

RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 1-20-16 DA

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

\_\_\_\_\_  
IN THE MATTER OF : Administrative Action  
: :  
MICHAEL K. JEFFERSON, D.D.S. : FINAL ORDER OF  
License No. 22DI01675600 : DISCIPLINE  
: :  
TO PRACTICE DENTISTRY :  
IN THE STATE OF NEW JERSEY :  
\_\_\_\_\_

The New Jersey State Board of Dentistry has reviewed information regarding Michael K. Jefferson, D.D.S. ("Dr. Jefferson" or "respondent"), and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Board issued Dr. Jefferson a license to practice dentistry in New Jersey on December 7, 1988. Respondent holds an active license.

2. Licensed dentists are required to complete 40 hours of continuing education for each biennial renewal period. N.J.S.A. 45:6-10 and N.J.A.C. 13:30-5.1 et seq.

3. As set forth fully in the certification of Jonathan Eisenmenger, Executive Director of the Board, in support of the Provisional Order, the Board issued a Uniform Penalty Letter (UPL) on August 18, 2010, alleging that Dr. Jefferson had, among other things, failed to complete 86 of the 120 hours of

continuing education that were required for biennial license renewals in 2005, 2007, and 2009 as required by N.J.S.A. 45:6-10 and N.J.A.C. 13:30-5.1 et seq.

4. Dr. Jefferson signed the UPL on September 17, 2010, agreeing to pay the penalty and complete the 86 hours of continuing education.

5. In October 2012, Dr. Jefferson asked for an extension of time to complete the courses. At the Board's request, Dr. Jefferson appeared at an inquiry on January 16, 2013, to discuss his request. Dr. Jefferson testified that financial difficulties and time constraints had prevented him from fulfilling his agreement.

6. Following the appearance, the Board, by letter dated March 12, 2013, granted Dr. Jefferson a one year extension to complete the 86 credits and advised him that, in addition, he was to complete the 40 credit hours required for the 2013-2015 biennial renewal by November 1, 2013.

7. On September 23, 2014, the Board sent a letter to Dr. Jefferson asking for proof of completion of the continuing education outlined in its March 2013 letter.

8. By letter dated November 1, 2014, Dr. Jefferson advised the Board that he had been diagnosed with a medical condition in September 2013, and had not completed the coursework.

9. Prior to his November 2014 letter, Dr. Jefferson had not advised the Board that he was unable to complete the agreed upon continuing education, nor had he sought an extension of time to do so.

CONCLUSIONS OF LAW

The above findings of fact provide grounds for disciplinary action in this State pursuant to N.J.S.A. 45:1-21(h) and N.J.S.A. 45:1-21(e) as Dr. Jefferson has failed to comply with the Uniform Penalty Letter he signed in September 2010 constitutes professional misconduct. The Board notes that Dr. Jefferson for a period of several years has not fulfilled his obligation to take continuing education courses that are required of all licensees of the Board. He flagrantly disregarded his own 2010 agreement to complete 86 hours of continuing education, and even after prevailing upon the Board in early 2014 to grant additional time, he again took no steps to honor his agreement. While the Board is sensitive to medical issues that may waylay compliance, Dr. Jefferson's medical condition arose in September 2013, a full six months after the Board granted an extension. That he found himself medically unable to complete coursework some four years after agreeing to do so, is a situation that he has brought upon himself. The Board cannot allow its orders to be ignored with impunity.

## DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline (POD) was entered by this Board on January 21, 2015. The POD was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry, unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

By email on February 23, 2015, Dr. Jefferson requested additional time to respond to the POD. On March 4, 2015, the Board received an undated cover page with a handwritten note stating: "Respectfully requesting dismissal" with his signature along with a submission captioned "Affidavit of Michael K. Jefferson, D.D.S.". Respondent provided the names of two physicians, a partial print-out of courses taken by an unidentified person (presumably Dr. Jefferson) through an online provider of continuing education, two dated certificates for continuing education (6 hours on April 12, 2014, and 6 hours on October 20, 2013), and one blank certificate of completion for an OSHA/Bloodborne Pathogens Training. Respondent did not

explain the difference between "dual format" and mail order as noted in the print-out, and the reason why eight (8) courses totaling 20 hours and nine (9) courses totaling 21 hours, appear to have been completed on two dates.

In his affidavit, respondent claims to have completed 40 hours of continuing education for the period ending October 2015 (that would be the 40 hours required to have been taken between November 1, 2011 and October 31, 2013). He also states that he will have enough credits to renew for the 2015-2017 biennial period (courses taken between November 1, 2013 and October 31, 2015).

