

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In the Matter of:

SASSAN BASSIRI, D.D.S. (License No. 7705))))	FINAL AGENCY DECISION (FAD)
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THIS MATTER was heard before the North Carolina State Board of Dental Examiners (Dental Board) on June 16, 2017 pursuant to N.C. Gen. Stat. §§ 90-41.1 and 150B-38 and 21 NCAC 16N .0504 of the Board's Rules. The Dental Board's Hearing Panel consisted of Board members Dr. William M. Litaker, Jr., presiding; Dr. Stanley L. Allen, Dr. Merlin W. Young, Dr. Millard Wester, and Dr. Kenneth Sadler. Board members Dr. Clifford O. Feingold, Ms. Carla Stack, and Mr. Dominic Totman did not participate in the hearing, deliberation, or decision of this matter. Petitioner, Dr. Sassan Bassiri, was represented by Carrie Meigs. Doug Brocker and Whitney Waldenberg represented the Investigative Panel, and Thomas F. Moffitt represented the Hearing Panel.

Based upon the stipulations of the parties and the evidence produced at the hearing, the Board enters the following:

FINDINGS OF FACT

1. The Dental Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding pursuant to the authority granted to it in Chapter 90 of the North Carolina General Statutes, including the Dental Practice Act and the Rules and Regulations of the North Carolina State Board of Dental Examiners.
2. Dr. Bassiri was licensed to practice dentistry in North Carolina on September 17, 2003 and was issued license number 7705.

3. On November 5-6 and December 3-5, 2010, the Dental Board held a formal disciplinary hearing to consider charges that Dr. Bassiri had defrauded the North Carolina Division of Medical Assistance (Medicaid or DMA) and engaged in negligence in the practice of dentistry.

4. On March 17, 2011, the Dental Board entered a Final Agency Decision (2011 FAD) that found that Dr. Bassiri intentionally defrauded DMA by:

- a) billing routine dental examinations as higher-paying extensive problem-focused evaluations using CDT Code D0160 approximately 19,000 times between late 2003 and late 2009;
- b) billing for scaling and root planing treatments that had not been performed;
- c) billing single fillings with multiple surfaces as two separate fillings, resulting in higher reimbursements to Dr. Bassiri;
- d) billing prophylaxes as higher-paying full mouth debridements.
- e) billing alveoplasties performed in conjunction with the extraction of fewer than four teeth per quadrant as alveoplasties performed in conjunction with four or more teeth per quadrant, resulting in higher reimbursements to Dr. Bassiri;
- f) billing for performing alveoplasties that were not medically necessary;
- g) billing simple extractions as higher-paying surgical extractions; and
- h) billing for non-reimbursable extractions of primary teeth about to exfoliate.

5. The 2011 FAD also found that Dr. Bassiri negligently directed an assistant to place sealants over existing decay in the case of one patient and failed to ensure that his staff properly placed sealants in the case of another patient.

6. Pursuant to the 2011 FAD, Dr. Bassiri's North Carolina dental license was revoked, effective in April 2011.

7. On April 15, 2011, Dr. Bassiri filed a Petition for Judicial Review in Wake County Superior Court, requesting the court to overturn the 2011 FAD.

8. In December 2011, following a hearing, the Wake County Superior Court denied Dr. Bassiri's Petition for Judicial Review and upheld the Dental Board's 2011 FAD.

9. On December 21, 2012, the United States Attorney for the Middle District of North Carolina charged Dr. Bassiri with defrauding Medicaid in violation of 18 U.S.C. Section 1347 by billing for:

- a) higher-paying metal based dentures when he had provided only resin based dentures;
- b) permanent dentures when he had provided non-reimbursable interim or temporary dentures; and
- c) detailed, problem-focused examinations when he had conducted lower-paying, routine examinations.

