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N.J. BOARD OF DENTISTRY
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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 :

ADMINISTRATIVE ACTION

MARC WEBER, D.D.S. :
LICENSE NO. 22 DI 01879400 :

FINAL ORDER

TO PRACTICE DENTISTRY IN THE :
STATE OF NEW JERSEY :

The New Jersey State Board of Dentistry enters this Final Order following its review of the Initial Decision of the Honorable Howard J. Solomon, A.L.J., the record created in the proceedings before the Office of Administrative Law, the submissions of the Attorney General related to restitution, fees and costs, and the testimony given at a mitigation hearing held before the Board. The Board now adopts in their entirety the Findings of Fact and Conclusions of Law made by Judge Solomon in his thorough and well reasoned decision. The Board accepts the recommendation that the license of Marc Weber, D.D.S., be revoked, and that he pay substantial civil penalties, costs, fees, and restitution.

The Attorney General filed an administrative complaint against Marc Weber, D.D.S. ("Dr. Weber" or "respondent"), on January 6, 2010. The complaint alleged that Dr. Weber had violated several statutes and regulations administered by the Board in his treatment of patients and in his business practices. The complaint sought the suspension or revocation of Dr. Weber's license, civil penalties, costs and fees and such other relief as

deemed appropriate by the Board. Dr. Weber, through counsel, filed an answer on March 18, 2010. The Board deemed the matter a contested case and referred it to the Office of Administrative Law where it was heard over several days in May and June 2011.

The Initial Decision of Administrative Law Judge Solomon was issued on November 4, 2011, and was mailed to the parties on or about that date. That decision recommended that Dr. Weber's license be revoked, that he pay a civil penalty of \$250,000, as well as restitution and costs and fees.

The Board received no exceptions on behalf of respondent within the thirteen day time frame permitted by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-18.4(a). The Attorney General submitted a letter dated November 16, 2011, which was served on the administrative law judge (by email), Dr. Weber's attorney, John Flynn, Esq. (by fax), and Dr. Weber (email and overnight delivery to 19 Emily Road, Manalapan, New Jersey-respondent's address of record with the Board¹). In that letter, DAG Wendy Leggett-Faulk stated she would not file exceptions to the Initial Decision and urged that the Board adopt the decision in its entirety. DAG Leggett-Faulk also noted that she had a conversation with Mr. Flynn, who stated that he no longer represented Dr. Weber and that he would not be submitting exceptions.

The Board considered the matter at its meeting on December 7, 2011. In the absence of exceptions from respondent or his counsel, the Board adopted the findings of fact and conclusions of law, and set a schedule for submission of the State's application

¹ N.J.A.C. 13:30-8.12(b) provides that service may be made on a licensee at the address currently on file with the Board and shall be deemed adequate for purposes of service set forth in N.J.A.C. 1:1-7.1. Licensees must notify the Board within 30 days of a change of address of record. N.J.A.C. 13:30-8.12(a).

for attorneys' fees and costs, and restitution.

Although the Board had sent notice of the December 7 meeting to Dr. Weber at his address of record, because he had not responded, the Board once again attempted to reach him. By letter dated December 9, 2011, he was offered an opportunity to submit exceptions to the Initial Decision and mitigation of a sanction, this time by December 19, 2011. That letter also notified the parties of the dates for submissions regarding the restitution, costs and fee application. The Board noted its intent to finalize the matter at its meeting on February 1, 2012. That letter was sent to Dr. Weber's address of record, was faxed to Mr. Flynn, and forwarded to the deputy attorney general.

Again, nothing was received from or on behalf of respondent by the December 19, deadline. Consistent with the Board's direction, on January 6, 2012, DAG Leggett- Faulk submitted her application for fees, costs, and restitution. That application was copied to Dr. Weber, but was returned as undeliverable (the Postmaster reported that Dr. Weber had moved and left no forwarding address).

Prior to the Board's scheduled consideration of the Attorney General's submission at its meeting on February 1, 2012, the Board, in a final effort to ensure that Dr. Weber had an opportunity to address the matter before an order was entered, asked the Division of Consumer Affairs Enforcement Bureau to attempt to locate Dr. Weber.² The Enforcement Bureau identified his address as 41 Whitemarsh Drive, Manalapan, New Jersey. The Board tabled the matter until Dr. Weber was personally served.

² The Board noted that it could have finalized the matter as its earlier efforts to contact Dr. Weber were consistent with its rules. But because the proposed sanction included revocation, the Board, in an exercise of its discretion, desired that Dr. Weber had actual notice of the proceedings.

