

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE MARYLAND</b>
<b>EUGENE H. NEWMAN, D.D.S.</b>	*	<b>STATE BOARD OF</b>
<b>Respondent</b>	*	<b>DENTAL EXAMINERS</b>
<b>License Number: 6431</b>	*	<b>Case Number: 2019-061</b>

\* \* \* \* \*

**CONSENT ORDER**

On or about November 14, 2018, the Maryland State Board of Dental Examiners (the “Board”) charged **EUGENE H. NEWMAN, D.D.S.** (the “Respondent”), license number 6431, under the Maryland Dentistry Act, codified at Md. Code Ann., Health Occ. I (“Health Occ.”) §§ 4-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.) (the “Act”).

Specifically, the Board charged the Respondent with violating the following provisions of the Act:

Health Occ. § 4-315

- (a) *License to practice dentistry.* – Subject to the hearing provisions of § 4-318 of this subtitle, the Board may ... reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the ... licensee:
  - (16) Behaves ... unprofessionally;
  - (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 [“CDC”] guidelines on universal precautions...;

On or about January 16, 2019, following a Case Resolution Conference held at the Board’s offices, the Respondent agreed to enter into this Consent Order.

## FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed on June 15, 1977. His license is current through June 30, 2019.

2. At all times relevant hereto, the Respondent practiced at an office for the private practice of dentistry located at 1900 East Northern Parkway, Suite 103, Baltimore, MD 21239 (the "Office").

### Complaint

3. On or about February 1, 2018, the Board received a complaint (the "Complaint") from an individual (the "Complainant") who identified herself as a former patient of a colleague of the Respondent ("Dentist A") who currently practices with the Respondent at the Office.

4. In the Complaint, which did not concern the Respondent, the Complainant indicated dissatisfaction with Dentist A's clinical care and alleged that Dentist A was not failing to follow proper hand hygiene protocols.

5. Based on the Complaint, the Board initiated an investigation regarding the Dentist A's and the Office's compliance with CDC guidelines, where the Respondent worked.<sup>1</sup> Dentist A was present during the inspection, but the Respondent was not.

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<sup>1</sup> The Centers for Disease Control and Prevention ("CDC") is a federal agency dedicated to designing protocols to prevent the spread of disease. The CDC has issued guidelines (the "CDC Guidelines") for dental offices which detail the procedures deemed necessary to minimize the chance of transmitting infection both from one patient to another and from the dentist, dental hygienist and dental staff to and from the patients. These guidelines include some very basic precautions, such as washing one's hands prior to and after treating a patient, and also sets forth more involved standards for infection control. Under the Act, all dentists are required to comply with the CDC guidelines, which incorporate by reference Occupational Safety and Health Administration's ("OSHA") final rule on Occupational

6. In furtherance of the investigation, the Board assigned an expert in infection control protocols (the “CDC Expert”) to conduct an inspection of the Office.

#### Office Inspection

7. On or about October 9, 2018, the CDC Expert, accompanied by a Board investigator, conducted an inspection to determine whether the Office was complying with the CDC guidelines. Dentist A was present during the inspection.

#### Expert Report

8. Following the inspection, the CDC Expert completed a report (the “Expert Report”) regarding compliance with CDC Guidelines at the Office.

9. In the Expert Report, the CDC Expert noted numerous violations of the CDC Guidelines in a wide range of areas, specifically as outlined below.

#### ***Section I: Policies and Practices***

- **I.1 Administrative Measures** – No written policies of any kind available
  - Incomplete autoclave spore test logs
  - Indication of positive growth/ineffective sterilization but no policy on how to remediate
  - No log available on maintenance of equipment /type of maintenance performed
  
- **I.3 Dental Health Care Personnel Safety** – Office is non-compliant with an exposure control plan tailored to the specific facility
  - No employee records provided for review
  - No written policy regarding CDC recommendations for immunizations, evaluation, and follow-ups

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Exposure to Bloodborne Pathogens (29 CFR 1910.1030). The only exception to this rule arises in an emergency which is life-threatening *and* where it is not feasible or practicable to comply with the guidelines.



