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

IN THE MATTER OF : ADMINISTRATIVE ACTION
: :
MICHAEL HORWITZ, D.D.S. : CONSENT ORDER
LICENSE NO. 22DI00864600 : :
: :
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 consumer complaint alleging that the office of Michael Horwitz, D.D.S. ("respondent"), located 33 Old Route 22, Clinton, New Jersey, was observed to be operating in an unsanitary and unsafe manner.

On February 7, 2013, two investigators of the Enforcement Bureau, Division of Consumer Affairs, conducted an inspection of the premises. The inspection confirmed that two (2) small dogs were present in the office and were brought there by respondent and his wife, who is also employed at the practice. Further, there was no proof that the autoclave used to sterilize instruments had been

tested to determine its effectiveness. The inspection also revealed that the medications in the emergency kit were expired. Respondent was also unable to produce a current medical waste disposal contract or any tracking forms at the time of the inspection.

Having reviewed the entire record, it appears to the Board that respondent failed to maintain his professional office in accordance with the regulations governing the practice of dentistry, including N.J.A.C. 13:30-8.24, requiring pets to be contained within an area where there is no contact with patients, and N.J.A.C. 13:30-8.5, requiring compliance with CDC and OSHA regulations. These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(h) in that respondent has violated or failed to comply with regulations administered by the Board including lack of spore testing of the autoclave, possession of expired medication in the emergency kit, and failure to present a current medical waste disposal contract at the time of the inspection.

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

IT IS ON THIS day of JUNE, 17, 2014

HEREBY ORDERED AND AGREED THAT:

1. Respondent represents that he is currently in compliance with N.J.A.C. 13:30-8.24, N.J.A.C. 13:30-8.5 and N.J.S.A. 45:1-21(h), that he shall continue to cease and desist from maintaining his office in violation of those rules and strictly abide by all Board, CDC and OSHA regulations relevant to the practice of dentistry.

2. Respondent is hereby assessed civil penalties pursuant to N.J.S.A. 45:1-22 in the amount of \$1,500.00 for conduct outlined in this order. Payment of the civil penalties 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 thirty (30) days from the entry of this Order.

3. Respondent is assessed the costs of the investigation to the State in this matter in the amount of \$2,936.01. Payment of the costs 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 thirty (30) days from the entry of this Order.

4. Failure to timely 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.

5. Respondent shall address all issues identified in the February 7, 2013 inspection. Specifically, respondent shall demonstrate the following:

- a) Respondent shall provide proof that the autoclave used to sterilize patient instruments is tested on a regular basis and shown to be effective in achieving sterilization consistent with Board, CDC and OSHA requirements. Proof shall include reporting from monitoring service and a log of when test strips are submitted. Documents shall be submitted to the Board on quarterly basis for 2 years from date of entry of this order.
- b) Respondent shall submit to the Board a copy of his current contract with a certified medical waste disposal company and will provide to the Board copies of all records pertaining to the disposal of medical waste upon request. Upon request of the Board, respondent shall provide proof of proper and timely disposal of all regulated medical waste.

- c) Respondent shall ensure all medications including those in emergency kits have not passed their expiration dates and will properly dispose of all expired medications.
- d) Respondent shall abide by N.J.A.C. 13:30-8.24, pertaining to Animals and Pets in Dental Offices, by ensuring that animals or pets are not permitted in the dental office unless they are maintained in an enclosed space that cannot be accessed by patients. It is understood that this requirement shall not apply to trained guide or service dogs (or dogs in training) for the disabled, sightless or hearing impaired, consistent with the provisions of the Laws Against Discrimination, N.J.S.A. 10:5-29.

6. Respondent shall submit evidence to the Board of compliance with the above paragraphs no later than 30 days from date of entry of this order. The Board reserves the right to conduct a follow-up inspection to determine compliance with the laws and regulations of dentistry and the terms of the consent order. Respondent shall be responsible for costs of that inspection.

7. Respondent shall successfully complete seven (7) hours of continuing education in infection control no later than four (4) months from the entry of this Order. This coursework is in addition to regularly required continuing education hours, and must be approved by the Board in writing prior to attendance. Respondent

shall provide proof of successful completion of the coursework to the Board. "Successful completion" means that respondent has attended all sessions of the course, fully participated, 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 timely comply with any terms of this Consent Order may result in further disciplinary action. Subsequent violations will subject respondent to enhance penalties under N.J.S.A. 45:1-25.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Shirley Brenz, R.D.H., M.S.
Shirley Brenz, R.D.H., M.S.
Acting 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.

Michael Horwitz, D.D.S.
Michael Horwitz, D.D.S.
Date: 6/18/14

I consent to the entry of this Order as to form

Daniel Giaquinto, Esq.
Daniel Giaquinto, Esq.
Attorney for Michael Horwitz, D.D.S.
Date: 7/11/14