On February 6, 2012, an Enforcement Bureau investigator personally served Dr. Weber at the Whitemarsh Drive address. He was given the Board's letter of December 9, 2011, and a letter dated February 6, 2012 advising that the Board would be finalizing the matter at its meeting on February 15, 2012. DAG Leggett-Faulk then served her application for restitution, costs, and fees on Dr. Weber at the same address.

On February 13, 2012, two days before the matter was scheduled for finalization, the Board received its first communication from Dr. Weber. Dr. Weber indicated in his letter (and in a second letter received by the Board on February 15, 2012), that he was unaware that the matter had been concluded at the Office of Administrative Law. He claimed (without any supporting documentation) that he believed he had been granted an extension to submit summations to the administrative law judge. He further asserted that he was unaware that John Flynn, his counsel, was no longer representing him.

DAG Leggett-Faulk contacted Mr. Flynn about Dr. Weber's claim. Mr. Flynn submitted a letter to the Board dated February 15, 2012 in which he asserted that he had informed Dr. Weber in July 2011 that he could no longer represent him. Mr. Flynn stated: "He [Dr. Weber] assured me that he would proceed on a pro se basis and that he really was not interested in practicing medicine [sic] in New Jersey. I have not represented Dr. Weber since at least July, 2011 and do not represent him now."

In light of Dr. Weber's communications, DAG Leggett-Faulk advised the Board that she did not object to a brief adjournment to allow Dr. Weber to appear.

At its meeting on February 15, 2012, the Board considered that information. It weighed the competing versions of events related to the failure of Dr. Weber to file exceptions to Judge Solomon's Initial Decision. Again, while it had concluded on

December 7, 2011 that adoption of that initial decision was appropriate, the Board nonetheless permitted an opportunity for exceptions to the Initial Decision to be presented on Dr. Weber's behalf and that Dr. Weber be given an opportunity for a mitigation hearing on any sanction to be imposed.

The Board, by letter dated February 24, 2012, gave Dr. Weber and Mr. Flynn a final opportunity to submit exceptions to the Initial Decision as contemplated by N.J.A.C. 1:1-18.4. Because Dr. Weber had asserted, again without documentation, that he was facing financial difficulty, the Board offered to make available the record of the hearing, including the transcripts of the hearing, for review by him and his counsel in the Board office if he requested. He made no effort to do so. The Board's letter also advised respondent that he should submit documentation of his financial condition if he wished the Board to consider that in its deliberations. That letter, citing to the regulations governing the conduct of administrative proceedings, also advised Dr. Weber that "[e]vidence not presented at the hearing shall not be submitted as part of an exception, nor shall it be incorporated or referred to within exceptions." N.J.A.C. 1:1-18.4 (c).

The Board, mindful of its obligation to finalize the matter that was presented to it in early November, gave respondent until March 15, 2012 to file exceptions. Any response by the Attorney General was due not later than March 26, 2012. The matter was scheduled for the Board's April 4, 2012, meeting.

Neither Dr. Weber nor Mr. Flynn filed any exceptions to the initial decision by March 15, 2012. Because no exceptions were filed, the Attorney General did not file any response. Dr. Weber did submit a two paragraph letter following a call from Board staff on March 26, 2012, to confirm his appearance. Although Dr. Weber stated in that letter that

he would be sending documentation for the Board to consider, he did not.

On the day of the hearing, Dr. Weber appeared without counsel. Because no exceptions were filed, the Board did not entertain oral argument. On motion, the Board went in to an executive session for deliberations on whether to accept, reject or modify the initial decision of Judge Solomon. On return to public session, it announced its decision.

Having reviewed the initial decision, the exhibits in evidence, and transcripts of proceedings before the Office of Administrative Law, the Board accepted in their entirety the findings of fact and conclusions of law contained in Judge Solomon's comprehensive decision. The Board noted that Judge Solomon made credibility findings based on testimony of patient witnesses, as well as his observation and analysis of the testimony of Dr. Paul Condello, the expert proffered by the Attorney General.

In proving its case, the State presented 22 witnesses. Dr. Weber elected not to testify at the hearing. He presented only one witness, Terri Shaffer, an employee of the practice for a brief period following Dr. Weber's sale of the practice to other dentists. The parties introduced several joint exhibits, including transcripts of respondent's testimony before the Board during an investigation in January 2007 and at a deposition in May 2011. Dr. Weber also offered the sworn testimony that Jennifer Barbers, now his wife, gave before the Board in 2007. Ms. Barbers was an employee of the practice.

