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JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th Floor
124 Halsey Street
Newark, N.J. 07101

By: Joshua M. Bengal
Deputy Attorney General
Attorney ID: 05182-2010
Tel.: (973) 648-7093

Lisa N. Brown
Deputy Attorney General
Attorney ID: 03239-2003
Tel.: (973) 648-4741

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
OAL DOCKET NO.: BDS 05681-14

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	
GENEVIEVE FERNANDES, D.D.S.	:	
License No. 22DI0196690	:	CONSENT ORDER
	:	OF SUSPENSION
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 patient complaints against Genevieve Fernandes, D.D.S., alleging that Dr. Fernandes, on multiple occasions, engaged in improper billing practices and/or charged excessive fees, failed to maintain accurate and adequate patient records, provided substandard patient management and deviated from the standard of care and professionalism for

dentists licensed to practice in this State. On January 21 and April 29, 2009, Dr. Fernandes testified before the Board at investigative inquiries.

On April 25, 2013, an Administrative Complaint was filed with the Board. The seven count Complaint alleged gross and moderate deviations from the standard of care; the failure of the patient record to conform to applicable regulations; improper billing for treatment not rendered; and rendering treatment to maximize billing instead of adequately addressing patients' dental needs. On August 26, 2013, an Answer to the Complaint was filed. Hearing dates were eventually scheduled for May 2015.

After reviewing the complaints, patient records, and Dr. Fernandes's testimony and written submissions, the Board finds that Dr. Fernandes's actions constituted violations of Board statutes and/or regulations, specifically for violating N.J.S.A. 45:1-21(b), by engaging in the use or employment of dishonesty, fraud, deception, misrepresentation; for violating N.J.S.A. 45:1-21(c), by engaging in gross negligence, gross malpractice or gross incompetence, which damaged or endangered the life, health, welfare, safety or property of any person; for violating N.J.S.A. 45:1-21(d), by engaging in repeated acts of negligence, malpractice or incompetence; for violating N.J.S.A. 45:1-21(e), by engaging in professional misconduct; and for violating

N.J.S.A. 45:1-21(h) by failing to maintain records consistent with N.J.A.C. 13:30-8.7.

The Board finds that, in particular, the following conduct constitutes such violations:

1. Dr. Fernandes failed to perform dental services which were reflected in the patient record and charged to the patient.

2. Dr. Fernandes's treatment plans deviated from the standard of care and were not comprehensive plans commensurate with the needs of the patients in that they failed to address the patients' chief issues and utilized a large number of redundant treatments to address the patients' chief complaints.

3. Dr. Fernandes's execution of treatment and sequence of therapy for her patients did not meet the standard of care. Examples include allowing decayed teeth to remain untreated while performing other less urgent procedures, performing procedures despite lacking evidence of need for such procedures, failing to extract infected teeth, performing a massive amount of treatment that prevented a clear diagnosis of the patients' true conditions.

4. Dr. Fernandes rendered treatment to maximize billings without addressing the patients' dental needs.

5. Dr. Fernandes charged patients for items such as models, consultations, and cancelled appointments that unfairly or unreasonably increased the patients' bills.

6. Dr. Fernandes rendered bills in amounts exceeding the appropriate fee.

Dr. Fernandes's Answer to the Complaint denies all allegations of wrongdoing. In the interest of settling this matter and to avoid protracted litigation, Dr. Fernandes has decided to resolve this matter by settlement.

Because the Board and Dr. Fernandes desire to resolve this matter without recourse to further formal proceedings, the parties enter into this Consent Order, which the Board finds adequately protective of the public health, safety and welfare, and therefore, for this and for other good cause having been shown:

IT IS ON THIS 11th DAY OF May, 2015,
HEREBY ORDERED AND AGREED THAT

1. Dr. Fernandes's license to practice dentistry is hereby suspended. The suspension period shall consist of two months' active suspension followed by a stayed suspension of 10 months to be served as a period of probation. During the period of active suspension Dr. Fernandes shall cease and desist from the practice of dentistry in the State of New Jersey. The suspension shall commence 30 days after the entry of this Consent Order.

2. Dr. Fernandes shall comply with the "Directives Applicable To Any Dental Board Licensee Who Is Disciplined Or

Whose Surrender Of Licensure Has Been Accepted," to the extent applicable.

3. Dr. Fernandes shall make restitution in the total amount of \$14,829.58, as follows, to the patients referred to here by initials: K.P. to receive \$927.80; N.R. to receive \$4,060.00; T.P. to receive \$472.40; H.F. to receive \$2,155.00; N.S. to receive \$6,569.38; and L.F. to receive \$645.00.

