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

IN THE MATTER OF : Administrative Action
: :
RALPH FAMIGLIETTI, D.D.S. : CONSENT ORDER
License No.22DI 00787900 : :
: :
LICENSED TO PRACTICE DENTISTRY : :
IN THE STATE OF NEW JERSEY : :

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of a patient complaint against Dr. Ralph Famigleitti, D.D.S. ("respondent") alleging that respondent deviated from the standard of care and failed to accurately document treatment rendered in violation of the Board's regulations governing the practice of dentistry in the State of New Jersey. In addition, the Board reviewed a complaint filed by a patient against another dentist and had an opportunity to review the respondent's records as the subsequent treating dentist. On November 16, 2011, respondent appeared with counsel at an investigative inquiry.

A review of the complaint, patient records, and respondent's testimony show that as to patient A.C., respondent appears to have overtreated the patient's condition by diagnosis or interpretation of a diffuse acute abscess as a "cyst" on tooth #5 and by performing an apicoectomy and bone graft when conventional non-surgical endodontics would have been effective. The use of a bone graft in this case appears unnecessary. Additionally the post and crown placed was determined to be inadequate in that the post in the distal canal was very short and there is an overhang at the mesial margin.

As to patient G.B., who complained of pain on the lower left side of her face, respondent treated a periapical abscess on tooth #20 with an apicoectomy, bone graft and bone barrier in November 2008. During that visit, respondent recommended that the patient have a root canal on tooth #19 or have it taken out. The patient declined any treatment for tooth #19 at that time. When the patient returned again in January 2009 complaining of pain in the same area, respondent excised a salivary gland, which he billed to the patient's medical insurance plan without first submitting a claim to the patient's dental plan as required of participating dentists.

Based on respondent's testimony, as to A.C., G.B., and his general treatment methodology, it appears to the Board he is over-treating patients by using bone grafts, and routinely performing apicoectomy procedures without an adequate clinical assessment of whether the procedure was medically or dentally necessary, or whether adequate time had been given first for bone grafts, where applicable, to heal. It also appears to the Board that respondent fails to take sufficient precautions (such as use of a rubber dam barrier) to prevent secondary infections during endodontic procedures. Use of bone grafts and performance of apicoectomies when not medically indicated lead to inflated fees and unnecessary surgery, and may result in post operative pain and/or infection as well as excessive and unwarranted expense to the patient and his/her insurance carrier.

A review of the patient records indicates that respondent did not accurately document treatment rendered. With regard to the use of Sargenti Paste in endodontic procedures, respondent testified that he sealed the canal using Sargenti Paste and gutta percha after he removed the nerve and cleaned the canal. The use of Sargenti Paste with gutta percha is not an appropriate root canal filling sealer/cement.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that as to patients A.C. and G.B., respondent failed to adequately address the patients' dental condition and failed to accurately document treatment provided, consistent with N.J.A.C. 13:30-8.7.

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21(d), (e) and (h) in that respondent engaged in repeated acts of incompetence, engaged in professional misconduct by overtreatment, and failed to comply with the Board's record keeping rule. The respondent denies these allegations. However, it appearing that the respondent desires to resolve this matter without admissions and without recourse to formal proceedings, and the respondent waiving any right to a hearing, and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare, and for good cause shown:

IT IS ON THIS 4th DAY OF April, 2012

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall cease and desist from using Sargenti Paste in all endodontic procedures in violation of N.J.S.A. 45:1-21(d) and (h).

2. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-25 of one thousand dollars (\$1,000) for repeated acts of negligence and for poor recordkeeping in violation of N.J.S.A. 45:1-21(d), (e) and (h) and N.J.A.C.13:30-8.7.

3. Respondent is assessed the costs of the investigation to the State in the amount of \$427.85.

4. Payment of the civil penalties and costs totaling \$1,427.85 which are assessed in this order, 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, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101 no later than September 1, 2012. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

5. Failure to remit any payment as required by this Order will result in the filing of a certificate of debt and shall constitute a violation of this consent order.

6. Respondent shall fully attend, successfully complete, and pass an ethics course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street,

Room 124, New Brunswick, New Jersey 08903, or other ethics course of similar content that is pre-approved by the Board. Documentation of full attendance and successful completion of the course shall be provided to the Board. "Successful completion" means that respondent has attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass. Respondent shall be entirely responsible for any and all costs or expenses relating to the course.

7. Respondent shall successfully complete four (4) hours of continuing education in record keeping; a tutorial in both surgical and non-surgical endodontic diagnosis and treatment (the Board has approved the 17 credit course entitled "*Engine Driven Endontics: Safe Predictable Results While Saving Money!*"). 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 provide proof of successful completion of the course within thirty days of completion. "Successful completion" means that respondent has attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass. Respondent shall be

entirely responsible for any and all costs or expenses relating to the course.

8. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action and any additional relief determined by the Board to be appropriate based on the conduct found.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Herbert B. Dolinsky D.D.S.
Herbert B. Dolinsky, D.D.S.
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.

Ralph Famiglietti
Ralph Famiglietti, D.D.S.

Date: 30 March 2012

I consent to the form and entry of this order.

Pamela Mandel
Pamela Mandel, Esq.
Attorney for Ralph Famiglietti, D.D.S.

Date: March 30, 2012