

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 7-11-12 DA

By: Swang Oo
Deputy Attorney General
Attorney for State Board of Dentistry
(973) 648-3696

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

IN THE MATTER OF : Administrative Action
: :
Larry Berman, D.D.S. : INTERIM CONSENT ORDER
License No. 22DI01334700 :
: :
LICENSED TO PRACTICE DENTISTRY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Dentistry (the "Board") upon receipt of information that the office of Larry Berman, D.D.S. ("respondent"), located at 308 Raritan Avenue, Highland Park, New Jersey, was observed to be operating in an unsanitary manner.

Respondent previously entered into a Consent Order with the Board dated November 14, 2001 regarding unsanitary office conditions. At that time Respondent's license to practice dentistry was suspended for one year, stayed and served as a period of probation during which time respondent agreed to enter into a contract with a cleaning company to clean his office on a regular basis, He agreed to random inspections of his office, and to cease

and desist activities deemed to be in violation of Board statutes and regulations. Respondent was assessed civil penalties totaling \$7,500.00 and investigative costs totaling \$1,568.28.

On November 10, 2011, two investigators from the Enforcement Bureau, Division of Consumer Affairs ("Enforcement Bureau") conducted an inspection of respondent's dental office in response to receipt of a patient complaint which revealed respondent's practice was being operated in an unsanitary manner.¹ The inspection also revealed a lack of proper sterilization techniques.² Respondent does not maintain a medical waste disposal contract and the last pick-up was approximately two years ago. Respondent has not employed anyone to clean the office since the

¹Specifically, the rugs were extremely stained and dirty. The floors in the x-ray developing room, lavatory, and operatories #1 and #3 were stained and dirty. The ceiling tiles in the reception area, waiting room, operatory #2 and lavatory were stained. The furniture in the waiting room was stained and dirty. The sinks in the x-ray developing room and operatory #1 were rusty and/or contained debris. The cuspidors in operatories #1 and #2 were stained and dirty. The interior of the cabinets in operatories #1 and #2 were cluttered and dirty. The garbage in operatories #1 and #3 were full to overflowing. The reception area was cluttered with piles of insurance claims forms and mail, and there were cobwebs on the radiator. The lavatory had an inoperable ceiling light, cracked and dirty walls and a rusty and stained toilet. In the laboratory, the light was inoperable, the room was filthy, the countertop was cluttered and dirty and the interior of the refrigerator was dirty and moldy. In addition, the overall condition of operatory #2, where patients are treated, was unsanitary and in operatory #3, there were used instruments in the sink. During inspection, respondent's smock and pants were stained.

²Respondent advised that he does not soak his instruments in a cold sterilization solution, rather he scrubs his instruments with water after which they are bagged and autoclaved. Respondent claims that he performed the "Attest" test on the autoclave to determine its effectiveness two months earlier but he was not able to provide any documentation regarding the results of the claimed test.

end of September 2011. Photographs taken during the inspection bear testimony to the dirty and unsanitary condition of respondent's entire facility.

Having reviewed the entire record, including the photographs of respondent's dental premises taken on November 10, 2011, the report of inspection on that date, and the consent order entered into by respondent in 2001, it appears to the Board that respondent is unable to maintain his professional practice in a safe and sanitary condition. These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(d) in that respondent has engaged in repeated acts of negligence, malpractice or incompetence. These facts also establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) in that respondent has engaged in professional misconduct by failing to maintain his office in a safe and sanitary condition and by failing to comply with an Order filed on November 14, 2001 duly entered and served upon respondent.

