



CHRIS CHRISTIE  
Governor

# New Jersey Office of the Attorney General

Division of Consumer Affairs  
State Board of Dentistry  
124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102



PAULA T. DOW  
Attorney General

KIM GUADAGUINO **VIA CERTIFIED (RRR) AND REGULAR MAIL**  
Lt. Governor

THOMAS R. CALCAGNI  
Director

Ximena Hernandez, D.D.S.  
40 West Palisade Avenue, Suite 202  
Englewood, NJ 07631

September 27, 2011  
**RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 10-14-11 DA**

**Mailing Address:**  
P.O. Box 45005  
Newark, NJ 07101  
(973) 504-6405

Re: Settlement Letter in Lieu of Formal  
Disciplinary Action  
Complaints #75155

Dear Dr. Hernandez:

This letter is to advise you that the New Jersey State Board of Dentistry ( the "Board" ) has had an opportunity to complete its review of information concerning the above captioned complaints. The information reviewed includes:

1. The complaint(s) alleging that your dental office contained unsanitary office conditions.
2. Your response to the complaints.
3. A Dental Office Inspection Report from an inspection conducted on February 28, 2011 by the Division of Consumer Affairs Enforcement Bureau.
4. Your response dated July 27, 2011 to the Board's settlement proposal dated July 14, 2011.

Based upon the review of this matter, it appears to the Board that:

1. You failed to have a current medical waste contract in the State of New Jersey.
2. You failed to have your x-ray machine inspected by the Department of Environmental Protection since its initial installation in July 2006.

These acts may be sufficient to initiate the filing of formal disciplinary proceedings. However, the Board has determined that it will first offer you an opportunity to settle this matter, through your agreement to the following:

1. Pay a penalty of \$5,000.00. Payment of this penalty will be made by ten (10) installments of \$500 each, due on the first day of each month. The first payment will be submitted with the signed acknowledgment to this letter.

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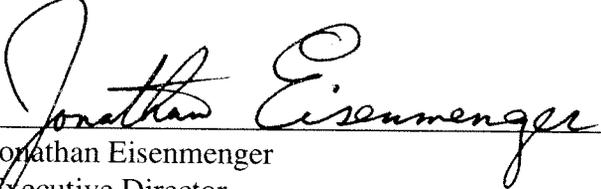
2. Make assurance that you will ensure that you maintain a medical waste contract for your dental facility in New Jersey, with at least one pick up per year, and comply with all relevant regulation, including those that govern your x-ray equipment.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. The penalty may be paid by a check or money order made payable to the "State of New Jersey - Board of Dentistry" and should be submitted to the Board office. You should be advised that upon receipt of your signed acknowledgment, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of an appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those offered in settlement here, should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Nancy Costello Miller, who may be reached at (973) 648-2500.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

Yours very truly,  
**NEW JERSEY STATE BOARD OF DENTISTRY**

  
Jonathan Eisenmenger  
Executive Director

cc: Nancy Costello Miller, Deputy Attorney General

**ACKNOWLEDGMENT:** I, Dr. Ximena Hernandez, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to comply with the directives noted herein. I will submit to the Board:

1. Pay a penalty of \$5,000.00. Payment of this penalty will be made by ten (10) installments of \$500 each, due on the first day of each month. The first payment will be submitted with the signed acknowledgment to this letter.
2. Assurance that I will maintain a medical waste contract for my dental facility in New Jersey with at least one pick up per year, and comply with all relevant regulation, including those that govern x-ray equipment.

Oct. 13, 2011  
Date

Ximena Hernandez MD  
Dr. Ximena Hernandez