Order. The Board finds that the restrictions placed on respondent's practice by this Order are adequate to protect the health, safety and welfare of the public and that good cause exists for entry of this Order;

IT IS ON THIS 17<sup>th</sup> DAY OF June, 2010

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey shall be reinstated, expressly contingent upon continuing compliance with, and subject to the restrictions in, this Order.

2. Prior to reinstatement, respondent shall successfully complete eighty (80) hours of continuing education, with a minimum of forty (40) hours in hands-on course work. The course work, which shall be in addition to respondent's regularly required continuing education hours, must be approved by the Board in writing prior to attendance. Respondent shall complete the attached continuing education course approval form. Respondent shall provide proof of successful completion of the course within thirty days of completion.

3. Upon reinstatement, respondent shall practice only in a group setting with other licensed New Jersey dentists; respondent must work with another Board licensee who will serve as a monitor.

4. Upon reinstatement, respondent shall continue to be monitored by the PAP and continue to comply with the treatment plan established by the PAP including but not limited to:

(a) routine followup with a clinical representative from that program;

(b) attendance at support groups, NA or AA, including a

Caduceus meeting, at a minimum of three times per week;

- (c) random twice-weekly urine monitoring; and
- (d) continued attendance in group counseling.

5. If respondent discontinues participation with the PAP or fails to comply with the conditions imposed by the program or outlined in this Order without first obtaining approval of the Board and the PAP, he shall be deemed in violation of this Order. Reduction in urine monitoring, counseling or support group attendance shall be at the discretion of the Executive Medical Director of the Program with notification to the Executive Director of the Board.

6. Respondent shall abstain from all psychoactive substances, including alcohol and controlled dangerous substances, and shall not possess 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. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication for him which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board 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.

7. The PAP shall submit quarterly reports, including urine results, to the Board regarding respondent's participation and compliance with all the requirements of the PAP and this Order. If respondent has a positive urine, misses an appointment without consent, or has a lapse or slip in his recovery, or if respondent terminates recommended counseling or his participation with the PAP, the PAP shall immediately inform the Board. For purposes of this paragraph, "immediately" shall mean reporting the information orally within 24 hours and following up with a written report within 48 hours.

8. Any failure by respondent to submit or provide a urine sample 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 PAP. 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 he was so ill that he 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. 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 for alternate testing.

(a) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall create a rebuttable presumption of a confirmed positive urine test. Such a specimen shall be immediately subjected to the confirming GC/MS test.

(b) 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.

(c) The PAP may, after notifying the Board, modify the frequency of testing or method of testing.

9. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this Order, including but not limited to his psychiatrist and the PAP, as may be required in order that all reports, records, and other pertinent information may be

provided to, and utilized by the Board in a timely manner. It is understood that such documents or reports may be made public in any licensing proceeding.

10. Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any 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 Order including but not limited to report of a confirmed positive urine or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

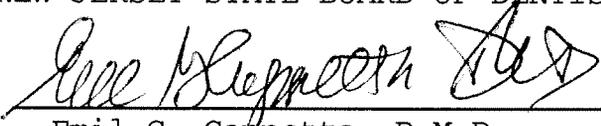
11. Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. At any such hearing the sole issue shall be whether any of the information received by the Board was materially false. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

12. All costs associated with the PAP, urine monitoring and employment monitoring provisions outlined above shall be the responsibility of the respondent and paid directly by the respondent.

13. Nothing in this order shall be deemed to preclude the Board from taking any action it deems appropriate should the

Board's review of information cause it to determine that such action is warranted or from imposing restrictions or conditions on respondent's license should the Board determine that such restrictions or conditions are appropriate to protect the public health, safety, and welfare.

NEW JERSEY STATE BOARD OF DENTISTRY

By:   
Emil G. Cappetta, D.M.D.  
President

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

\_\_\_\_\_  
Nicholas F. Breen, D.M.D.

\_\_\_\_\_  
Date

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

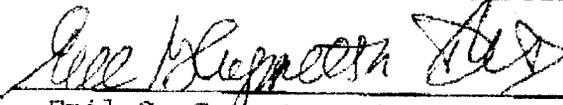
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Louis E. Baxter, M.D. , FASAM  
Executive Medical Director  
Professional Assistance Program

\_\_\_\_\_  
Date

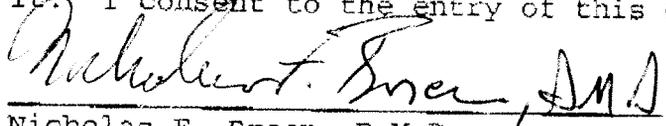
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Emil G. Cappetta, D.M.D.  
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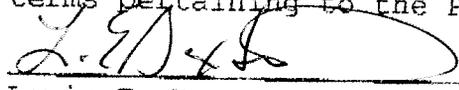
I have read and I understand the terms of this Order and agree to be bound by it. I consent to the entry of this Order.

  
Nicholas F. Breen, D.M.D.

05-18-2010

Date

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

  
Louis E. Baxter, M.D., FASAM  
Executive Medical Director  
Professional Assistance Program

6/7/10

Date