

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

RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 8-31-10 DA

By: Nancy Costello Miller  
Deputy Attorney General  
(973) 648-4735

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

IN THE MATTER OF

FRANCISCO ESPARZA, D.D.S.  
License No. 22DI 01807900

LICENSED TO PRACTICE DENTISTRY  
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

The New Jersey State Board of Dentistry ("Board") received two patient complaints alleging that Francisco Esparza, D.D.S. ("respondent"), had failed to provide treatment within the standard of care in this State. Specifically, it has been alleged that: respondent in his treatment of A.P. failed to provide a treatment plan commensurate with the patient's needs and failed to execute the treatment provided within the standard of care. Further, in his treatment of A.W., respondent submitted claims and received reimbursement for treatment not rendered and failed to refund those fees until questioned by the patient.

On November 21, 2007, respondent appeared with counsel, Pamela Mandel, Esq., at an investigative inquiry into the matter held by the Board. Respondent testified that his office assistant filed the claims for reimbursement and deposited funds received. He stated

the was unaware that \$3082 had been credited to A.W.'s account at a time when treatment had not been rendered. Dr. Esparza ultimately paid back the insurance company and dismissed the employee.

Regarding patient A.P., respondent testified that he did not provide a written, comprehensive treatment plan listing all clinically acceptable alternatives, though he maintained he orally discussed treatment options with A.P. and her daughter, and the patient accepted the treatment proposed. He testified that because the patient presented only when there was an emergency, he was unable to provide optimum treatment. Respondent, in providing extensive treatment, appears not to have followed an appropriate sequence of treatment. Further, respondent failed to maintain appropriate patient records, including failing to record results of periodontal examination and notes of a medical consultation. Finally, respondent failed to maintain all proofs of completion of continuing education required for license renewal.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that respondent, through his office staff, billed for treatment not rendered to, and failed to maintain accurate records, for patient A.W. in violation of N.J.S.A. 45:1-21(h). In addition, it appears that respondent did not include in his record an appropriate treatment plan for patient A.P. given the patient's presentation, and failed to provide treatment within the standard of care in violation of N.J.S.A. 45:1-21(d). Finally, respondent has failed to maintain proofs of completion of 6 hours of continuing education taken in advance of the 2005-2007 biennial renewal in violation of N.J.A.C. 13:30-5.1(c) and N.J.S.A. 45:1-21(h).

These facts establish basis for disciplinary action. It appearing that respondent desires to resolve this matter without admissions and without recourse to formal proceedings and for good cause shown:

IT IS ON THIS <sup>31<sup>ST</sup></sup> DAY OF August, 2010,

HEREBY ORDERED AND AGREED THAT:

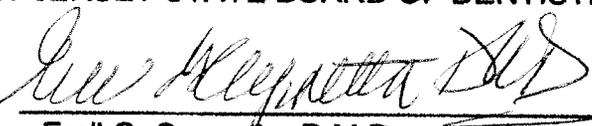
1. Respondent shall successfully complete the following continuing education: seven (7) hours in record keeping. This course shall be completed within six (6) months of the entry of this Consent Order. Further, the course, which is in addition to the regularly required continuing education hours, shall 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. The attached form is made a part of this Consent Order. A separate form shall be used for each course.
2. Respondent shall reimburse the patient identified in this order as A.P. the amount of \$7,109. Payment shall be made in three monthly installments of \$2,369.67 each by bank check or money order made payable to the patient identified in this order as A.P. The payments shall be due on September 1, 2010, October 1, 2010, and November 1, 2010, 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.
3. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22 in the amount of \$1500 for conduct with respect to failing to maintain patient records as required by N.J.A.C. 13:30-8.7; and in the amount of \$500 for failing to maintain proof of completion of continuing education as required by N.J.A.C. 13:30-5.1(c). Payment shall be submitted within thirty days of the entry of this Consent Order. Payment for the civil penalties totaling \$2,000 shall be submitted by check or money order made payable to the State of New Jersey and shall be sent to Jonathan Eisenmenger, Executive Director, at the address described in paragraph #2 within ninety days of the entry of this order. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.
4. Respondent is assessed the costs of the investigation to the State in this matter in the amount of \$387.50. Payment for the costs shall be submitted by certified

check or money order made payable to the State of New Jersey and submitted to the Board within thirty days of the entry of this Consent Order. Payment shall be sent to Jonathan Eisenmenger at the address described in paragraph #2.

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

6. Failure to comply with any of the terms of this consent order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF DENTISTRY

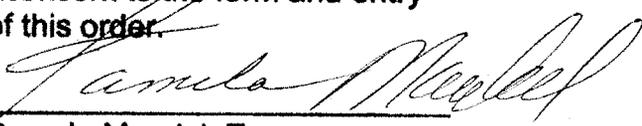
By:   
Emil G. Cappetta, D.M.D.  
Board President

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

  
Francisco Esparza, D.D.S.

August 15th, 2010  
Date

I consent to the form and entry of this order.

  
Pamela Mandel, Esq.

8/15/10  
Date