- Incomplete Hepatitis B Immunization and/or post-vaccination screening documentation for three (3) current employees
- No documentation of Hepatitis B, MMR, Varicella, Tdap and/or baseline for Tuberculosis for all current staff
- No written policy concerning contact of personnel with patients when personnel have potentially transmissible conditions
- **I.4 Program Evaluation** – No training or program evaluations for practice, monitoring or feedback available
  - No expiration date on oxygen tank
  - Emergency kit missing multiple medications
- **I.5 Hand Hygiene** – No written policy for hand hygiene
  - Limited alcohol based cleaners available
  - Several dispensers to hold alcohol cleaner present but non-operational
- **I.6 Personal Protective Equipment (PPE)** – No training log or protocol regarding PPE provided
  - No side shields on Rx glasses used
  - No protective glasses for patient
- **I.7 Respiratory Hygiene/Cough Etiquette** – No policy or procedures available
  - No training log, policy or protocol to document processes for symptomatic staff or patients
  - No masks in reception area
- **I.8 Sharps Safety** – No written policies or guidelines for prevention
- **I.9 Safe Injection Practices** – No written policies, procedures or guidelines available
- **I.10 Sterilization and Disinfection of Patient Care Items and Devices** - No written policies or procedures available for instrument and device maintenance, sterilization or training
  - No device or equipment maintenance logs

- **I.11 Environmental Infection Prevention and Control** – No documentation logs of training for DHCP upon hire, when procedures/policies change, or annually
  - No masks with shields or side shields available
- **I.12 Dental Unity Water Quality** – No written policies, procedures, guidelines or training logs available for maintaining dental water line quality
  - No documentation on frequency or test results
  - No policies and procedures for potential community boil-water advisory

**Section II: Direct Observation of Personnel and Patient-Care Practices**

- **II.2 Personal Protective Equipment (PPE) is Used Correctly** – Utility gloves not used while processing dirty instruments
  - Eye protection without side shields
  - Patient not wearing protective eyewear
- **II.3 Respiratory Hygiene/Cough Etiquette** – No observation of cough etiquette or symptomatic patients
  - No documentation of cough etiquette training
- **II.4 Sharps Safety** – No direct observation of engineering and work practice controls
  - Sharps containers above the full line
- **II.6 Sterilization and Disinfection of Patient Care Items and Devices** – Sterilization area was cluttered, disjointed, and impacting flow from dirty to decontaminated to sterile
  - No use of utility gloves for handling of dirty instruments
  - No secondary indicators used
  - Sterilized instruments stored in peel packs without date of run, machine type, or cycle information
  - No equipment maintenance log
  - Multiple occurrences of failed spore test results
  - Multiple occurrences of spore testing that exceeded weekly testing

- No information on follow-up or remediation of failed spore tests or explanation for inconsistent spore testing
  - Inability to determine which instruments may have been affected from incomplete sterilization due to undated packs
  - CaviCide lid left open after use, potentially drying out the next wipe
- **II.7 Environmental Infection Prevention and Control** – Inconsistent utilization of surface barriers
    - Disinfectant product stored next to mouthwash
    - Expired anesthetic in operatories available for use
    - Outdated dental materials stored in refrigerator
    - Dirty water remained in bucket in sterilization area
  - **II.8 Dental Unit Water Quality** – No documentation of waterline quality management or maintenance of water lines

10. The Expert concluded that based on the violations of the CDC Guidelines found during the CDC Inspection, in particular those listed below, there exists a potential risk to patient and staff safety at the Office.

- 1) Failed spore test results on 05/16/18, 05/18/18, 05/29/18, 06/05/18, 06/13/18, and 06/19/18 with no indication of follow-up or remediation;
- 2) Inconsistent time periods between spore tests (07/02/18 – 07/31/18) with no documentation to address discrepancy in weekly timing of spore test;
- 3) No indication of control spore test results or control usage in documentation;
- 4) No equipment maintenance log for autoclave or dental waterlines maintained to indicate compliance;
- 5) No sterilizer run cycle log available;
- 6) Storage of expired materials and medications;



- 7) No eye wash station;
- 8) No customized CDC manual or training log for staff on infection control or blood borne pathogens; and
- 9) Inconsistent barrier protection.

11. As a licensed dentist who practices at the Office, the Respondent failed to ensure compliance with the CDC Guidelines at all times.

### CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes as a matter of law that the Respondent's conduct as described above, including but not limited to failing to ensure compliance with the CDC Guidelines at the office as described above, constitutes: behaving unprofessionally, in violation of Health Occ. § 4-315(a)(16); and failing to comply with Centers for Disease Control's guidelines on universal precautions in violation of Health Occ. § 4-315(a)(28).

