CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: David M. Puteska
Deputy Attorney General
Tel. (973) 648-2972
Attorney ID: 301995

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 9-7-16 DA

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF **FREDERICK D. BAILEY, D.M.D.** **License No. DI01568500** TO PRACTICE DENTISTRY IN THE STATE OF NEW JERSEY	Administrative Action **INTERIM CONSENT ORDER**

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information that Frederick D. Bailey, D.M.D. was arrested by the Denville Police Department on August 22, 2016 and charged for possession/distribution of hypodermic needle; possession of controlled dangerous substance or analog; possession with intent to use drug paraphernalia; and possession of less than 50 grams marijuana/hash. The underlying facts, if proven, demonstrate that respondent has engaged in acts that constitute a crime or offense. In addition, based on other information developed as part of the police investigation, it appears that respondent has engaged in drug use that is likely to impair his ability to practice the profession with reasonable skill and safety.

Based upon the information detailed above, on August 30, 2016, the Attorney General filed a Verified Complaint and Order to Show Cause before the Board seeking the temporary suspension of

Respondent's license pursuant to N.J.S.A. 45:1-22. A hearing on the Attorney General's Order to Show Cause application was scheduled by the Board on September 7, 2016.

Respondent, without admissions, consents to the entry of this Interim Consent Order.

The Board finds the within disposition to be adequately protective of the public health, safety, and welfare, and for good cause shown,

IT IS, therefore, on this 7th day of September, 2016,

HEREBY ORDERED AND AGREED THAT:

1. The license of Frederick D. Bailey, D.M.D., to practice dentistry is surrendered, to be deemed a temporary suspension, effective immediately until further order of the Board. Respondent shall immediately deliver his original license for the current renewal period, his CDS and DEA registrations, and any and all prescription pads or blanks in his possession, to Jonathan Eisenmenger, Executive Director, New Jersey Board of Dentistry, P.O. Box 45005, Newark, New Jersey, 07101.

2. Respondent shall not practice dentistry in this State until further order of the Board. During the period of surrender, respondent shall not be physically present in any dental office in this State except to receive dental treatment by a licensed dentist. Respondent shall comply with the attached directives regarding licensees whose surrender of license has been accepted by the Board.

3. Pursuant to N.J.S.A. 45:1-25(d) Respondent agrees that he shall reimburse the Board its full costs of investigation, transcript costs (if any) and attorney's fees incurred up to September 6, 2016, the return date of the Order to Show Cause filed in this matter. These costs and fees are specifically consented to by Respondent with the understanding that additional costs and fees may be imposed in any final order entered by the Board or consented to by the parties.

4. Within 30 days of the date of this Order, respondent, at his expense, shall participate with the Professional Assistance Program (PAP) and shall comply with the recommendations for treatment, including but not limited to monthly face-to-face contact with representatives from that

program, attendance at support groups, including NA or AA at a minimum of three times per week, urine monitoring not less than once a week, and continued therapy with a psychiatrist or therapist, if recommended. If respondent discontinues participation with the Professional Assistance Program or fails to comply with the conditions imposed by the program or outlined in this consent order without obtaining approval of the Board and the Professional Assistance Program, he shall be deemed in violation of this Order.

5. Respondent shall abstain from the use of alcohol and psychoactive substances, unless prescribed by a treating physician or dentist for a documented medical or dental condition with prior notification to the Executive Medical Director of the Professional Assistance Program of the diagnosis and prescribed medications. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of abuse of controlled dangerous substances.

6. The Professional Assistance Program shall submit quarterly reports, including urine results, to the Board regarding Respondent's participation and compliance with all requirements of the PAP and this order. If respondent has a positive urine, misses an appointment without consent, has a lapse or slip in his recovery, terminates treatment with his psychiatrist or therapist, or his participation with the PAP, the PAP shall immediately inform the Board. For purposes of this paragraph, immediately shall mean reporting the information orally within 24 hours and following up with a written report within 48 hours.

7. (a) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Professional Assistance Program. Respondent shall notify the Professional Assistance Program if he will be out of the State for any reason, so that the program may make a determination regarding alternate testing.

(b) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test. Any such result shall be followed immediately by a confirming GC/MS test.

(c) Respondent shall familiarize himself with all foods, food additives, or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(d) The Professional Assistance Program may, after notifying the Board, modify the frequency of testing or method of testing during the monitoring period.

8. Respondent shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Respondent agrees that any information received by the Board regarding Respondent's treatment or participation in a monitoring program may be used in connection with any proceedings pertaining to his license.

9. Respondent may apply to the Board for restoration of his license to practice any time at or after six (6) months from the entry of this Order. Nothing contained herein shall require the Board to grant Respondent's application. Prior to any restoration of his license, respondent shall:

a. Affirmatively demonstrate a minimum of six months of abstaining from use of any psychoactive substances, including alcohol, except as permitted by this order;

b. Request an appearance before the Board or a committee of the Board to discuss readiness to re-enter the practice of dentistry. At that time respondent shall be prepared to propose his plans for any future practice in New Jersey;

c. Demonstrate to the satisfaction of the Board that he is physically and psychologically fit and that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare, and that he is not then suffering from any impairment or limitation resulting from the use of or in possession of any controlled dangerous substance, whether legal or illegal, which could affect his practice.

d. Provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in Respondent's care and/or treatment for the condition in this matter during the period of time from his entry into treatment to his appearance.

e. Provide the Board with a report from the Professional Assistance Program, which shall include a recommendation that they fully support his return to practice and details the nature and extent of his involvement with that entity, including a full accounting of all urine monitoring.

f. Affirmatively establish his fitness, competence, and capacity to re-enter the active practice of dentistry within New Jersey, including an accounting of all continuing education courses completed while his license was surrendered.

g. Provide the Board with a full account of conduct during the intervening period of time from entry into treatment to his appearance pursuant to this Consent Order.

10. Restoration of Respondent's CDS registration in New Jersey, if applicable, shall be sought from the Director of the Division of Consumer Affairs pursuant to the requirements set forth in N.J.S.A. 24:21-1, et. seq., the New Jersey Controlled Dangerous Substance Act, and governing rules.

11. Following review of all relevant documents submitted and Respondent's testimony, if any, the Board, in its sole discretion, will determine whether and under what conditions Respondent may return to practice. The Board may require Respondent to submit to an independent psychiatric evaluation prior to rendering its decision.

12. Nothing in this Order shall be deemed to preclude the Board from taking any action it deems appropriate, including revocation of license, should the Board determine that such action is warranted. Entry of this order is without prejudice to further action and/or investigation by the Board, the Director of Division of Consumer Affairs or other law enforcement entities resulting from Respondent's conduct prior to or following the entry of this Consent Order. The Board specifically reserves its rights to take disciplinary action immediately upon Respondent's conviction of criminal charges related to the above-referenced criminal arrest and/or his entry into any pre-trial diversionary program. Respondent reserves the right to oppose and/or provide mitigation to any disciplinary action taken by the Board as a result of his criminal conviction or entry into a pre-trial diversionary program.

NEW JERSEY STATE BOARD OF DENTISTRY

By: R D Riva DDS

~~Emil G. Cappetta, D.M.D.~~ Richard D. Riva DDS
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.

Frederick D. Bailey, D.M.D.

Frederick D Bailey DMD

Dated: 9/7/16

I consent to form and entry of the Order.

Joel M. Harris, Esq.
Attorney for Dr. Bailey

September 7, 2016
Dated

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 patientl 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.