

IN THE MATTER OF \* BEFORE THE MARYLAND  
STEVEN W. JOHNSON, D.D.S. \* STATE BOARD OF  
Respondent \* DENTAL EXAMINERS  
License Number: 8716 \* Case Number: 2006-203

\* \* \* \* \*

**CONSENT ORDER**

On or about April 27, 2006, the Maryland State Board of Dental Examiners (the "Board"), summarily suspended the dental license of STEVEN W. JOHNSON, D.D.S. ("Respondent"), license number 8716, after finding that the public health, safety and welfare imperatively required emergency action under Md. State Gov't ("S.G") Code Ann. § 10-226(c)(2) (2004) and pursuant to the Maryland Dentistry Act (the "Act"), Md. Health Occ. ("H.O.") Code Ann. §§ 4-101 *et seq.* (2000 & Supp. 2004). The pertinent provisions of H.O. § 4-315(a), and those under which the Summary Suspension Order was based, provide:

(a) License to practice dentistry. – Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry...reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the ... licensee:

(6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;

(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; and

(28) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions.

The applicable section of S.G. § 10-226(c)(2) provides:

(c) *Revocation of [sic] suspension.* –

- (2) A unit may order summarily the suspension of a license if the unit:
  - (i) finds that the public health, safety, or welfare imperatively requires emergency action; and
  - (ii) promptly gives the licensee:
    - 1. written notice of the suspension, the finding and the reasons that support the finding; and
    - 2. an opportunity to be heard.

The Board offered the Respondent an opportunity to show cause why his license should not continue to be summarily suspended. As a result of improvements in his practice, and as a result of negotiations with the Office of the Attorney General, by Kimberly S. Cammarata, Assistant Attorney General, the Respondent, by Randall Lutz, Esquire and the Board, the parties agreed to enter into this Consent Order, consisting of Introduction, Findings of Fact, Conclusions of Law and Order, and with the terms and conditions set forth herein. This Consent Order resolves the Summary Suspension Order and any Charges that may have resulted from the Findings of Fact herein.

#### **FINDINGS OF FACT**

1. At all times relevant hereto, the Respondent was and is a dentist licensed to practice dentistry in the State of Maryland.
2. The Respondent practices dentistry on a commission basis at North Point Dental. North Point Dental is owned by Edward Silverman, D.D.S. and the practice is operated and managed by Susan Himmel, R.D.H.

3. On or about March 8, 2006, the Board received a complaint alleging facts which, if true, would be violations of Centers for Disease Control's ("CDC") guidelines on universal precautions. The Board referred the complaint to its investigative unit.

Office Visit, April 13, 2006

4. On or about April 13, 2006, Board investigators presented to North Point Dental. On this date neither Dr. Silverman nor Ms. Himmel were present in the office. The Respondent and his assistant, Kim Scurti, were present.

5. The investigators inspected each operatory in the office, including the operatory where the Respondent was treating patients. Each operatory had dental instruments, both disposable and re-usable, strewn about in drawers, un-bagged. These instruments were not verifiably sterile. The Respondent used these instruments during patient care and admitted that he did not know if the instruments were indeed sterile. The Respondent and Ms. Scurti advised that the instruments are never bagged for sterilization or storage after sterilization.

6. The Respondent and Ms. Scurti further advised that Dr. Silverman is only present in the office on Mondays and that Ms. Himmel operates and manages the dental office. They advised that Ms. Himmel provides the operatories, instruments, dental materials, and all supplies for each practitioner working in the office. Ms. Himmel is also responsible for ensuring proper functioning of the autoclave, removal of bio-hazardous waste, and all other administrative functions of the office. They further advised that Ms. Himmel:

a. Directs all dentists and assistants to re-use disposable, single-use items including: prophylaxis angles, matrix bands, suction tips, etch & bond and wells. Ms. Himmel has been observed taking disposed items from the trash for re-use.

b. Directs all dentists and assistants to dilute Lysol cleaner used for disinfecting contaminated surfaces. The Lysol is diluted with approximately 90% water.

c. Refuses to purchase adequate quantities of sterilization bags to use for autoclaving instruments. Ms. Himmel has told staff that the bags are expensive and that they should be used only for sterilizing gauze pads to be used for extractions. She directs the staff to place instruments directly into the autoclave without bagging. The instruments are run through the autoclave cycle without the use of a chemical indicator strip to evidence that the autoclave reached the necessary temperature to ensure sterility.<sup>1</sup>

d. Refuses to purchase adequate quantities of personal protective apparel.

e. Fails to spore test the autoclave to ensure sterilization of instruments.