10. On January 3, 2013, Dr. Bassiri pled guilty in federal district court to all three counts of health care fraud.

11. In May 2013, Dr. Bassiri was sentenced to serve five months in federal prison, followed by five months of house arrest. He was also ordered to pay \$68,795.65 in restitution to Medicaid, fined \$10,000 and placed on supervised release for two years.

12. Dr. Bassiri has paid the fine and restitution required by the federal criminal judgment.

13. Dr. Bassiri has completed his prison sentence and the term of supervised release.

14. On July 28, 2014, Dr. Bassiri filed a petition seeking reinstatement of his North Carolina dental license.

15. After a formal hearing on the petition for reinstatement, the Board Hearing Panel issued a Final Agency Decision on February 3, 2016 (2016 FAD). The 2016 FAD permitted Petitioner to resume the practice of dentistry for one year under a restricted license and the supervision of another licensed dentist and pursuant to several detailed conditions set forth therein.

16. For numerous months after entry of the 2016 FAD, Petitioner was unable to obtain employment consistent with its terms.

17. Petitioner submitted a request to modify the 2016 FAD based on his inability to obtain employment consistent with these conditions. The Board Hearing Panel denied that request at its August 13, 2016 meeting.

18. The Board Hearing Panel later granted Petitioner's request to be permitted to volunteer under an intern permit at the Community Care Center in Winston Salem, the Care Clinic in Fayetteville, and Wake Smiles under the direct supervision of licensed dentists who all signed a verification confirming them as supervising dentists.

19. A dental intern permit was issued to Petitioner on October 12, 2016 and Petitioner began working as an intern sometime thereafter.

20. Dr. Bassiri had only been working under his intern permit for approximately four (4) months before submitting a request for an unrestricted license to practice dentistry on February 5, 2017, which was one year after the 2016 FAD was entered.

21. After entry of the 2016 FAD and prior to submitting his request, on or about July 26, 2016, Dr. Bassiri and representatives of the state and federal government reached a Settlement Agreement whereby Dr. Bassiri agreed to pay an additional \$167,000 plus interest in restitution to DMA for misuse of ADA Code D0160.

22. Dr. Bassiri is required to make 60 monthly payments of \$1,000 and a final payment of \$107,000 plus accrued interest at the end of the 60 months.

23. Dr. Bassiri was current through May 2017 on the monthly payments due under the Settlement Agreement.

24. Dr. Bassiri is not eligible to become a Medicaid provider or work for a Medicaid provider until at least February of 2019.

25. On June 7, 2012, prior to entering a plea on the charges of health care fraud, Dr. Bassiri became a voluntary participant in the North Carolina Caring Dental Professionals Program (NCCDP).

26. Dr. Bassiri's has participated in the NCCDP since joining the group in 2012, and as part of the program, participated in psychotherapy with Dr. Lance Reger, a licensed psychiatrist, until Dr. Reger determined that Dr. Bassiri could be discharged from therapy.

27. Dr. Bassiri's NCCDP contract required him to, among other things, submit monthly reports to NCCDP outlining a personal review of his recovery program with documentation of daily activities.

28. In November of 2016, Nancy Davis, Executive Director of NCCDP, discovered that Dr. Bassiri had submitted identical monthly reports to NCCDP for the previous six (6) months, by whitening out old dates and placing new dates on the reports. In these identical reports, Dr. Bassiri indicated he was working on Step 8 of the 12 Step Program.

29. Ms. Davis testified that in her opinion, Dr. Bassiri's acts of submitting identical reports and simply replacing the dates was dishonest and similar to Dr. Bassiri's prior acts of fraudulently billing Medicaid, and that it was unlikely that Dr. Bassiri was working on Step 8 for six (6) months.

30. Ms. Davis also testified that in her opinion, Dr. Bassiri did not take parts of the NCCDP Fall Conference seriously, as she observed him texting and playing on his cell phone during presentations.