The administrative law judge examined voluminous records and evaluated each charge. He found, as we do now, that Dr. Weber had engaged in acts that violate the statutes and regulations governing the practice of dentistry, through his failure to create proper records, including failing to obtain adequate diagnostics, failing to sign chart entries, failing to create treatment plans or list options for treatment, and failing to provide records

when requested in a timely manner. In addition, Judge Solomon found that Dr. Weber engaged in repeated acts of negligence and, as to patient U.G., a single act of gross negligence. Further, the judge found that Dr. Weber had engaged in fraud and professional misconduct regarding his actions related to patients' financing of their treatment through credit lines and loans, and in his failure to supervise his office staff in connection with these transactions. Finally, the Board accepted the findings that respondent failed to respond to the Board's investigative demands for statements under oath and failed to complete his continuing education requirements.

Having found a basis for discipline, the Board moved to the mitigation hearing. Dr. Weber testified on his own behalf. Consistent with his correspondence to the Board, Dr. Weber asserted that until he received the Board's February 24, 2012, letter, he was unaware that the matter before the Office of Administrative Law had concluded. He testified that he was involuntarily committed to a mental health facility in August 2011, and that he is currently on disability for post traumatic stress disorder. In the fall of 2011, he received a lump sum payment of \$42,000 on his disability claim and has been living on that sum and on money borrowed from his parents.

Dr. Weber acknowledged that he had abused alcohol and drugs in 2005 and 2006 and that he was unable to participate fully in his practice at that time. He denied ever treating patients while under the influence of alcohol or drugs. He maintained that he has been sober since October 2006, although he acknowledged that he had relapses after that date. He testified that he last used drugs or alcohol in May 2007.

Respondent testified that he sold his practice to Dr. Richard Poller and Dr. Andrew Maron in December 2006 and continued to work for them for several months after the sale.

He stated that although the practice was sold for a sum in excess of one million dollars, there were problems and he did not receive the proceeds due to him. He relayed that his severe financial difficulties have him contemplating bankruptcy. Although he had been directed to provide by March 15, 2012, documentation to support any claim of financial hardship that would impact his ability to pay a penalty, restitution, costs, and/or attorneys' fees, he produced nothing regarding his claim. He testified that he was in the process of filing tax returns for the last three years as there were issues related to the income he reportedly earned while working for the dentists who purchased his practice.³

The Board has examined the specific findings of Judge Solomon and has considered respondent's offer of mitigation. What is clear is that Dr. Weber's conduct, as proved by the Attorney General, evinces a complete abdication of his professional responsibilities related to his practice and demonstrates a profound lack of respect for his patients and his license. Nothing in the record reviewed or in Dr. Weber's testimony has persuaded the Board that the sanction proposed by the administrative law judge should be modified or rejected, except in the limited manner set forth below.

Persons who are privileged to hold a license to practice dentistry are expected to comport themselves with integrity, to treat patients within the standard of care, holding the interest of the patient paramount. The evidence demonstrated that Dr. Weber failed on both counts. Respondent knew of - and approved - the so-called "staff appreciation" program that motivated his staff, including Ms. Barbers, to encourage patients to take

³ Dr. Weber claims that the dentists who purchased his practice collected receipts in his name and did not give those funds to him. Yet, according to Dr. Weber, the dentists gave him a Form 1099 showing he was paid those sums.

loans and other financing arrangements to pay for dental care because the staff received rewards and other benefits for doing so. Patients were unaware of these practices.

Judge Solomon found that Dr. Weber gave a staff member incentives to have patients agree to have Invisalign braces, even permitting that staff member to sign his name on orders for the appliances when he was not in the office. Patients were “sold” dentistry to generate income for the practice, rather than having a treatment plan that was in the best interest of the patient. Many patients did not fully understand the financial documents they had signed. Where loans were taken, the proceeds from the loans were immediately deposited into Dr. Weber’s account. Patients who changed their minds or did not complete treatment, were often unable to obtain refunds of the funds paid to Dr. Weber. Calls were not returned; promises of refunds were empty. Patients were left with heavy debt on loans, often with high interest rates. In one case, it was only after a patient enlisted the aid of the local police that she was able to get her money back. In yet another, the mother of a patient was falsely induced into taking out two loans for her daughter’s treatment. After she filed a complaint with the Board, Dr. Weber refused to treat her daughter until she signed a letter that praised him.

