

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
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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
	:	
JACK MARTIN GELB, D.D.S.	:	CONSENT ORDER
License No. 96120	:	
	:	
LICENSED TO PRACTICE DENTISTRY	:	
<u>IN THE STATE OF NEW JERSEY</u>	:	

The New Jersey State Board of Dentistry ("Board") initially opened this matter when they entered a Provisional Order of Discipline on May 28, 2003, seeking to revoke Jack Martin Gelb, D.D.S.'s ("Respondent") license based on Respondent's affidavit filed in connection with an action related to the voluntary surrender of his license in Connecticut, pursuant to N.J.S.A. 45:1-21(g). While the matter was pending finalization, the Board became aware of additional information regarding Respondent's practice in the State of New Jersey. Specifically, the Board has received numerous patient complaints alleging that

treatment was rendered below the standard of care and Respondent failed to maintain sanitary conditions in his office.

On January 28, 2014, an Administrative Complaint was filed in this matter regarding the allegations above. Having reviewed the entire record, including Respondent's testimony at an investigative inquiry, responses to patient complaints, review of patient records, advertisements, and arguments of counsel, it appears to the Board that Respondent's continued practice in this State is not consistent with the public health, safety and welfare. Further, the Board's review of the record establishes a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(d), (e), and (h). It appearing that Respondent desires to resolve this matter without recourse to formal proceedings and for good cause shown:

IT IS ON THIS 18th DAY OF December, 2014,

HEREBY ORDERED AND AGREED THAT:

1. Respondent, Jack Martin Gelb, D.D.S.'s license to practice dentistry shall be and hereby is suspended and Respondent shall cease and desist from the practice of dentistry in this State effective ninety days (90) from the entry of this order for a period of four (4) years, with nine (9) months as an active

suspension. The active suspension shall commence within 90 days of the entry of this order. During the wind down period Respondent shall be ineligible to treat new patients.

2. Respondent shall relinquish or cause to be relinquished all registrations related to the practice of dentistry (biennial registration, CDS and DEA registrations) and all prescription pads bearing his name to the Board or its designee not later than March 15, 2015. Respondent shall comply with the directives for suspended and revoked licensees.

3. Respondent shall not financially profit from the practice during his period of active suspension. However, Respondent shall be permitted to use funds generated from the practice to pay for assessments of his clinical practice, continuing education in dentistry, ethics courses and incidental fees associated with those courses including airfare and hotel accommodations. During his period of active suspension, Respondent shall have access to patient records and his office for completion of administrative work at times when no patients are in the office.

4. Prior to being able to practice dentistry following the nine (9) month active suspension, Respondent shall complete an ethics course at the Kentucky Dental School or a Board Approved Ethics course of similar context and duration.

5. Respondent shall enroll and complete the Oral Health Enrichment Program located in Cleveland, Ohio, or at NOVA Southeast

School of Dental Medicine in Florida, or New York University Full Mouth Reconstruction: Advanced Principles and Practice for the GP Course; or enroll in a Board approved skills assessment program, and complete assessments in all areas of dentistry for which he wishes to continue practicing.

6. Following the completion of the ethics course and skills assessment listed in paragraphs 4 and 5, Respondent shall schedule an appearance within (30) days or next board meeting thereafter for Respondent to appear before the Board to demonstrate with evidence to the Board's satisfaction that he is sufficiently rehabilitated to re-enter the practice of dentistry in areas he has completed the skills assessment. This right shall not be unreasonably withheld. This shall include: (a) Respondent has substantially complied with the terms of this Order; (b) Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare; and (c) Appear before the Board or a committee of the Board to discuss his readiness to re-enter the practice of dentistry. At that time Respondent shall be prepared to propose his plans for future practice in New Jersey. At the time of the Board appearance, the Board shall also review the results of the Respondent's skills assessment, as detailed in paragraph 5. A passing score in the skills assessment shall be deemed that Respondent is competent to practice in that area.

Upon review of completion of the items mentioned above, the right to seek reinstatement will not be unreasonably withheld. The Board shall consider and render a decision to lift the suspension within a reasonable period of time after his appearance.

7. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-25 in the amount of \$15,000.

8. Respondent shall reimburse the Board for its investigation costs and attorney's fees totaling \$10,000 pursuant to N.J.S.A. 45:1-25 (d).

9. Respondent shall pay the total amount of penalties, costs and fees in the amount of \$25,000 over a period of thirty-nine (39) months in equal monthly payments. The payments of \$641.03 shall be commence following the active suspension and shall be due on or the first of the month for the 39 months thereafter. A seven (7) day grace period shall be allowed on all payments. Respondent and/or his Estate may petition the Board to terminate payment of all penalties, fees and costs upon a showing of disability or death of Respondent. All payments shall be made by bank check, money order, wire transfer or credit card payable to the State of New Jersey, and forwarded to Jonathan Eisenmenger, Executive Director, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101. If a form of payment is presented other than the form of payment noted above, it will be rejected and will be returned to the Respondent.

A Certificate of Debt reflecting the \$25,000 currently due and owing shall be filed with the New Jersey Superior Court.

10. Remedial courses taken pursuant to this Order are in addition to the continuing education requirement in N.J.S.A. 45:6-10 for the biennial renewal registration.

11. This Order shall resolve all patient complaints, Uniform Penalty Letters, Administrative Complaint or other pending issues before the Board, up to and including the date of the Order. In the event the Board receives a patient complaint concerning treatment provided by Respondent following the filing of this Consent Order, the Board reserves the right to evaluate the treatment rendered and, should the Board conclude the treatment rendered is not within the accepted standard of dentistry care, any action of the Board shall be limited to recommending restitution by Respondent to the patient. Respondent reserves all of his rights to defend said patient complaint or decision by the Board.

12. Entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from Respondent's conduct, consistent with principles of due process and fundamental fairness, and not otherwise the subject of this consent order.

13. Respondent may petition to the Board upon existence of a hardship to relinquish his license and excuse himself from the terms of this Order.

14. By executing this agreement Respondent does not admit or deny the validity of these claims. Respondent reserves all his rights to defend these claims both in regard to civil liabilities and criminal liabilities.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Shirley Birenz, RDH, MS
Shirley Birenz, RDH, MS
~~Acting President~~ 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.

Jack Martin Gelb, D.D.S.
Jack Martin Gelb, D.D.S.

12/17/14
Date

I consent to the entry of this order as to form.

Melissa Brown, Esq.
Melissa Brown, Esq.

12/17/14
Date

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

6. Reports of Reimbursement

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

7. Report of Changes of Address

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.