31. Ms. Davis initially told Dr. Bassiri that it would no longer be appropriate for him to participate in the NCCDP program in light of the six (6) identical reports, but later agreed that he could continue to participate if he began seeing Dr. Katherine Glenn, a licensed professional counselor, for counseling and treatment.

32. Dr. Bassiri testified that he still does not believe it was mandatory for him to complete parts of his report to NCCDP each month, and testified that he had nothing to gain from submitting the reports.

33. According to Exhibit 5 admitted by Petitioner, the Participation Agreement Dr. Bassiri signed in June 2012 required him to "submit monthly reports to NCCDP outlining a personal review of his recovery program with documentation of daily activities," contrary to his testimony at the hearing.

34. Contrary to his testimony at the hearing, Dr. Bassiri did have something to gain from submitting these reports to NCCDP. For example, he offered his participation in NCCDP and completion of his Agreement in support of his request for an unrestricted license to practice dentistry.

35. Dr. Katherine Glenn testified before the Hearing Panel and was tendered as an expert in psychological counseling and was accepted as such by the Hearing Panel.

36. Dr. Bassiri has been seeing Dr. Glenn for psychotherapy approximately three (3) times a month since December of 2016.

37. Dr. Glenn testified that when she began seeing Dr. Bassiri, it was evident that Dr. Bassiri did not understand the 12-step program in December of 2016, even though he had been participating in the NCCDP program since 2012.

38. Dr. Glenn further testified that in her opinion, Dr. Bassiri is now beginning to address the core issues underlying his dishonest behavior, and is now beginning to understand the 12 steps and how to apply them in his life.

39. Dr. Bassiri testified that he intends to continue seeing Dr. Glenn for counseling and guidance regarding the 12 steps and how to apply them in his life.

40. Dr. Bassiri completed the five-year participation Agreement with the NCCDP in June 2017, and has expressed a willingness to serve as a peer support volunteer the program.

41. Dr. Bassiri has passed all sections, modules, and components of the ADEX clinical examination and has achieved "ADEX Status."

42. Following the issuance of his intern permit in October 2016, Dr. Bassiri has volunteered at nonprofit clinics, providing dental care to patients without compensation.

43. Dr. Bassiri testified that he wants to continue to do volunteer work and “be a servant to the public for the rest of my career, not a greedy clinician anymore.”

44. Petitioner also testified in his previous reinstatement hearing, “I’d love to just do dentistry volunteer work.”

45. Petitioner’s brother is the current owner of his former dental practice in King, North Carolina.

46. Petitioner still owns the building currently used for his former dental practice and he is paid monthly rent by the dental practice owned by his brother.

47. Petitioner’s wife currently is the office manager for his former dental practice.

48. Petitioner previously testified that he hated practicing dentistry in his former office, it was awful, and he did not want to go through that anymore.

49. Dr. Bassiri testified that he does not want to have responsibility over billing at any dental practice.

50. For the five years from 2005-2010, Petitioner’s dental office collected over \$6.6 million dollars from Medicaid.

51. Under the criminal judgment and Settlement Agreement, Petitioner is required to repay Medicaid less than \$250,000, including fines.

52. Petitioner’s repayment required under the Settlement Agreement and the criminal restitution does not fully repay Medicaid for all Petitioner’s fraudulent billing in the five years from 2005-2010.

53. As the Executive Director of NCCDP, Nancy Davis testified that she had concerns about Dr. Bassiri being the owner of a dental practice, having responsibility for

billing, and about Petitioner going back to work for or with family members in practicing dentistry.

Based upon the Findings of Fact, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. The Hearing Panel of the North Carolina State Board of Dental Examiners has jurisdiction over the subject of this proceeding and over the person of the Petitioner, Dr. Sassan Bassiri.

2. Dr. Bassiri is able to practice dentistry but only with specific conditions, restrictions, and limitations and in a graduated reinstatement process to ensure the protection of the public.

