



as to patient J.C., respondent placed several laminates that dislodged shortly after placement and failed to maintain appropriate patient records (failed to record extensive decay in tooth #3). In countering J.C.'s complaint, Dr. Wassef testified that the patient advised him he was not a bruxer and that Dr. Wassef saw no radiographic or clinical evidence of bruxism prior to placing the laminates. Respondent testified that he made several efforts to correct the delamination that repeatedly occurred. Respondent has since provided restitution in the amount of \$5,290 to J.C.

Regarding patient A.T., respondent: failed to perform a full periodontal examination; permanently cemented crowns in the presence of periodontal disease; failed to provide endodontic therapy and altered patient records by adding to the November 1, 2006 entry the words "spot probe" without noting the date of the addition's entry. Respondent has provided restitution for treatment rendered to A.T. in the amount of \$2108.

As to patient E.D., respondent billed for a comprehensive oral examination and a periodontal examination, when he did not perform a full periodontal examination; provided the patient with a treatment plan, then charged the cost of the proposed treatment to Care Credit, a financing company, and declined to refund the fee when the patient canceled the proposed treatment shortly thereafter. Respondent acknowledged he frequently collected fees for treatment and materials despite cancellation of the proposed treatment by patients. Additionally, respondent charged E.D. for oral hygiene instruction at consecutive visits, charged for in-office medication, and for prescription rinses without offering the patient other options for obtaining the latter from other

sources. Despite not having performed the planned treatment, respondent initially did not return the funds received, however, in October 2008, respondent caused the patient's account with Care Credit to be fully credited.

Regarding patient E.R., respondent met with the patient, offered to provide extensive treatment for the upper arch but did not create a written treatment plan for inclusion in the chart or for the patient's signature or review. (The treatment plan provided to the Board was dated three months after the consultation with the patient had occurred.) Respondent arranged for E.R. to obtain financing in the amount of \$15,000 through Care Credit. E.R. called respondent 48 hours after his consultation and advised that he did not wish to proceed with the treatment. Respondent, consistent with his then existing office policy, and although not providing treatment, declined to refund the monies received. Further, respondent devised the extensive treatment plan for the upper arch using only periapical radiographs and with little or no consideration of the treatment necessary for the lower arch. Dr. Wassef has asserted that the patient's insurer advised that he not return the funds to Care Credit, advice that Dr. Wassef regrets he followed. He assumed responsibility for the patient's Care Credit account and now represents that the account has been full paid.

Patient C.F. settled a dental malpractice case against respondent. A review of the materials from that civil action shows that respondent appears to have failed to use appropriate diagnostic radiographs prior to commencing treatment.

Patient S.M. alleged that respondent and other dentists provided treatment outside the standard of care between 1999 and 2003 at a location where respondent no longer

practices. She has been unable to obtain her records from that practice. Respondent testified that he does not have her records and that he has no recollection of the patient. The current owners of the practice have indicated that they do not have S.M.'s records, which along with several other patients' records, are missing. They submitted a police report that a break-in had occurred at that location. The Board is unable at this time to assess respondent's treatment of this patient. The Board specifically reserves the right to seek payment of restitution for S.M. and/or other relief in the future should it determine that such relief is warranted.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that respondent: permanently cemented crowns in the presence of active periodontal disease (A.T.); placed veneers on a patient with contraindicated para-functional habit (J.C.); failed to utilize adequate diagnostic tools to develop appropriate treatment plans, including but not limited to periodontal probing and charting and taking necessary radiographs (A.T., C.F., J.C.); amended the patient record without noting the date of the amendment (A.T.); failed to give the Board complete patient records when requested; billed and collected for proposed treatment and failed to give refunds in a timely manner when the treatment was not rendered (E.R., E.D.); billed for complete oral examination and full periodontal examination when one of the examinations was not performed (E.D.); ordered excess materials, specifically implants, and charged patients for implants not used in their treatment; failed to maintain records consistent with N.J.A.C. 13:30-8.7; and charged patients for prescription medications (including toothpaste and periodontal rinses) in excess of actual cost and did not offer patients the opportunity

to obtain prescriptions through their prescription drug plans.

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21(b), (d), (e), and (h). Since the time of the inquiry, Dr. Wassef has altered his office policies to comply with Board direction as outlined in paragraphs 7 through 10 of this consent order. That, coupled with Dr. Wassef's good faith in having made restitution to patients, have caused the Board to impose a suspension of shorter duration than that normally warranted for the conduct revealed through the Board's investigation. It appearing now that respondent desires to resolve this matter without recourse to formal proceedings and for good cause shown:

IT IS ON THIS 18<sup>th</sup> DAY OF September, 2010

HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry shall be suspended for a period of five years, sixty days of which shall be served as a period of active suspension, the remainder of which shall be stayed and served as a period of probation. The suspension shall commence on October 15, 2010. Respondent shall comply with the attached Directives for licensees whose licenses have been suspended, revoked or surrendered.

2. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22, totaling \$20,000, including \$10,000 for improperly amending patient records; \$5,000 for failing to maintain adequate records, including diagnostics (periodontal charting); and \$5,000 for failing to properly develop treatment plans appropriate to patient needs and failing to communicate fully the implications of financial agreements for treatment. Payment of the civil penalties totaling \$20,000.00 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. In payment of the \$20,000 in civil penalties, respondent shall make twenty monthly payments of \$1000 per payment. The first payment shall be due by January 1, 2011 and subsequent payments shall continue to be due by the first of each month until all twenty payments are completed. In the event that respondent does not make a timely payment, the full balance will immediately become due. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

3. Failure to 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.

4. Respondent shall successfully complete sixty (60) hours of continuing education in placing implants, within six months of the entry of this Consent Order. The course work, which shall be in addition to respondent's regularly required continuing education hours, must be approved by the Board in writing prior to attendance. Respondent shall complete the attached continuing education course approval form. Respondent shall provide proof of successful completion of the course within thirty days of completion. Respondent has provided proof of completion of course work to the Board in anticipation of fulfilling this requirement.

5. Respondent shall cease and desist from placing implants until completion of the continuing education listed in paragraph 4 of this Consent Order.

6. Respondent shall familiarize himself with the codes of Current Dental Terminology (CDT) of the American Dental Association (ADA), bill for treatment consistent

with those codes, and use appropriate codes in all submissions to insurance companies and third party payors.

7. Respondent, in accordance with current practice and standards of care, shall develop treatment plans, including proper sequencing of treatment, using sound professional judgment in addressing his patient's dental health. Respondent shall fully comply with the patient record rule, N.J.A.C. 13:30-8.7. Respondent agrees to have patients sign and date treatment plans, which shall include material treatment risks, clinically acceptable alternatives, and costs relative to treatment that is recommended and/or rendered.

8. Prior to dispensing and charging any patient for a prescribed medication, respondent shall advise such patient of the option to obtain that prescription medication through other available means, including private or public prescription plans.

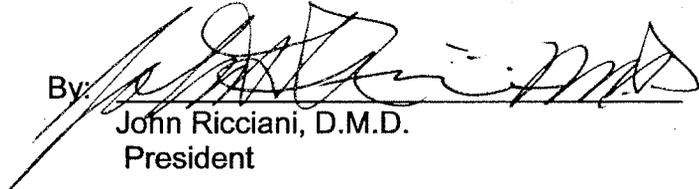
9. Respondent shall end the office billing practice of charging patients for implants and other materials ordered but not used in their treatment. Respondent shall charge patients for only the implants and materials that were actually placed and used. Nothing in this paragraph shall be construed to preclude respondent from returning fees for implants that fail after placement.

10. Respondent 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 the patients may consider the financial ramifications of the treatment plan prior to respondent initiating treatment or billing for treatment to be rendered. Those treatment plans include, but are not limited to, complex restorative cases, implant cases, and

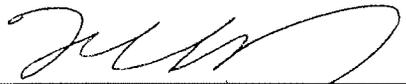
cosmetic procedures, but shall exclude emergency treatment and routine dental care (oral examinations, diagnostic work-up, prophylaxis, intra-coronal restorations, endodontic therapy, extractions). The office policy shall be in writing and signed by the patient at the time of consultation. Respondent shall not begin treatment and shall not charge for treatment until after the minimum period of time has passed.

11. Failure to comply with any of the terms of this consent order may result in further disciplinary action, including activation of the stayed suspension and any additional relief determined by the Board to be appropriate based on the conduct found.

NEW JERSEY STATE BOARD OF DENTISTRY

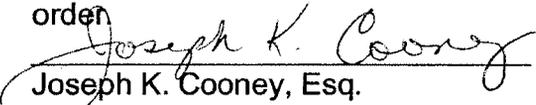
By:   
John Ricciani, D.M.D.  
President

I have read and understand this Consent Order and agree to be bound by its terms. I consent to the entry of this Order.

  
Mark Wassef, D.M.D.

8/31/10  
Date

I consent to the form and entry of this order

  
Joseph K. Cooney, Esq.

8/31/10  
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.