Further, respondent states that he will have completed the 86 course hours remaining under his August 2010 agreement, which includes 21 hours remedial education (14 hours in hands-on crown and bridge and 7 hours in diagnosis and treatment planning). Those hours were included in the total to meet the deficiencies for the biennial periods 2005-2007, 2007-2009, and 2009-2011.

Upon review of respondent's submission, the Board accepts the two dated certificates for 12 credit hours, but rejected the blank certificate on OSHA training and the partial print-out of courses allegedly taken by respondent through an online provider as not an appropriate proof of the course work he completed (a certification from the online provider or other method of

establishing that he is the person who took the courses that appear on the partial print-out.)

In the affidavit, Dr. Jefferson claims that medical issues have "impeded in the resolution of [his] CE mandate."

To date, respondent has successfully produced only 12 hours of live continuing education taken in October 2013 and 6 hours of continuing education taken in April 2014. Potential proof (subject to identifying information or certification and explanation) for distance learning includes 47 hours by mail order or dual format and eight mail order courses of unknown credit hours listed as "in progress" on 09/09/14 is not considered.

The Attorney General by letter May 5, 2015 advised respondent that he must demonstrate 68 credits to satisfy the August 2010 UPL agreement ( $86-18=68$ ). The 68 remaining credits do not include the 80 credits or the last two biennial periods (40 credits for the 2011-2013 renewal, or the 40 credits for the 2013-2015 renewal). Although respondent claims that he has taken or will shortly take the necessary credits, he failed to submit proof of completion of 148 credit hours to be in compliance. And that does not include the additional 40 credit hours for the 2015-2017 renewal, which were to be completed by October 31, 2015.

The Board regards holding the license to practice dentistry as a privilege, one that is earned through years of study and hard work and maintained through fidelity to integrity and professionalism. The Board notes that Dr. Jefferson for a period of several years has not fulfilled his obligation to take continuing education courses that are required of all licensees of the Board. He flagrantly disregarded his own 2010 agreement to complete 86 hours of continuing education, and even after prevailing upon the Board in early 2014 to grant additional time, he again took no steps to honor his agreement. While the Board is sensitive to medical issues that may waylay compliance, Dr. Jefferson's medical condition arose in September 2013, a full six months after the Board granted an extension. That he found himself medically unable to complete coursework some four years after agreeing to do so, is a situation that he has brought upon himself. The Board cannot allow its orders to be ignored with impunity. The Board notes that his illness neither explains nor excuses his years of failing to comply with statutorily mandated continuing education. It neither explains or excuses his decision to ignore his August 2010 agreement with the Board or to comply within the extension of time the Board granted him in March 2013. The Board finds that respondent's failure to complete continuing education violated N.J.S.A. 45:1-21(h) and N.J.S.A. 45:1-21(e).

ACCORDINGLY, IT IS, on this 20<sup>th</sup> day of January, ~~2015,~~ <sup>2016,</sup>  
ORDERED that:

1. The license of Dr. Jefferson to practice dentistry in this State shall be suspended for a period of thirty days based on his failure to complete continuing education required for multiple biennial renewals and his failure to comply with a Board order, that is, the August 18, 2010 Uniform Penalty Letter, executed by Dr. Jefferson on September 17, 2010.

2. No later than the conclusion of the thirty day suspension, Dr. Jefferson shall provide proof of completion of the 86 hours of continuing education required by the August 2010 Uniform Penalty Letter and proof of completion of 40 hours of continuing education taken to satisfy the requirements for the 2013-2015 biennial renewal.

3. At the conclusion of the thirty day suspension, if Dr. Jefferson has not provided proof satisfactory to the Board that he has completed the 86 hours of continuing education required by the August 2010 Uniform Penalty Letter and proof of completion of 40 hours of continuing education taken to satisfy the requirements for the 2013-2015 biennial renewal, the suspension shall be continued indefinitely. The indefinite suspension shall be lifted upon proof of completion of continuing education as required by this order. If Dr. Jefferson's license is suspended pursuant to this paragraph, the

Board reserves the right to require an appearance before the Board or a committee of the Board, prior to reinstatement and to impose conditions or restrictions on respondent's practice, which, in the Board's discretion, it finds necessary to protect the public health, safety, and welfare.

4. The initial thirty (30) day suspension shall commence fourteen (14) days following entry of the Final Order of Discipline in this matter.

NEW JERSEY STATE BOARD OF DENTISTRY

By:

  
\_\_\_\_\_  
~~Emil G. Cappetta, D.D.S.~~  
~~Board President~~  
*Acting President*  
*Nicholas DeRobertis, DMD.*

**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.