7. The Respondent admitted that he practiced dentistry under most of those directives. He admitted that he could not confirm that the instruments he used were sterile. He admitted to re-using single use disposable instruments. He admitted that his operatory was disinfected with diluted Lysol. The Respondent and Ms. Scurti also failed to wear appropriate protective equipment during patient care observed that day and during room turn-over and instrument scrubbing. The Respondent advised that sterile gloves were not available and therefore not used for surgical procedures.

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<sup>1</sup> The investigators did not observe any sterilizer bags in the operatories or in the sterilization area on the first visit to the office.

8. When asked to provide evidence of spore testing of the autoclave, the Respondent advised that he has no knowledge that spore testing had been done on the autoclave for a least a year and had seen no records of spore testing.

9. The investigators also observed blood-stained waste in regular trash bags in the public dumpster. Ms. Scurti and Dr. Johnson advised that they were told not to use the bio-hazardous waste bags too often because of the expense. They admitted to placing contaminated items in the regular trash.

10. The investigators also observed food products and dental materials contained in the same refrigerators.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated H.O. § 4-315(a)(6), (16) and (28) which provide:

(6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;

(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; and

(28) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions...

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is by the Maryland State Board of Dental Examiners, hereby:

**ORDERED** that the Respondent's license to practice dentistry in the State of Maryland is **SUSPENDED** for a period of THIRTY (30) DAYS, beginning on April 27, 2006, the date his license was summarily suspended; and it is further

**ORDERED** that the Respondent may petition for a **STAY** of the **SUSPENSION** on May 10, 2006, such a stay shall be conditioned upon the completion of the following conditions:

1. The Respondent shall retain a Board-approved consultant to evaluate his practice for compliance with CDC guidelines and to train the Respondent and each of his employees in applying the guidelines to the dental practice. The consultant shall be provided with a copy of all Orders in this case and all documentation pertinent to the investigation;
2. After the Respondent and his employee(s) have been trained in the CDC guidelines and the consultant is satisfied that the Respondent and his employee(s) have properly applied them in the dental practice, the consultant shall submit a detailed written report to the Board. The report must be satisfactory and must be approved by the Board;
3. After the consultant has provided a detailed written report to the Board, in writing, that the Respondent's practice is in full compliance with the CDC guidelines and the Board is satisfied that the Respondent and his employee(s) are in full compliance and evidence a working knowledge of the CDC guidelines, the Board shall, in accordance with the terms and conditions of this Order, reinstate the Respondent's license and approve the Respondent to re-open his practice; and it is further

**ORDERED** that the Respondent shall be placed on **PROBATION** for a period of two (2) years from the date his license is reinstated, subject to the following conditions:

1. The consultant shall be present in the Respondent's office for one half (1/2) day of patient care after his license is reinstated during the Respondent's first thirty (30) days of practice to ensure that the Respondent is complying with the CDC guidelines and the Act, and that all employee(s) in his practice are in compliance;

2. The Respondent shall provide to the Board, on or before the fifth day of each month, a listing of his regularly scheduled days and hours for patient care;

3. The Respondent shall be subject to a minimum of three (3) unannounced inspections by the consultant, or other Board-approved agent, during the first year of the probationary period. The consultant or Board-approved agent shall provide reports to the Board within ten (10) days of the date of the inspection and may consult with the Board regarding the findings of the inspections. A finding by the Board indicating that the Respondent or his practice is not in compliance with the CDC guidelines shall constitute a violation of this Order and may, in the Board's discretion, be grounds for immediately suspending the Respondent's license. In the event that the Respondent's license is suspended under this provision, he shall be afforded a Show Cause Hearing before the Board to show cause as to why his license should not be suspended or should not have been suspended;