It appearing that respondent desires to resolve this matter without recourse to formal proceedings and for good cause shown;

IT IS ON THIS 11th DAY OF July, 2012

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall immediately cease and desist practice at, and close the practice located at 308 Raritan Avenue, Highland Park, New Jersey. The office shall remain closed until such time

as respondent demonstrates to the Board's satisfaction that respondent is complying with the Center for Disease Control guidelines for sterilization and the disposal of medical waste, that respondent's x-ray unit has been inspected by the New Jersey Bureau of Radiologic Health, that respondent's office premises are sanitary and that the practice will be conducted in a safe and sanitary manner. Specifically, respondent must demonstrate that the office and his practice conform with the following requirements:

a) Respondent shall provide proof that he employs an office cleaning service which cleans the office on a regular basis, no less than once per week. Respondent shall submit bills for cleaning services and shall verify the cleaning upon request of the Enforcement Bureau for a period of six (6) months from the date of the filing of this order.

b) Respondent shall maintain an autoclave and demonstrate that it is subject to appropriate sterilization monitoring. All hand pieces and critical patient instruments must be bagged and autoclaved. Respondent shall contract with a sterilization monitoring service and shall maintain a log of when test strips are submitted and the test reports of the monitoring service.

c) Respondent shall utilize the ultra-sonic cleaner to treat all instruments with appropriate materials such as enzymatic

solution. The enzymatic solution shall be changed on a regular basis.

d) Respondent shall properly and timely dispose of all regulated medical waste including obtaining a medical waste registration number with the Department of Environmental Protection. Respondent shall maintain a contract with a proper medical waste disposal company and maintain all records pertaining to the disposal of medical waste including, but not limited to, medical waste tracking sheets.

e) Non-heat stable items, such as plastic impression trays, that cannot be autoclaved shall be disposed of after single use.

f) Respondent shall place all instruments in sterile containers, cassettes or bags, in order to prevent the open-air contamination of the instruments.

g) Respondent shall utilize appropriate barrier techniques in all treatment rooms.

h) Respondent shall keep all food items separate from the sterilization and work areas of the office.

i) All exposed equipment and cabinetry surfaces in respective operatories must be properly cleaned with an Environmental Protective Agency registered intermediate level tuberculocidal disinfectant following the treatment of every patient.

j) Respondent shall wear appropriate protective gear for all patients and services provided. Respondent shall ensure that he wears a clean lab coat when treating patients.

k) Respondent shall ensure his x-ray equipment complies with the Performance Standards of the New Jersey Radiation Protection Code, N.J.A.C. 7:28 et seq.

l) Respondent shall maintain on the premises appropriate personal hygiene supplies including liquid soap and disposable hand towels.

m) Respondent shall cause the removal of all stains and dirt which is present throughout many areas of the office including but not limited to the ceiling tiles, walls, rugs, floors, toilet bowl, cuspidors, sinks, and cabinets, and hereafter maintain the office in a clean and sanitary manner.

n) Respondent shall eliminate clutter found in and around the premises including but not limited to the reception area;

2. Respondent shall hereafter maintain his office premises in conformance with paragraph 1 above.

3. Upon the reopening of his dental practice, after reviewing documents submitted by respondent and reviewing an inspection to be performed by the Enforcement Bureau of the Division of Consumer Affairs, respondent shall afford access to his dental practice for periodic, random inspections by the Enforcement Bureau for the purpose of assuring the Board that he is maintaining

his office in a safe and sanitary condition and in conformance with the requirements of this order. Respondent shall be responsible for paying the costs of these inspections.

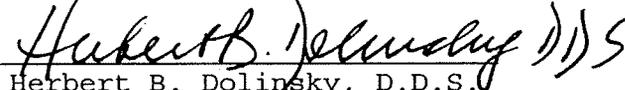
4. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action. Respondent hereby consents to the entry of an order of automatic suspension of license without notice, upon the Board's receipt of information which the Board in its sole discretion deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Consent Order, including but not limited to, falling below the standard of accepted dental sanitary practice at said office.

5. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the conditions at said office did not fall below the standard accepted dental sanitary practices.

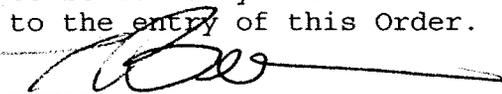
6. The Board reserves the right to impose sanctions, including but not limited to suspension of license, penalties, costs and continuing education for the conduct set forth in this order.

NEW JERSEY STATE BOARD OF DENTISTRY

By:


Herbert B. Dolinsky, D.D.S.
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.


Larry Berman, D.D.S.

Date: 7/3/12