Judge Solomon also found that Dr. Weber’s treatment was deficient in several respects, including his failure to take adequate diagnostic radiographs and his fabrication of ill-fitting crowns for several patients. He misrepresented the need for treatment to patient K.H.. As to patient U.G., Judge Solomon found a gross deviation from the standard of care because respondent prepared her otherwise healthy teeth for crowns for cosmetic purposes, instead of using minor orthodontic treatment with braces or bands. Most patients testified that they had to go to other dentists to complete or correct the treatment

performed by Dr. Weber.

Further indications that respondent had lost control of his practice were also found. His records, described by the administrative law judge as being “disjointed and in total disarray,” violated the Board’s rules as there were no signatures or initials of treating dentists, and no treatment plans or treatment alternatives. Radiographs were not diagnostic and were not identified with the patient name or date. Dr. Weber, despite collecting receipts from loans taken by his patients, failed to pay the bills from the laboratories that fabricated crowns and bridges for the practice. Dr. Weber did not complete the continuing education required of all licensees. He did not respond to Board requests for a statement under oath or for patient records.

Taken as whole, the facts found by Judge Solomon and adopted by the Board, fully support the determination that Dr. Weber engaged in repeated acts of negligence, malpractice or incompetence in violation of N.J.S.A. 45:1-21(d) and in an act of gross negligence, gross malpractice or gross incompetence in violation of N.J.S.A. 45:1-21(c); that Dr. Weber failed to comply with the statutes and regulations governing the practice of dentistry (record keeping, continuing education, duty to co-operate with Board inquiries) in violation of N.J.S.A. 45:1-21(h); and that Dr. Weber engaged in professional misconduct based on his callous and deceptive conduct toward his patients and his lack of supervision and control over his office in violation of N.J.S.A. 45:1-21(e).

In recommending revocation of Dr. Weber’s license, Judge Solomon concluded that respondent’s “reprehensible conduct warrants nothing less.” The Board agrees. Judge Solomon recommended a penalty of \$250,000 for “respondent’s unprofessional conduct and the many other violations he committed.” Again, the Board agrees. The judge further

recommended, and we concur, that restitution should be made to the patients and/or their parents who were found to have been negligently treated or not treated despite payment, that costs of investigation, expert witness fees, transcript costs, and reasonable attorney fees be paid.

The Attorney General submitted his application containing proposed restitution figures for patients, and certifications supporting the request for legal fees and investigative costs. The Board has thoroughly reviewed the application. With the exception regarding the amount requested for one patient, J.N., respondent has not offered the Board any information to cause it to find the amounts requested are not appropriate. During the hearing on mitigation, Dr. Weber testified that he sold his practice to Dr. Poller and Dr. Maron in December 2006. Patient J.N., for whom the Attorney General had requested a refund of \$4,450, was treated after the sale of the practice and was not treated by Dr. Weber but by an orthodontist in the practice. Dr. Weber did not receive any funds for the treatment rendered to J.N. The Board, therefore, will not require that sum to be paid by Dr. Weber. As to the other patients, a review of the Attorney General's submission demonstrates the amounts requested are fully supported by documentation. Restitution shall be paid to the patients listed on the schedule attached to this order, the total of which is \$32,858.34. That amount shall be paid not later than July 1, 2012. The Board, as noted below, has deferred the initial date that payment of penalties, costs, and fees for a month from that date so that restitution is paid first.

The Board does not lightly revoke a license and assess substantial civil penalties and costs and fees. Here, however, we are confronted with a dentist who chose to use his license not for the benefit of his patients, but for his own gain. While his abuse of drugs

and alcohol may have contributed to his loss of control over his practice in 2005 and 2006, a fact that in no way excuses his conduct, even after he claims to have gained sobriety, respondent continued to fail to treat patients within the standard of care. He did not stop the abuses related to patient financing arrangements. He failed to meet the obligations of a licensee to respond to Board requests for information and to take required continuing education.

Even now, Dr. Weber's demeanor and testimony in mitigation give the Board significant pause that he is capable of practicing in a manner consistent with the public health, safety, and welfare. Dr. Weber stated that he suffers from Post Traumatic Stress Disorder. He was involuntarily committed to the hospital in August 2011 following an incident in which he described himself as "having a breakdown." The previous month he had an argument in a retail store with the manager. Both incidents resulted in arrests. Dr. Weber's testimony was disjointed. He began with prepared remarks but left his script and jumped from one issue to another, unable to make a coherent presentation. In his closing remarks, Dr. Weber stated: "...Financially, I'm done, ruined...I just – I can't fight anymore, I'm just done...." He stated that he hopes to return to therapy in the near future.