4. The Respondent shall also be subject to random, unannounced inspections by the Board or its representative(s), at any time during the probationary period. A finding by the Board indicating that the Respondent or his practice is not in compliance with the CDC guidelines shall constitute a violation of this Order and may, in the Board's

discretion, be grounds for immediately suspending the Respondent's license. In the event that the Respondent's license is suspended under this provision, he shall be afforded a Show Cause Hearing before the Board to show cause as to why his license should not be suspended or should not have been suspended;

5. The Respondent shall complete all required continuing education courses required for renewal of his license. No part of the training or education he receives in compliance with this Order shall be applied to his required continuing education credits;

6. The Respondent shall comply with the Maryland Dentistry Act, including CDC guidelines and Occupational Safety and Health Administration's ("OSHA") final rule on Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030); and it is further

**ORDERED** that the Respondent shall at all times cooperate with the Board, any of its agents or employees, and with his consultant, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of this Consent Order, and it is further

**ORDERED** that if the Respondent does not petition for a Stay of Suspension on or before December 31, 2006, or the Respondent otherwise does not meet the conditions for stay and reinstatement as delineated in this Consent Order, the Board will issue an Order Revoking the Respondent's license; said Order shall be a Final Order, and shall not be subject to appeal; and it is further

**ORDERED** that two (2) years from the effective date of reinstatement of his license, the Respondent may petition the Board for termination of his probationary status without any conditions or restrictions whatsoever. If the Respondent has satisfactorily complied with all conditions of probation, including at least two (2) years of

probation, and there are no outstanding complaints regarding the Respondent, the Board may terminate the probation; and it is further

**ORDERED** that the Respondent shall be responsible for all costs incurred under this Consent Order; and it is further

**ORDERED** that this Consent Order is PUBLIC DOCUMENT as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004).

3 May 2006  
Date of Consent Order

Eric A. Katkow MD  
Eric A. Katkow, D.D.S.  
President  
Maryland State Board of Dental Examiners

**CONSENT**

I, **STEVEN JOHNSON, D.D.S.**, License No. 8716, by affixing my signature hereto, acknowledge that:

1. I have had the opportunity to consult with counsel, Randall Lutz, Esquire, before signing this document.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 4-318 (2005) and Md. State Gov't. Code Ann. §§10-201 *et seq.* (2004)
3. I acknowledge the validity of this Consent Order as if entered into after a formal evidentiary hearing in which I would have had the right to counsel, to confront

witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law.

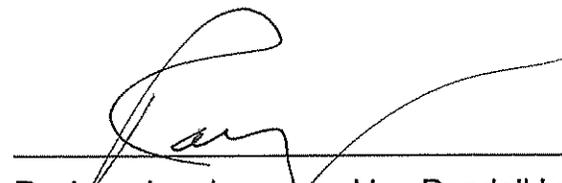
4. I voluntarily admit and consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided that the Board adopts the foregoing Consent Order in its entirety. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order as set forth in § 4-318 of the Act and Md. State Gov't. Code Ann. §§ 10-201 *et seq.* (2004).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order I may be subject to disciplinary action, which may include revocation of my license to practice dentistry in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

5/3/06  
Date

  
Steven Johnson, D.D.S.

  
Reviewed and approved by: Randall Lutz, Esquire

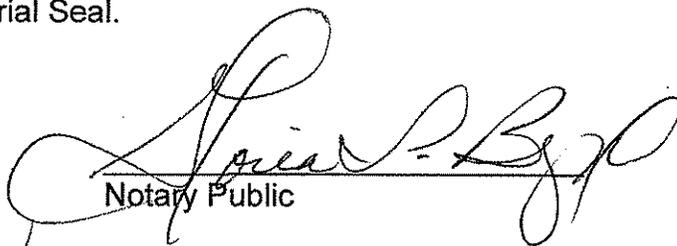
**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY THAT on this 31<sup>st</sup> day of May, 2006, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Steven Johnson, D.D.S., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

  
Notary Public

My Commission Expires: 1/1/08