

IN THE MATTER OF
ROBERT J. BURT, D.D.S.

Respondent

License Number: 3883

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* BEFORE THE MARYLAND

* STATE BOARD OF

* DENTAL EXAMINERS

* Case Numbers: 2017-153

2019-036

FINAL ORDER

On the 27th day of December, 2019, the Maryland State Board of Dental Examiners (the "Board") notified **ROBERT J. BURT, D.D.S.** (the "Respondent"), License Number 3883, of its intent to revoke his license to practice dentistry in the State of Maryland pursuant to the Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 *et seq.* (2014 Repl. Vol. and 2019 Supp.).

The Board based its action on the Respondent's violation of the following provisions of the Act and COMAR:

Health Occ. § 4-315. Denials, reprimands, probations, suspensions, and revocations -- Grounds.

- (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, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:
- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
- (20) Violates any rule or regulation adopted by the Board; [and]

- (34) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board[.]

COMAR 10.44.23.03 – Unprofessional or Dishonorable Conduct.

- A. A dentist... may not engage in unprofessional or dishonorable conduct.
- B. The following shall constitute unprofessional or dishonorable conduct in the practice of dentistry...:
 - (2) Engaging in conduct which is unbecoming a member of the dental profession;
 - (7) Willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the Board, which includes, but is not limited to:
 - (a) Furnishing information requested;
 - (b) Complying with a subpoena; [and]
 - (d) Providing meaningful and timely access to relevant patient records[.]
 - (8) Committing any other unprofessional or dishonorable act or omission in the practice of dentistry[.]

COMAR 10.44.30.02 – General Provisions for Handwritten, Typed and Electronic Health Records.

- B. Dental record shall include:
 - (1) A patient's clinical chart as described in Regulation .03 of this chapter[.]
- U. Dentists are responsible for the content of the dental records.

In its Notice, the Board informed the Respondent that he had the opportunity to request a hearing before the Board by submitting a request in writing to the Board's

Executive Director within thirty days of service of the Notice. More than thirty days have elapsed since the service of the Notice on the Respondent, and the Respondent has not requested a hearing.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. LICENSING BACKGROUND

1. The Respondent was originally licensed to practice dentistry in Maryland on June 21, 1964, under License Number 3883. The Respondent's Maryland dental license expired on June 30, 2019.

2. The Respondent maintained an office for the practice of dentistry in Baltimore, Maryland, until in or around August 2017 when he closed his practice.

II. COMPLAINTS

3. On or about March 22, 2017, the Board received a complaint from a patient ("Patient A")¹ who stated that she had been receiving dental care from the Respondent since 2006. Patient A alleged that during a visit with the Respondent in September or October 2015, the Respondent used a needle to administer anesthesia, which caused nerve damage to her face. Patient A further alleged that in or around 2016 and early 2017, she made multiple requests to the Respondent's dental office staff to provide her dental record to her subsequent providers, but they failed to do so.

¹ To ensure confidentiality and privacy, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

4. After receiving Patient A's complaint, the Board initiated an investigation of the Respondent under Case Number 2017-153.

5. On or about September 5, 2018, the Board received a second complaint from a patient ("Patient B") who stated that the Respondent had been his dental provider for the past forty years. Patient B alleged that he made several written requests to the Respondent to provide him with his dental record, but the Respondent had failed to do so. Patient B later discovered that the Respondent's dental office had closed and that she had failed to notify Patient B of the closure.

6. After receiving Patient B's complaint, the Board initiated a second investigation of the Respondent under Case Number 2019-036.

III. BOARD INVESTIGATION

7. On or about April 7, 2017, the Board issued a subpoena to the Respondent for Patient A's dental record as well as a written narrative of the care he provided to Patient A.

8. In a letter response dated April 28, 2017, the Respondent stated that he was unable to find Patient A's original dental record. The Respondent provided the Board Patient A's temporary dental chart that was grossly incomplete and was missing items such as Patient A's treatment record prior to December 21, 2015, health history, radiographs, dental claim forms, prescriptions written and laboratory forms. In a letter dated May 9, 2017, the Board instructed the Respondent to provide the missing documents pursuant to the April 7, 2017 subpoena.

9. On or about May 16, 2017, the Board received a letter from the Respondent stating that he was unable to comply with the Board's April 7, 2017 subpoena, because he was still unable to locate Patient A's original dental record.

10. On or about July 24, 2017, the Board sent a subpoena to the Respondent's address of record requesting that the Respondent provide his appointment book for the time period between July 1, 2016, and June 30, 2017. On or about August 14, 2017, the Board's subpoena was returned by the U.S. Postal Service as undeliverable/unable to forward.

11. On or about October 16, 2018, the Board issued two subpoenas to the Respondent's address of record for the missing documents related to Patient A and Patient B's dental record. On the same date, a Board investigator received information that the Respondent was dealing with certain serious health issues.

12. On or about December 17, 2018, a Board investigator was able to reach the Respondent by telephone and interview him. During the interview, the Respondent stated that he was recuperating from his health conditions at a health care facility. The Respondent stated that he looked for Patient A's and Patient B's original dental charts but was unable to find them.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's failure to maintain Patients A and B's original dental records and provide them to the Board pursuant to Board subpoenas, as described above, constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); violating

any rule or regulation adopted by the Board, *i.e.* COMAR 10.44.23.03 and COMAR 10.44.30.02, in violation of Health Occ. § 4-315(a)(20); and willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the Board, in violation of Health Occ. § 4-315(a)(34).

ORDER


Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the affirmative vote of a majority of the Board considering this case:

ORDERED that the Respondent Robert J. Burt's license to practice dentistry in the State of Maryland under License Number 3883 be and hereby is **REVOKED**; and it is further

ORDERED that the Respondent is prohibited from practicing dentistry in the State of Maryland; and it is further

ORDERED that this Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

February 5, 2020
Date


Francis X. McLaughlin, Jr.
Executive Director
Maryland State Board of Dental Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 4-319(b) (2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within

thirty (30) days of service of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.