

**State of New Hampshire  
Board of Dental Examiners  
Concord, New Hampshire**

In the Matter of:  
**Ayman Abusoud Jacobs, DMD**  
**License No. 03007**  
(Adjudicatory Proceeding)

Docket No. 14-4

**ORDER OF EMERGENCY SUSPENSION  
OF PRIVILEGE TO PRESCRIBE CONTROLLED DRUGS  
AND NOTICE OF HEARING**

1. RSA 317-A:18-b; RSA 541-A:30, III; RSA 541-A:31; and New Hampshire Board of Dental Examiners Administrative Rule (“Den”) 207.04 authorize the New Hampshire Board of Dental Examiners (“Board”) to suspend a license to practice dentistry or a privilege for no more than sixty (60) days pending completion of an adjudicatory proceeding, in cases involving imminent danger to life or health. In such cases, the Board must commence a hearing not later than 30 days after the date of the emergency order. If the Board does not commence the hearing within 30 days, the suspension order shall be automatically vacated. *See* RSA 317-A:18-b and RSA 541-A:30, III. The Board may not continue such a hearing without the consent of the licensee to the continuation of the emergency suspension. *See* RSA 317-A:18-b and Den 207.04. Postponement of the proceeding is prohibited unless the licensee agrees to continue the suspension pending issuance of the Board’s final decision. *See* RSA 317-A:18-b and Den 207.04.

2. Ayman Abusoud Jacobs , DMD (“Dr. Jacobs” or “Respondent”), holds an active license, No. 03007, issued on December 23, 1996, to practice dentistry in the State of New Hampshire. Respondent practices dentistry at 19 Elm Street in Keene, New Hampshire.

3. A preliminary investigation was conducted and a Preliminary Report of Investigation was provided to the Board. The information received by the Board indicates that the continued prescribing of controlled drugs by Respondent poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Respondent's privilege to prescribe controlled drugs pending a hearing on whether permanent and/or temporary disciplinary sanctions should be imposed.

4. In support of this *Order of Emergency Suspension of Prescribing Privileges and Notice of Hearing*, the Board alleges the following facts:

- A. On or about October 14, 2014, an investigator for the Board received information from the pharmacist assigned to the NH State Police, advising that the Drug Diversion Unit had received a report from a pharmacist from a pharmacy in Keene ("Pharmacy A") that Respondent may be engaging in conduct constituting drug diversion.
- B. The reporting pharmacist indicated that in September of 2014, one of her technicians received an anonymous call in which the male caller reported that Respondent was giving someone prescriptions to get filled and returned to him for his personal use.
- C. On or about October 10, 2014, Pharmacy A received a call from another pharmacy in Keene ("Pharmacy B") which said that it had just received a call from a male caller who provided information similar in nature to what was reported during the call received by Pharmacy A the previous month. While the caller did not identify himself, he gave enough information

whereby the patient in question was identified as Recipient. The caller stated that this person was an employee of the practice and that Respondent was issuing her scripts, which she would have filled and then give the drugs to Respondent. Having the patient's name, the pharmacists from Pharmacy A and Pharmacy B uncovered a prescription history that appeared to be questionable and potentially indicative of drug diversion activity. This is what triggered the pharmacist at Pharmacy A to report her concerns to NH State Police.

- D. As part of his investigation, the pharmacist assigned to the NH State Police obtained prescription profiles for Recipient from pharmacies in the Keene area. The data compiled showed that from February 25, 2014 to October 7, 2014, five different pharmacies filled controlled drug prescriptions written by Respondent for Recipient. The prescriptions were for Vicodin 7.5/300 (2/25/14 and 6/27/14), Percocet 7.5/325 (2/26/14, 3/11/14, 4/1/14, 4/14/14, 5/13/14, 9/16/14 and 10/7/14), and Norco 7.5/325 (5/19/14, 5/27/14, 6/3/14, 6/11/14, 7/21/14, 8/4/14, 8/11/14, 8/25/14, 9/2/14, 9/10/14 and 9/29/14).
- E. On October 14, 2014, Recipient was reported to have presented at the drive thru at Pharmacy A dressed in scrubs with a Vicodin prescription purporting to have been handwritten by Respondent on his prescription pad. The writing and signature on the prescription was consistent with

that of Respondent. The vehicle being driven at Pharmacy A on October 14<sup>th</sup> was subsequently confirmed as being registered to Recipient.

- F. After receiving a preliminary investigatory memorandum, the Board issued an Unannounced Inspection Order on October 20, 2014. On October 21, 2014, a Board ordered unannounced inspection of Respondent's dental practice in Keene, New Hampshire was carried out.
- G. Prior to commencing the inspection, investigators asked to speak with Recipient and then interviewed her at a location near Respondent's practice. During the interview, the 22 year old Recipient stated that she has been a patient of Respondent's practice since she was 12 years old. She said that recently she happened to mention to staff that she was interested in the dental field and subsequently was hired as a dental assistant when an opening became available in January of this year.
- H. Recipient stated that not long after becoming employed there she was approached by Respondent, who told her that either his wife or daughter were ill. Recipient explained that Respondent then told her that he cannot, by law, prescribe to family members but that the family member needed a prescription. According to Recipient, Respondent asked her if he could prescribe medication to her (Recipient) and have her pick it up for him. Respondent said that she was hesitant but agreed to do it, thinking it was a one-time/limited event and she wanted to help Respondent.

- I. Investigators had Recipient review the prescription data that had been compiled and she identified the prescription for Vicodin dated 2/25/14 as most likely the first prescription that Respondent had asked her to fill and provide to him.
- J. Respondent said that shortly after this initial request, Respondent approached her again and asked her to fill another prescription. Recipient told investigators that the requests became more like demands in that instead of “asking” her to do him this favor Respondent began simply handing her prescriptions saying, “I need this filled”. Recipient said that Respondent told her which pharmacy to use each time he provided her with a script to fill. She said that he likely controlled which pharmacy she went to so as not to raise any suspicions with area pharmacies.
- K. Recipient said that, in addition to prescribing narcotics, Respondent would also often prescribe some form of anti-biotic at the same time. She felt that Respondent did this in order to make the prescription look more like a legitimate dental procedure so as not to raise any suspicions.
- L. Recipient told investigators that, over time, the reasons for Respondents’ request for prescriptions changed. He started by saying that either his wife or daughter needed the prescription. On other occasions, Respondent said that he needed the prescription himself for a cyst on his back. On yet other occasions, he said that the prescriptions were for his mother-in-law.

- M. Respondent broke down crying at times during her interview with investigators. She said that she has not been able to sleep for months due to the stress of work and of constantly being approached by Respondent to fill prescriptions. While Recipient knew that this conduct was wrong and illegal, she felt that she had no alternative due to her employment with Respondent. She said at times there were staffing cuts made and she was worried that she could be let go due to her lack of tenure and experience. She said that she saw the filling of prescriptions as a way in which her employment there would be more secure in that Respondent might be inclined to keep her due to her loyalty. She said that over time she came to feel she had no choice but to continue to fill the prescriptions, especially as Respondent went from an asking tone to a more demanding tone, and pressuring her at times when she said she could not get the prescriptions filled due to other things going on.
- N. Recipient told investigators that she has tried to avoid filling the prescriptions given to her by Respondent a number of times, but to no avail. She said that on one recent occasion, she called out sick, when in fact she wasn't sick, because Respondent asked her to fill a prescription on her way home the night before. She said that Respondent insisted that she fill the script. She said that he texted her and told her he would call in the script to a pharmacy near her home to make it easier and offered to script her an antibiotic for her illness as well, which she said (feigned) was an

ear infection. The records show that this appears to be the prescription filled on 10/7/14 at a pharmacy in Walpole, New Hampshire, near Recipient's home in Alstead. Recipient forwarded to investigators the text messages between her and Respondent relating to this prescription.

- O. Recipient also related a time recently when she was being pressured to get a script filled and she did not want to do it as it was her father's birthday and she wanted to get home. She said that Respondent insisted that she get the prescription filled anyway. Recipient said that this was the prescription for Percocet filled on 10/13/14 at Pharmacy A.
- P. Recipient explained that on one occasion someone from a pharmacy called her at home to ask her a question. She reported to Respondent that she was alarmed by this call because she lived with her parents and did not want them finding out. She said that Respondent simply told her not to tell anyone.
- Q. Recipient told investigators that Respondent provided her with cash to pay for each prescription she got filled for him. She said that when she went to pick up prescriptions she would either say she wanted to pay cash or that she did not have coverage. Recipient said that in some instances the pharmacy would check and tell her that the prescription was covered. She said that in spite of her efforts not to have her insurance company pay for some of the prescriptions in question, such prescriptions ended up being paid by her insurance company. Recipient said in those instances she

would come back and tell Respondent that insurance covered the script and he would tell her to keep the money. Recipient said that she did not, in general, get paid to fill scripts for Respondent. Recipient also said that she had never taken any of the drugs that she obtained for Respondent.

R. With regard to how Recipient transferred the actual controlled drugs to Respondent after she had the prescriptions filled, she said that if she went to the pharmacy during office hours, Respondent would give her the keys to his car and tell her to put the narcotics in his car. She said that at times he would also tell her to leave it in her purse in the break room and he would retrieve it from there. If it was after hours, and no one was at the office to witness it, Recipient would simply hand the narcotics to Respondent.

S. Recipient disclosed to investigators that, prior to her meeting them for the interview, Respondent asked her what was going on and she told him that it was something to do with her ex-boyfriend. She said that Respondent told her more than once, "Don't tell them anything." She said that she assumed that this meant, don't tell the authorities about his prescribing arrangement with her. She said that Respondent also asked her if she wanted him to come with her to meet with investigators and she said no. Recipient stated that Respondent also asked her if she wanted his wife, an attorney, to come with her and she again said no.



- T. After the interview with Recipient concluded, investigators returned to the practice and asked Respondent for Recipient's dental records. Respondent asked the investigators what this was all about what did Recipient have to do with it. When asked if Recipient had received any prescriptions from him he said that she had because she had pain from a gum "issue", which he later said was a "gum infection." Respondent said he would sometimes examine her in-between seeing other patients.
- U. When Respondent was shown the list of prescriptions that he had allegedly prescribed to Recipient, he responded, "some look familiar." When one of the investigator then asked Respondent if the prescriptions shown to him, including the recent October 13<sup>th</sup> prescription, were all for Recipient's gum issues, Respondent replied, "yes." When one of the investigators explained to Respondent that the prescription list seemed to indicate a large number of prescriptions with fairly high frequency for pain Respondent nodded his head and said that Recipient also had a few fillings that were painful for her "post-op." Respondent said that Recipient was "very sensitive to pain." When the investigator indicated that the list seemed too expansive for just these two issues and asked Respondent if Recipient also had TMJ, Respondent quickly responded, "yes she does. It's a chronic problem for her." Recipient had told the investigators during her interview that she does not have TMJ and she has not had a cavity in years.

- V. When asked specifically to go over Recipient's painful ailments, Respondent listed TMJ, post-op from fillings, and gum issues. Respondent said that he does not prescribe anything to anyone that is not necessary. He added, "I may be more sympathetic because she works here." He said that he was short on staff and didn't want her to miss work.
- W. When the investigator asked Respondent if he thought Recipient was giving the drugs to anyone else, he said that he didn't think so. When asked directly if Recipient was giving the drugs back to him, he said, "no." He quickly added that he has liver problems and an ulcer, stating, "I can't take any of those drugs." When asked if he was giving drugs obtained by Recipient to his family, Respondent said, "no." He added, "If my family needed anything, they go to the doctor."
- X. When asked about noting the prescriptions in Recipient's dental record, Respondent said that some of the prescriptions would be noted in the file and "some I probably didn't do it (note them in file). Sometimes I'm busy and would not make the note." He said a majority of the prescriptions would probably be in the computer as electronic scripts.
- Y. When one of the investigators told Respondent that he would need copies of the dental records of Recipient and her ex-boyfriend, Respondent said that he was the only person in the practice who could access the computer and obtain the records. He said that he was very busy with patients and it was not a good time. Respondent was then informed that it was unusual

for the doctor to be the only person who can access copy records and that the Board Order required the records be obtained while investigators were present. Respondent left to treat a patient and investigators were assisted by Respondent's office manager. It soon became apparent that, contrary to Respondent's statement to investigators, the office manager also had access to the patient files in the computer. She provided the records (both from the computer and paper folders on the shelves behind the front desk) for Recipient and her ex-boyfriend.

- Z. The office manager explained that the electronic prescriptions do not print accurately from the current system (Practice Works). She brought up the prescription history on the computer screen, which shows only ten (10) prescriptions for narcotics being recorded. The information obtained thus far from area pharmacies shows 21 narcotics prescriptions. The patient record shows no indication of hand written scripts even though the investigation had uncovered that some hand written scripts were indeed passed. When asked if she had ever seen a problem with the computer system that would explain missing records of prescriptions, the office manager said no. When asked if the practice has experienced the theft of any script pads, the office manager again said no. She said that the doctor does a good job of keeping the pads locked in his desk in his office and that her desk is directly across the hall from his office.

- AA. Neither Recipient nor the office manager had ever seen any signs of impairment on the part of Respondent at work. The office manager indicated that she was unaware of any inappropriate prescribing.
- BB. Prior to leaving Respondent's practice, one of the investigators was able to ask Respondent why Recipient's file did not document any of the conditions/ailments that he had described earlier, and why did it not document the majority of the prescriptions issued. Respondent was shown the dental record of Recipient, which did not show any fillings, TMJ or other significant issues in 2014 when the subject prescriptions were issued. Respondent did not have an explanation for that, other than to say that he could have made hand written notes which would not be in the computer. When the investigator pointed out that the time frame in question (January 2014 to the present date) was after the office began computerizing its dental records instead of using handwritten notes, Respondent shrugged his shoulders. When the investigator asked Respondent if any handwritten notes would be those in the patient's paper file at the front desk, he said, yes. The investigator told him that it was important that investigators leave with any and all records for the patients requested, no matter where they might be. Respondent said that he understood.
- CC. Respondent went on to suggest/allude that perhaps some of his prescription pads had been removed. He said that he keeps them in his

desk, but that he does not do a good job of locking his desk. He said that most of his prescriptions are electronic. When the investigator asked Respondent if he had reported any pads missing, he said no. When the investigator then showed Dr. Jacobs a copy of the prescription dated 10/13/14 that was passed by Recipient at Pharmacy A, Respondent identified this as a prescription he did in fact write, but did not offer an explanation as to why he wrote it, other than to state that he did not write any prescription that was illegal or unnecessary.

5. Based upon the above information, the Board finds that the case involves imminent danger to life and/or health. Further, the Board believes there is a reasonable basis for both immediately suspending Respondent's privilege to prescribe controlled drugs on a temporary basis, and for commencing an expedited disciplinary proceeding against Respondent pursuant to RSA 317-A:18-b; RSA 541-A:30; RSA 541-A:31, III; and Den 207.04.

6. The purpose of this proceeding will be to determine whether Respondent has engaged in professional misconduct contrary to RSA 317-A:17, II, and RSA 17-A:18-b, which warrants the continued imposition of a temporary suspension of his privilege to prescribe controlled medications, the imposition of permanent disciplinary sanctions, or both. The specific issues to be determined in this proceeding are:

- A. Whether between February and October of 2014, Respondent engaged in professional misconduct by repeatedly falsely prescribing controlled drugs to his employee/patient without documented medical justification and asking and/or directing her to return such drugs to him, which she did, constituting: (1)

engagement of unprofessional conduct and/or dishonest conduct in the practice of dentistry in violation of RSA 317-A:17, II (f); (2) knowing or willful violations of ADA code of professional conduct 5B6 in violation of RSA 317-A:17, II (j); and (3) knowing or willful violations of acts prohibited by RSA 318-B:2, a state controlled drug law, in violation of RSA 317-A:17, II (j) and/or

- B. Whether between February and October of 2014, Respondent engaged in professional misconduct by falsely prescribing controlled drugs in excessive and inappropriate frequencies, quantities and dosages to his employee/patient and asking and/or directing her to return such drugs to him, which she did, constituting: (1) engagement of unprofessional and/or dishonest conduct in practice of dentistry in violation of RSA 317-A:17, II (f); (2) knowing or willful violations of ADA code of professional conduct 5B6 in violation of RSA 317-A:17, II (j); and (3) knowing or willful violations of acts prohibited by RSA 318-B:2, a state controlled drug law, in violation of RSA 317-A:17, II (j) and/or
- C. Whether between February and October of 2014, Respondent engaged in professional misconduct by obtained and/or attempted to obtain controlled substances by falsely prescribing controlled drugs to his employee/patient through fraud, deceit and misrepresentation and asking and/or directing her to return such drugs to him, which she did, constituting: (1) engagement of unprofessional and/or dishonest conduct in practice of dentistry in violation of RSA 317-A:17, II (f); (2) knowing or willful violations of ADA code of professional conduct 5B6 in violation of RSA 317-A:17, II (j); and (3) knowing or

willful violations of acts prohibited by RSA 318-B:2, a state controlled drug law, in violation of RSA 317-A:17, II (j) and/or

D. Whether on October 21, 2014, Respondent provided untruthful and incorrect information to Board investigators in response to questions posed to him regarding the allegations that he prescribed controlled drugs to his employee/patient and directed such drugs to be returned to him, constituting a knowing or willful violation of Den 501.01 (o), in violation of RSA 317-A:17, II (j); and/or

E. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 317-A:17, III.

7. While RSA 317-A:18-a requires that the Board furnish Respondent at least 15 days notice of allegations of professional misconduct and the date, time and place of an adjudicatory hearing, RSA 317-A:18-b, RSA 541-A:30, III and Den 207.04 require the Board to commence an adjudicatory hearing within thirty (30) days after the date of an immediate, temporary suspension of a license or privileges order.

8. The Board intends to complete this adjudicative proceeding within the sixty (60) day time period provided by RSA 541-A; RSA 317-A:18-b; and Den 207.04. Accordingly, neither the date of the initial evidentiary hearing nor the date for concluding this proceeding shall be postponed or extended unless Respondent agrees to continue the suspension period pending issuance of the Board's final decision in this matter. *See* RSA 317-A:18-b; RSA 541-A:30, III; RSA 541-A: 31.

THEREFORE, IT IS ORDERED that Respondent's New Hampshire privilege of prescribing controlled substances is immediately suspended until further order of the Board; and,

IT IS FURTHER ORDERED that an adjudicatory proceeding be commenced for the purpose of resolving the issues articulated above pursuant to RSA 317-A:17; 317-A:18-a; 317-A:17:18-b; 541-A:30, III; and RSA 541-A:31. To the extent that this order or the Board's rules do not address an issue of procedure, the Board shall apply the New Hampshire Department of Justice Rules, Part 800; and,

IT IS FURTHER ORDERED that Ayman Abusoud Jacobs, DMD shall appear before the Board on November 3, 2014 at 4:00 p.m., at the Board's office located at 121 South Fruit Street, Concord, N.H., 03301-2412 to participate in an adjudicatory hearing and, if deemed appropriate, be subject to sanctions pursuant to RSA 317-A:17, and,

IT IS FURTHER ORDERED that if Respondent elects to be represented by counsel, at Respondent's own expense, said counsel shall file a notice of appearance at the earliest date possible; and,

IT IS FURTHER ORDERED that Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia*, or the imposition of disciplinary sanctions without further notice or an opportunity to be heard, or both; and,

IT IS FURTHER ORDERED that Assistant Attorney General Matthew Mavrogeorge, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301 is appointed to act as Hearing Counsel in this matter with all the authority within the scope of RSA Chapter 317 to represent the public interest. Hearing Counsel shall have the status of a party to this proceeding; and,



*In the Matter of Ayman Abusoud Jacobs, DMD  
NH Board of Dental Examiners  
Emergency Suspension of Prescribing Privileges and Notice of Hearing*

IT IS FURTHER ORDERED that Charles E. Albee, DMD, President, or any other person whom he may designate, shall act as presiding officer in this proceeding; and,

IT IS FURTHER ORDERED that any proposed exhibits, motions or other documents intended to become part of the record in this proceeding, be filed by the proponent with the Board, in the form of an original and twelve (12) copies, with an additional copy mailed to any party to the proceeding, and to Assistant Attorney General Amanda Godlewski, Counsel to the Board, N.H. Department of Justice, 33 Capitol Street, Concord, New Hampshire 03301. All responses or objections to such motions or other documents are to be filed in similar fashion within three (3) days of receipt of such motion or other document unless otherwise ordered by the Board; and,

IT IS FURTHER ORDERED that a witness and exhibit list and any proposed exhibits, pre-marked for identification only, shall be filed with the Board no later than five (5) days before the date of the hearing. Respondent shall pre-mark his exhibits with capital letters, and Hearing Counsel shall pre-mark her exhibits with Arabic numerals; and,

IT IS FURTHER ORDERED that unless good cause exists, all motions, including any motion seeking to postpone the hearing, shall be filed at least five (5) days before the date of any hearing, conference, event or deadline which would be affected by the requested relief; and,

IT IS FURTHER ORDERED that the entirety of all oral proceedings be recorded verbatim by the Board. Upon the request of any party made at least five (5) days prior to the proceeding or conference or upon the Board's own initiative, a shorthand court reporter shall be provided at the hearing or conference and such record shall be transcribed by the Board if the requesting party or agency shall pay all reasonable costs for such transcription; and,

*In the Matter of Ayman Abusoud Jacobs, DMD  
NH Board of Dental Examiners  
Emergency Suspension of Prescribing Privileges and Notice of Hearing*

IT IS FURTHER ORDERED that all documents shall be filed with the Board by mailing or delivering them to Constance N. Stratton, Executive Secretary, New Hampshire Board of Dental Examiners, 121 South Fruit Street, Concord, N.H., 03301-2412; and

IT IS FURTHER ORDERED that routine procedural inquiries may be made by contacting Constance N. Stratton, Executive Secretary, New Hampshire Board of Dental Examiners at (603) 271-4561, but that all other communications with the Board shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Board's regulations; and,

IT IS FURTHER ORDERED that a copy of this Notice of Hearing shall be served upon Respondent by certified mail addressed to the office address he supplied to the Board in his latest renewal application. *See*, RSA 317-A:18. A copy shall also be delivered to Hearing Counsel.

BY ORDER OF THE BOARD/\*

Dated: Oct. 22, 2014

Constance N. Stratton Constance N. Stratton  
(please print)  
Authorized Representative of the  
New Hampshire Board of  
Dental Examiners