



to perform teeth cleanings.

The allegation pertaining to withholding treatment came to the Board through the Office of Managed Care, Department of Banking and Insurance, on behalf of patient M.H. The Office of Managed Care forwarded correspondence dated May 15, 2007 from Patty Leotti, respondent's office manager addressed to "To whom it may concern." The letter stated that the patient's treatment had been completed for several months and that the possibility of oral damage or root resorption was a real threat should the orthodontic appliances not be removed, but that all monies were required to be paid before respondent would remove them.

The Board requested submission of documents and a written narrative from Dr. Silverman regarding this complaint on several occasions. Dr. Silverman failed to respond.

On July 15, 2009, respondent appeared with counsel, Thomas McCormack, Esq., at an investigative inquiry before the Board. Dr. Silverman acknowledged that some of his employees had engaged in practices requiring registration but stated that he believed they had been "grandfathered" in and did not require licensure. He denied that he had refused to remove the orthodontic appliances from a minor patient due to an outstanding balance and denied knowledge of the letter sent by his office manager to the insurance company stating that treatment would not be completed until the balance was paid. Dr. Silverman denied that he received the Board's requests for information.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, and sworn statements provided by current and former members of his staff, it appears to the Board that the facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:6-61, N.J.S.A. 45:1-21(c), as respondent engaged in gross malpractice or neglect by permitting unlicensed or unregistered persons to work as registered dental assistants and allowing them to perform acts not authorized by law; N.J.S.A. 45:1-21(e) in

that respondent engaged in professional or occupational misconduct by delaying removal of orthodontic appliances based on an outstanding balance on the patient's bill despite treatment being completed; and N.J.S.A. 45:1-21(h) in that respondent violated a Board regulation by failing to respond to the Board in a timely fashion, which constitutes failure to cooperate in violation of N.J.A.C. 13:45C-1.

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 17<sup>th</sup> DAY OF November, 2010,

HEREBY ORDERED AND AGREED THAT:

1. The license of Elliot T. Silverman, D.D.S., to practice dentistry shall be suspended for one year, effective upon execution of this Consent Order, the entire term of which shall be stayed and served as a period of probation.

2. Respondent is hereby assessed civil penalties, pursuant to N.J.S.A. 45:1-22 in the amount of \$12,500, of which \$5,000 is for conduct in permitting unlicensed and unregistered personnel to provide services that may be lawfully performed only by licensed or registered dental auxiliaries; \$2,500 for conduct in delaying removal of orthodontic appliances due to an outstanding balance; and \$5,000 for conduct in repeatedly failing to respond to the Board in a timely fashion. In payment of the \$12,500 in civil penalties, respondent shall make one payment of \$1,500 and eleven monthly payments of \$1,000 per payment. The first payment of \$1,500 shall be due by January 1, 2011, and subsequent payments of \$1,000 shall continue to be due by the first of each month until all twelve payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Payment 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, Board of Dentistry, P.O. Box 45005, 124

Halsey Street, Sixth Floor, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

3. Respondent shall pay costs in this matter in the amount of \$321.00. Payment shall be made not later than January 1, 2011, and shall be sent to Jonathan Eisenmenger, Executive Director, Board of Dentistry, at the address in Paragraph 2 above.

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

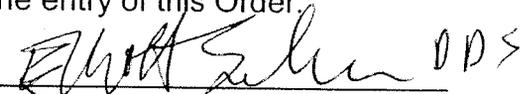
5. Failure to comply with any of the terms of this consent order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF DENTISTRY

By:

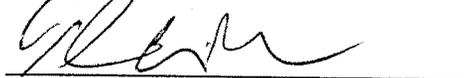
  
John F. Ricciani, D.M.D.  
Board President

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

  
Elliot T. Silverman, D.D.S.

10-28-10  
Date

I consent to the form and entry of this order.

  
Thomas McCormack, Esq.  
Attorney for Elliot Silverman, D.D.S.

11/1/10  
Date