Dr. Weber's conduct warrants the sanction of revocation. Although the administrative law judge did not place a time limit on respondent's ability to apply, the Board finds that there should be an extended period prior to applying for reinstatement. A three year bar is appropriate. But Dr. Weber's current mental health status also raises significant issues. Therefore, if he were to apply, he must demonstrate to the Board that he has continued in counseling and maintained sobriety, and that he has undergone a comprehensive physical and mental examination and skills assessment at a facility or

organization approved by the Board.

The Board will assess the recommended civil penalty of \$250,000, but will permit Dr. Weber to pay the penalty over a period of ten years. Payment of 119 monthly installments of \$2100 shall begin on August 1, 2012, with the final payment of \$100 due on July 1, 2022.

As to the application for costs and attorney's fees, respondent, though provided with the Attorney General's application and an opportunity to respond, has not done so. The Board has reviewed the submission of the Attorney General dated January 6, 2012, and finds that the fees and costs sought are reasonable. This case involved prosecution of an administrative complaint that alleged several and significant deviations from the standard of care and multiple instances of professional misconduct. As noted by the deputy attorney general in her certification, the fees requested are those that were expended in review of records for more than twenty-five patients, consultations, review of documents regarding financial agreements between patients and the dental office, legal research, motion practice, preparation of pleadings, and appearance at several hearing dates. That time period does not reflect all fees incurred in the prosecution of this matter, for example, attorney's fees related to the appearance at the April 4, 2012 mitigation hearing. Those fees will necessarily be absorbed by the Board's licensees through license fees.

Other than his statements during the mitigation hearing that he is without assets, respondent has not objected to the amount or calculations utilized as to investigative costs, attorneys fees, expert witness fees, transcript and other costs, nor has he submitted any documents to show he is unable to pay the assessment made by the Board.

The Board has reviewed the costs sought in this matter and finds the application

sufficiently detailed and the amount reasonable given the complexity of the investigation and prosecution of this matter. In its submission seeking investigative costs, the State has submitted certifications of supervising investigator John T. Vitasin, as well as Daily Activity Reports that identify the precise activities performed, the amount of time spent in each activity, and the hourly rate charged. The Daily Activity Reports and certifications document costs totaling \$16,579.43.

The Board finds the portion of the application for investigative costs supported by signed and detailed contemporaneous time records to be sufficient. Those investigative time records are kept in the ordinary course of business by the Enforcement Bureau, and contain a detailed recitation of the investigative activities performed. Furthermore the overall amount of the investigative time expended is reasonable for investigative services in this matter. The Board also finds that the rates charged, (from \$116.80 to \$123.69 per hour) to be reasonable, and takes notice that investigative costs, approved many times in the past, are based on salaries, overhead and costs of state employees. Considering the important state interest to be vindicated, protection of the public, the investigative costs imposed are reasonable.

Similarly, the Attorney General's certification in this matter extensively documented the attorney time in these proceedings, detailing all fees with attachments. The Attorney General, through the certification of Deputy Attorney General Leggett-Faulk documented a total of \$105,840 in counsel fees of Deputy Attorney General William Volonte, who prepared and tried the matter, fees of \$16,150 for Law Assistant Kevin Moxley, and \$12,145 in counsel fees of Deputy Attorney General Leggett-Faulk. The Attorney General's certification was supported by the time sheets of the deputies and included

information derived from a memorandum by Nancy Kaplen, then Acting Director of the Division of Law, Department of Law and Public Safety, detailing the uniform rate of compensation for the purpose of recovery of attorney fees established in 1999 and amended in 2005, setting the hourly rate of a DAG with more than ten years of legal experience at \$175.00 per hour (DAsG Volonte and Leggett-Faulk). The hourly rate for law assistants is \$100.00. The Board is satisfied that the record adequately details the tasks performed and the amount of time spent on each by the Deputy Attorney General (including research, drafting, discovery, negotiations, motions, affidavits and briefs, preparation of experts and exhibits for trial, trial presentation, and post hearing submissions). The Board is further satisfied the tasks performed, while time-consuming, needed to be performed and that in each instance the time spent was reasonable. Similarly, the Board finds the rate charged by the Division of Law for its attorneys has been approved in prior litigated matters and appears to be well below the community standard. See, Poritz v. Stang, 288 N.J. Super 217 (App. Div. 1996). In the absence of respondent's objections to these figures and his unsupported assertions that he is unable to pay, the Board finds the costs and fees to be reasonable and should be paid. Therefore, the Board, as announced orally on April 4, 2012, will assess \$160,286.06 in costs and fees. This represents: expert witness fees of \$3,750.00; investigative costs of \$16,579.43; investigative transcripts costs of \$4,720.49; legal fees of \$134,135.00; and hearing transcripts costs of \$1,101.14. The Board will permit these costs and fees to be paid over a period of two years.

THEREFORE, IT IS ON THIS 4th DAY OF MAY, 2012,

ORDERED THAT:

1. The license of Marc Weber, D.D.S., to practice dentistry, which is currently expired, shall be revoked effective immediately. Respondent shall be barred from applying for reinstatement of his license to practice dentistry in this State for a period of not less than three years. Respondent shall comply with the Directives Applicable to Any Board Licensee Who is Suspended or Revoked or Whose Surrender of Licensure Has Been Accepted by the Board.

2. Respondent shall provide restitution totaling \$32,858.34 to the patients identified on the attached schedule. Respondent shall submit certified or bank checks or money orders payable to the patients in the amounts listed and forward them to Jonathan Eisenmenger, Executive Director, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 0710, not later than July 1, 2012.

3. Respondent is assessed civil penalties, pursuant to N.J.S.A. 45:1-22 in the amount of \$250,000.00 for conduct that violated N.J.S.A. 45:1-21(c), (d), (e), and (h). Payment of the civil penalties shall be made over a period of ten years as follows: 119 monthly payments of \$2,100 and a final payment of \$100.00. Payments shall be submitted by certified or bank check or money order made payable to the State of New Jersey and shall be sent to Jonathan Eisenmenger, Executive Director, at the address in paragraph 2 above. The first payment shall be due on August 1, 2012, and subsequent payments shall be made on the first of each succeeding month until all payments are completed. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Respondent is assessed \$160,286.06 for fees and costs to the State, including the costs of the investigation in the amount of \$26,151.06 (investigative activities: \$16,579.43; investigative transcripts: 4,720.49; hearing transcripts: \$1,101.14; expert witness fees: \$3750), and legal fees in the amount of \$134,135.00. Payment for the costs and attorney's fees shall be submitted by certified or bank check or money order made payable to the State of New Jersey and submitted to the Board. Respondent, at his option, shall pay the full amount of \$160,286.06 within sixty days of the entry of this order or shall make twenty-four monthly payments of \$6,678.58. The first payment shall be due by August 1, 2012, and subsequent payments shall continue to be due by the first of each month until all twenty-four payments are completed. Payment shall be sent to Jonathan Eisenmenger, Executive Director, at the address described in paragraph 2 above.

5. In the event that respondent does not make a payment for costs, fees, and penalties within twenty days of the date such payment is due, the full amount owed shall become due immediately without further notice and will result in the filing of a certificate of debt, as well as such other proceedings as permitted by law.

6. Prior to any application for reinstatement, respondent shall appear before the Board or a committee of the Board and be prepared to demonstrate that he has complied with this order, maintained sobriety, continued in counseling, that he has completed continuing education during the period that he was out of practice, and that he is fit and able to practice with reasonable skill and competency. Respondent shall provide the results of a comprehensive medical, psychiatric, and skills evaluation undertaken at his expense at a facility or organization approved by the Board.

7. Failure to comply with any of the terms of this Final Order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Herbert B. Dolinsky, D.D.S.
Herbert B. Dolinsky, D.D.S.
President

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 :

ADMINISTRATIVE ACTION

RESTITUTION SCHEDULE

MARC WEBER, D.D.S.
LICENSE NO. DI 22101879400

TO PRACTICE DENTISTRY IN THE :
STATE OF NEW JERSEY :

Consistent with Paragraph 2 of the Final Order of the Board in this matter, restitution shall be paid to the persons identified here by initials in the following amounts:

Patient Initials	Restitution Amount
C.G.	\$4,390.00
W.R.	2,355.00
L.V.	552.00
D.J.M.	5,507.00
M.N.	750.00
B.J.	5,843.00
S.M.	578.00
M.J.P.	2,200.00
K.R.	1,683.34
M.L./A.B.M.	9,000.00
<hr/> Total	<hr/> \$32,858.34

**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.