4. Payment of restitution shall be made by certified checks or money orders payable to the patients identified and submitted to the State Board of Dentistry, c/o Jonathan Eisenmenger, Executive Director, at 124 Halsey Street, Post Office Box 45005, Newark, New Jersey 07101, with individual checks or money orders as follows:

a. By July 1, 2015: Payment to K.P. of \$927.80; payment to T.P. \$472.40; payment to L.F. of \$645.00; payment to H.F. of \$2,155.00.

b. By August 1, 2015: Partial payment to N.R. of \$2,030.00.

c. By September 1, 2015: Remainder of payment to N.R. in the amount of \$2,030.00.

d. By October 1, 2015: Partial payment to N.S. of \$2,190.00.

e. By November 1, 2015: Partial payment to N.S. of \$2,190.00.

f. By December 1, 2015: Remainder of payment to N.S. of \$2,189.38.

5. Dr. Fernandes is hereby assessed costs and fees of \$15,000.00, and civil penalties, pursuant to N.J.S.A. 45:1-22, totaling \$7,500.00.

6. Payment of costs and fees and civil penalties shall be made pursuant to a payment plan as follows: The total amount of \$22,500.00 shall be paid in 18 monthly installments of \$1,250.00 each. The first installment shall be due on January 1, 2016, and each subsequent installment shall be due on the first day of each of the following 17 months.

7. Payments of costs and fees and penalties made pursuant to paragraphs 4 and 5 of this Consent Order shall be made by wire transfer, or by bank check, money order, or certified check made payable to the "State of New Jersey," and sent to the State Board of Dentistry, c/o Jonathan Eisenmenger, Executive Director, at 124 Halsey Street, P.O. Box 45005, Newark, New Jersey 07101. Any payment in a form other than those noted in this paragraph will be rejected and returned to the sender. Failure to make timely payment shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 for the total amount due and owing at the time the Certificate of Debt is filed.

8. Dr. Fernandes shall successfully complete the

following continuing dental education requirements within six months of entry of this consent order.

- a. Fourteen hours of continuing education in practice management (e.g. proper billing and coding, sequencing);
- b. Seven hours of continuing education in billing and coding;
- c. Seven hours of continuing education in diagnosis and treatment planning;
- d. ProBE or PRIM-E or another ethics course pre-approved by the Board.

The course work, which shall be in addition to Dr. Fernandes's regular continuing education hours, must be approved by the Board in writing prior to attendance. Dr. Fernandes shall provide proof of successful completion of each course within 30 days of completion. Successful completion means that all classes were attended and a passing grade was achieved without reservation.

9. Dr. Fernandes shall familiarize herself with the codes of Current Dental Terminology of the American Dental Association, bill for treatment consistent with those codes, and use appropriate codes in all submissions to insurance companies and third party payors.

10. In accordance with current practice and standards of care, Dr. Fernandes shall develop treatment plans, including

proper sequencing of treatment, using sound professional judgment. Dr. Fernandes shall place the dental health of patients ahead of financial consideration. Dr. Fernandes shall fully comply with the patient record rule, N.J.A.C. 13:30-8.7.

11. Dr. Fernandes shall institute an office policy that provides patients a minimum of five business days following consultation to review complex and/or extensive treatment plans so that patients may consider the financial ramifications of the treatment plan prior to Dr. Fernandes initiating or billing for treatment. This includes financial ramifications of utilizing the Care Credit option. The office policy shall be in writing and shall be signed by the patient at the time of the consultation. Dr. Fernandes shall treat the presenting complaint and not begin extensive restorative treatment nor charge for treatment until the minimum period of time has passed.

12. During the probationary period, Dr. Fernandes agrees that in the event she is determined by the Board to be in violation of this Consent Order or any statute and/or regulation which the Board administers, then the period of stayed suspension shall be activated and her license to practice dentistry in the State of New Jersey shall be automatically suspended without a hearing, and shall be subject to any other limitations or restrictions the Board deems appropriate. Additionally, Dr. Fernandes has an affirmative duty to

immediately inform the Board, in writing, of any potential or actual violations. Within five days of notification of the suspension, Dr. Fernandes may seek a hearing by written application to the Board limited to the sole issue of whether a violation of this Consent Order or any statute and/or regulation which the Board administers has occurred.

13. Failure to comply with any terms of this Consent Order may also result in further disciplinary action, pursuant to N.J.A.C. 13:45C-1.1 et seq., and the seeking of any additional relief the Board deems appropriate.

14. This Consent Order shall be a full and final disposition of the Administrative matter docketed as BDS 05681-

14. The Board shall retain jurisdiction to enforce the terms of this Order.

NEW JERSEY STATE BOARD OF DENTISTRY

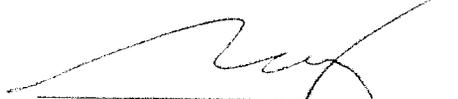
By: Shirley Brenz, R.B.H. MS.
Shirley Brenz, R.B.H. & M.S.
~~Acting Board President~~

I hereby agree to be bound by all terms and conditions of this Consent Order. I consent to the entry of this Order by the State Board of Dentistry. I am represented and advised by counsel.

Genevieve Fernandes
Genevieve Fernandes, D.D.S.

Dated: 5/7/15

I consent to the form and entry of this Order.



Michael J. Keating, Esq.
Dated: 5/8/15

**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.