In addition to the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel makes the following:

ADDITIONAL FINDINGS AND CONCLUSIONS REGARDING APPROPRIATE
LIMITATIONS AND RESTRICTIONS ON FUTURE PRACTICE

1. Dr. Bassiri's non-compliance with his CDP agreement after the 2016 FAD and his false or inaccurate testimony at the hearing about those issues demonstrates on-going issues that need to be addressed to protect the public.

2. Dr. Bassiri should continue with counseling, including to address the potential causes of the conduct resulting in his revocation, until clinically deemed no longer necessary.

3. Dr. Bassiri's extensive pattern of past misconduct spanning multiple years, which resulted in his revocation under the 2011 FAD, deprived Medicaid patients of needed dental services in North Carolina.

4. The individuals deprived of dental services in North Carolina by Petitioner's past misconduct are some of the most needy and underserved people in the State and were some of Petitioner's victims, as acknowledged by him.

5. Based on his prior misconduct and its effects, Petitioner still owes a debt to the community and to society to serve needy and underserved patients if allowed to practice dentistry.

6. Dr. Bassiri should continue to provide dental services to needy and underserved people in the State to remedy the effects of his past misconduct.

7. Dr. Bassiri's past misconduct resulted in part from his ownership of a dental practice and from incentives to earn additional income based on billing and production.

8. Petitioner's potential future ownership of a dental practice or a compensation structure based on production incentives poses an increased risk to the public that his past conduct will reoccur.

9. Petitioner's extensive pattern of past misconduct requires ongoing supervision and monitoring of his future practice of dentistry.

10. A currently-licensed North Carolina dentist should be responsible for monitoring and supervising Dr. Bassiri's future dental practice to ensure public protection.

11. The practice monitor should be independent, objective, not related to Petitioner, and not under probation or other disciplinary conditions with the Board.

Based on the foregoing Findings of Fact and Conclusions of Law, and Additional Findings and Conclusions Regarding Appropriate Practice Limitations and Restrictions, the Board enters the following order:

ORDER

1. Dr. Bassiri's shall be subject to indefinite probation, during which time he shall be conditionally granted a limited or restricted license, subject to limitations set forth below. Throughout the time he is on probation, Dr. Bassiri shall comply with all the following conditions, in addition to the limitations and requirements set forth below in paragraphs 2 and 3:

- a. Dr. Bassiri shall continue counseling with his current therapist, Dr. Katherine Glenn, or a Board-approved therapist, until that therapist has determined counseling is no longer necessary;
- b. Dr. Bassiri shall not violate any laws of the state of North Carolina or of the United States;
- c. Dr. Bassiri shall violate no provisions of the Dental Practice Act or the Board's Rules and Regulations;
- d. Petitioner shall notify and provide a copy of this FAD to any current or prospective employer if his employment is related to the practice of dentistry; and
- e. Dr. Bassiri shall permit the Board and its agents to inspect and observe his office and patient records and interview employers and co-workers at any time during normal office hours.

2. Dr. Bassiri is granted a limited volunteer license to practice dentistry subject to the conditions set forth in this Order. Dr. Bassiri shall comply with all the restrictions and conditions set forth in N.C. Gen. Stat. 90-37.1, including but not limited to practicing dentistry only in nonprofit health care facilities serving low income populations in the State and not receiving any fees or compensation of any kind or nature for dental services rendered by him during those two years. Petitioner shall practice dentistry for a minimum of 2,000 hours under this limited volunteer license and conditions before being considered for the restricted license set forth in paragraph 3. Another person working with Petitioner at the facility must corroborate the hours Petitioner works. This restriction and requirement is based in part on Petitioner depriving Medicaid patients of needed dental services in North Carolina through his extensive pattern of past misconduct, his not fully repaying DMA for all his past fraudulent billing to Medicaid, and the need for Dr. Bassiri to obtain additional therapy and treatment before resuming the private practice of dentistry.

