



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

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

June 9, 2016



ROBERT LOUGY
Acting Attorney General

STEVE C. LEE
Acting Director

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

Richard J. Mercurio, D.D.S.
Lincroft Village Dental Care
9 Middletown-Lincroft Road
Lincroft, NJ 07738

Re: Modification of Consent Order

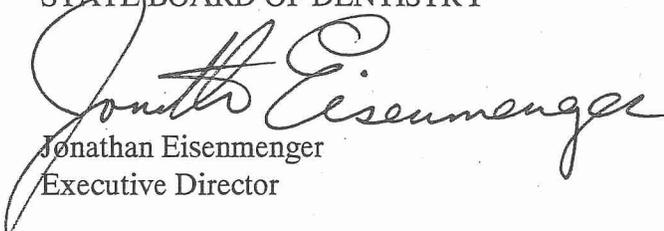
Dear Dr. Mercurio,

The New Jersey State Board of Dentistry received your correspondence dated April 26, 2016 in which you provided the bi-monthly summary of each case in which enteral sedation was employed, as required by the Consent Order filed on August 6, 2013. The Board reviewed this information, as well as your prior submissions, and directed me to respond to you on its behalf.

Please be advised that based on your compliance with this term of the Consent Order, the Board determined to release you from the requirement to submit these bi-monthly reports, effective immediately. You should continue to comply with all of the other terms of the Order. Further modifications may be requested by writing to the Board, which will examine your request at that time.

Thank you for your continued cooperation with the Board in this matter. The Board encourages you to continue to maintain the habits and treatments that have assisted you in this effort. The Board also reminds you that you may not perform any forms of sedation deeper than enteral sedation, including PCS or general anesthesia.

Sincerely,
STATE BOARD OF DENTISTRY


Jonathan Eisenmenger
Executive Director

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON August 6, 2013 DA

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: Nancy Costello Miller
Deputy Attorney General
Attorney for State Board of Dentistry
(973) 648-4735

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

<u>IN THE MATTER OF</u>	:	Administrative Action
	:	
RICHARD J. MERCURIO, D.D.S.	:	CONSENT ORDER
License No. 22DI 01142300	:	
	:	
LICENSED TO PRACTICE DENTISTRY	:	
<u>IN THE STATE OF NEW JERSEY</u>	:	

The New Jersey State Board of Dentistry ("Board") initially reviewed information regarding the dental practice of Richard J. Mercurio, D.D.S. ("Dr. Mercurio" or "respondent"), and in particular the treatment of patient P.D. on February 2, 2012. The review occurred following submission by respondent of an incident report as required by N.J.A.C. 13:30-8.8. The report described respondent's treatment of the patient, a 72 year old man, under enteral sedation, and the adverse events that followed the administration of sedation and dental treatment. The patient was removed to the hospital where he remained on a ventilator for three days. Based on its review, the Board determined that Dr. Mercurio's continued use of sedation was not consistent with the public health, safety, and welfare and, by an interim consent order dated July 11, 2012, suspended his enteral

sedation permit and otherwise limited Dr. Mercurio's practice. That consent order directed remedial education to be completed before the restrictions would be lifted. In May 2013, Dr. Mercurio completed a Board-approved course related to parenteral conscious sedation. The course, eighty hours in length with both didactic and clinical instruction, was given at Saint Joseph's Hospital and Medical Center in Paterson, New Jersey.

On June 5, 2012, Dr. Mercurio appeared before a committee of the Board with counsel, Michael Keating, Esq., seeking to have the restrictions on his license removed. Under questioning by the Board, respondent discussed issues related to patient selection, effects of sedation, pharmacology, and medical emergencies.

Having reviewed respondent's testimony, it appears to the Board that respondent has gained an appreciation of the effects of sedation on various patient populations. He has demonstrated a basic understanding of pharmacology and medical classification of patients and the interaction of medicine and dentistry. The Board is satisfied that the restoration of Dr. Mercurio's enteral sedation permit is consistent with the public health, safety, and welfare. Further, the Board finds the additional restrictions imposed by the interim consent order, specifically that he was not to treat any patient receiving enteral sedation, parenteral conscious sedation, or general anesthesia, even where administered by another health care professional, and that he was not to prescribe controlled dangerous substances, including Valium, for anxiolysis, are no longer necessary. Nonetheless, monitoring respondent's use of sedation and his prescribing practices over the next several months will provide the Board with assurance that the lessons he has learned are employed in his practice.

At this time, Dr. Mercurio has not applied for a parenteral conscious sedation permit. Although the course he has completed would make him eligible to apply, the Board, at this time, remains concerned that respondent's use of parenteral conscious sedation, particularly where he, as a general dentist would be rendering treatment while simultaneously monitoring patients under such sedation, may not be in the best interest of the public. Respondent, should he choose, may apply for such a permit in eighteen months. At that time, he should be prepared to demonstrate continued education in the areas of sedation, pharmacology, patient selection, dental/medical emergencies and staff training in those areas. The Board reserves the right to decline to issue the permit at that time.

THEREFORE, IT IS ON THIS ^{6th} DAY OF August, 2013,

HEREBY ORDERED AND AGREED THAT:

1. The enteral sedation permit held by Richard J. Mercurio, D.D.S., is reinstated effective immediately.
2. Restrictions imposed by the Board's July 11, 2012, interim consent order are lifted.
3. Respondent shall provide, on a bi-monthly basis, a summary of each case in which enteral sedation was employed. The summary shall include the date of treatment, patient's sex and age, treatment rendered, length of procedure, medications used, monitoring employed, prescriptions and post-operative instructions given, the medical classification of treated patient (i.e, ASA classification and pertinent medical history). The summary shall be forwarded to Jonathan Eisenmenger, Executive Director, State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

4. Within 21 days of the entry of this consent order, respondent shall provide a copy of his office's protocol on dental/medical emergencies and identify training that his staff has undergone related to such emergencies.

4. Respondent may apply for a parenteral conscious sedation permit not sooner than eighteen months from the entry of this order. At the time of his application, respondent shall appear before the Board or a committee of the Board to discuss further education and training he has undertaken in sedation, pharmacology, dental/medical emergencies, patient selection, and other information related to his application. The Board reserves the right to decline to issue the permit should it determine that its issuance is not consistent with the public health, safety, and welfare.

5. Respondent may apply for relief from the terms of this order not sooner than eighteen months from its entry.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Peter L. DeSciscio
Peter L. DeSciscio, D.M.D.
Board President

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

Richard J. Mercurio 2013 7/29/13
Richard J. Mercurio, D.D.S. Date

I consent to the form and entry of this order.

Michael J. Keating
Michael J. Keating, Esq.
Attorney for Dr. Mercurio