### ORDER

Based on the foregoing findings of fact and conclusions of law, it is, by a majority of the Board considering this case:

**ORDERED** that the Board's *Amended Order for Summary Suspension* of the Respondent's license to practice dentistry in the State of Maryland, issued on November 14, 2018, is hereby **TERMINATED**; and it is further

**ORDERED** that the Respondent is hereby **REPRIMANDED**, and it is further

**ORDERED** that the Respondent is placed on **PROBATION** for a period of **TWO (2) YEARS**, subject to the following conditions:

1. A Board-assigned inspector shall conduct an unannounced inspection at the Office within ten (10) business days of the date of this Consent Order in order to evaluate the Respondent regarding compliance with the Act and infection control guidelines. The Board-assigned inspector shall be provided with copies of the Board's file, the Consent Order, and any other documentation deemed relevant by the Board.
2. The Respondent shall provide to the Board a schedule of his regular weekly office hours and promptly apprise the Board of any changes.
3. During the probationary period, both the Office shall be subject to quarterly unannounced onsite inspections by a Board-assigned inspector, with whom the Board shall arrange the inspections.<sup>2</sup>
4. The Board-assigned inspector shall provide inspection reports to the Board within ten (10) business days of the date of each inspection and may consult the Board regarding the findings of the inspections.
5. The Respondent shall, at all times, practice dentistry in accordance with the Act, related regulations, and shall comply with CDC and Occupational Safety and Health Administration's ("OSHA") guidelines on infection control for dental healthcare settings.
6. On or before the fifth day of each month, the Respondent shall provide to the Board a copy of his current patient appointment book for that month.
7. Within ninety (90) days, the Respondent shall pay a fine in the amount of two thousand five hundred dollars (\$2500) by bank certified check or money order made payable to the Maryland Board of Dental Examiners.
8. Within six (6) months of the date of this Consent Order, the Respondent shall successfully complete a Board-approved in-person four (4) credit hour course(s) in infection control protocols, which may not be applied toward his license renewal.
9. Within six (6) months of the date of this Consent Order, the Respondent shall successfully complete a Board-approved in-person

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<sup>2</sup> With the approval the inspector and the Board, the terms of probationary conditions 1, 3, and 4 may be satisfied by the appropriate reports submitted pursuant to the Consent Order executed on December 12, 2018 in Board case number 2018-161, which involves Dr. Neena Joshi, the owner of the Office at which the Respondent practices.



two (2) credit hour course(s) in professional ethics, which may not be applied toward his license renewal.

10. The Respondent may file a petition for early termination of his probation after one (1) year from the date of this Consent Order. After consideration of the petition, the Board, or a designated committee of the Board, may grant, grant with conditions, or deny the petition at its sole discretion.

**AND IT IS FURTHER ORDERED** that after the conclusion of the **TWO (2) YEAR** probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board committee, shall grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints of similar nature; and it is further

**ORDERED** that if the Board has reason to believe that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

**ORDERED** that after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition of probation or the Consent Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice

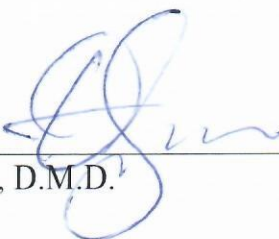
dentistry in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

**ORDERED** that the Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Board-assigned inspector, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of the Consent Order

**ORDERED** that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

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

2/16/19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Arthur C. Jee, D.M.D.  
President  
Maryland State Board of Dental Examiners

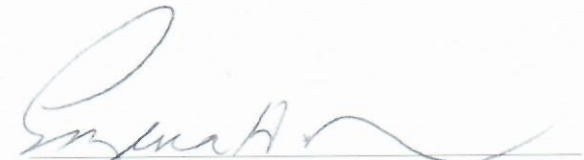
**CONSENT**

I, Eugene H. Newman, D.D.S., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

1/16/19  
Date

  
Eugene H. Newman, D.D.S., Respondent

**NOTARY**

**STATE OF MARYLAND**  
**CITY/COUNTY OF** Baltimore

**I HEREBY CERTIFY** that on this 16<sup>th</sup> day of January,  
2019, before me, a Notary Public of the foregoing State and City/County personally appear



Eugene H. Newman, D.D.S., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

*Andrea G. Dage*  
Notary Public

My commission expires: 12/10/19