3. After no less than two years from entry of this FAD, Dr. Bassiri may petition the Board for a restricted license. If Petitioner demonstrates that he has practiced dentistry for a minimum of 2,000 hours under a limited volunteer license and that he has fully complied with the conditions in paragraphs 1 and 2 throughout that time, Dr. Bassiri will be granted a restricted license to practice dentistry under indefinite probation and subject to the following conditions, in addition to the conditions set forth in paragraph 1:

- a. Dr. Bassiri may not own a dental practice;

- b. When working for a dental practice, Dr. Bassiri shall be a W-2 employee, and receive a salary or fixed compensation with no bonus option or other incentive related to billing or production;
- c. Dr. Bassiri shall not be employed by a dental practice owned by or be supervised by any of his relatives, including any relative by or through marriage;
- d. Dr. Bassiri shall engage a licensed North Carolina dentist to serve as a practice monitor (Monitor). Prior to beginning practice with a restricted license, Petitioner shall submit for review and obtain approval of a proposed Monitor by the Board's Investigative Panel at its discretion. No person either related to Petitioner or who is currently under probation or other disciplinary conditions with the Board shall be approved as a Monitor. The Monitor shall meet with Petitioner regularly and no less than quarterly. At least quarterly, the Monitor shall review no less than 20 example patient charts and corresponding billing records randomly selected by the Monitor to determine Petitioner's compliance with treatment of patients, proper billing to Medicaid and private insurance companies, and appropriate patient treatment and billing record-keeping. Petitioner shall ensure that the Monitor prepares and submits to the Board quarterly reports with the findings concerning those issues for the quarter, including identifying the specific patient charts reviewed and providing a copy of any such records upon request of the Board's Investigative Panel. The Monitor reports shall be due not later than April 30, July 31, October 31, and January 31 of each

year for the previous quarter. Petitioner is responsible for all payment to the Monitor or any other costs associated with this monitoring. If the Monitor reports information to the Board indicating that Petitioner may be engaging in any violation of the Board's rules or regulations, Petitioner understands that such findings may result in further disciplinary proceedings and potential action by the Board, following notice to Petitioner and an opportunity to be heard;

e. Dr. Bassiri must volunteer, without compensation, for at least four-hundred (400) hours in each year of the indefinite probation, which is one day per week on average, for non-profit health care facilities serving low income, needy, and underserved populations in North Carolina. Another person working with Petitioner at the facility at which he volunteers must corroborate the hours Petitioner works. This continuing requirement is based in part on Petitioner depriving Medicaid patients of needed dental services in North Carolina through his extensive pattern of past misconduct and Petitioner's not fully repaying DMA for all his past fraudulent billing to Medicaid; and

f. Petitioner shall comply fully with the Settlement Agreement with the state and federal government he signed on July 26, 2016 and shall fully repay the entire amount of \$167,000 plus accrued interest consistent with the terms of the Settlement Agreement.

4. The Board is aware that aspects of this FAD may present Petitioner with certain practical difficulties but concludes that each is necessary to ensure public

protection. The Board does not intend to modify or eliminate any of the conditions, limitations, or requirements set forth herein based on potential future practical difficulties.

5. If Dr. Bassiri fails to comply with any provision of this Final Agency Decision or breaches any term or condition thereof, the Board shall promptly schedule a public Show Cause Hearing to permit Dr. Bassiri to show cause why his limited or restricted license should not be rescinded. If, as a result of the Show Cause hearing, the Board is satisfied that Dr. Bassiri's license should be rescinded, Dr. Bassiri shall surrender his license and current renewal certificate to the Board. This sanction shall be in addition to and not in lieu of any sanction that the Board may impose as a result of future violations of the Dental Practice Act or the Board's Rules.

Entered this the 25th day of September, 2017.

William M. Litaker, Jr., D.D.

Dr. William M. Litaker, Jr.
Hearing Panel Chair

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS