IN THE MATTER OF	*	**BEFORE THE MARYLAND**
ADENIKE GBENLE, D.D.S.	*	**STATE BOARD OF**
Respondent	*	**DENTAL EXAMINERS**
License Number: 14200	*	**Case Number: 2020-026**

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CONSENT ORDER

On or about October 11, 2019, the Maryland State Board of Dental Examiners (the "Board") charged **ADENIKE GBENLE, D.D.S.** (the "Respondent"), License Number 14200, with violating the Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. §§ 4-101 *et seq*. (2014 Repl. Vol. & 2018 Supp.), specifically pursuant to the following provisions. On the same day, the Board summarily suspended the Respondent's license.

The Board charged the Respondent with violating the following provisions of law:

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 dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

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

The summary suspension also informed the Respondent that the Respondent had a right to request a show cause hearing, in order to provide the Respondent with an opportunity to present oral argument as to why the Board should not continue the summary suspension of her license.

On October 16, 2019,[1] a Case Resolution Conference was held before a committee of the Board. As a resolution of this matter, the Respondent agreed to enter this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following facts:

Background

1. The Respondent was initially licensed to practice dentistry in Maryland on or about July 22, 2008, under license number 14200. The Respondent's license is current through June 30, 2020.

2. At all times relevant, the Respondent practiced dentistry at a private dental practice which she owns in Prince George's County, Maryland (the "Office").

Complaint

3. On or about August 22, 2019, the Board received a complaint (the "Complaint") from an individual (the "Complainant") who identified herself as a former employee of the Respondent.

[1] The Respondent has agreed that upon acceptance of this Consent Order by the Board, the Respondent has waived her right to the show cause hearing for the summary suspension.

4. In the Complaint, the Complainant indicated numerous concerns with sanitary issues and outdated x-ray equipment at the Respondent's Office.

5. Based on the Complaint, the Board initiated an investigation regarding the Office's compliance with CDC guidelines.[2]

Investigation

6. In furtherance of the investigation, the Board assigned an inspector in infection control protocols (the "Board Inspector") to conduct an inspection of the Office.

7. On or about September 6, 2019, the Board Inspector, accompanied by a Board investigator, conducted an inspection to determine whether the Office was complying with the CDC guidelines. The Respondent, the front desk receptionist ("Receptionist"), and one dental hygienist ("Hygienist"), were present at the Office during the inspection.

8. On or about September 11, 2019, the Maryland Department of the Environment, Radiological Health Program reported to the Board's investigator that the renewal and recertification of the Office's x-ray equipment was out of compliance.

[2] 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 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.

Inspection Report

9. Following the inspection, the Board Inspector completed a report (the "Inspection Report") regarding compliance with CDC Guidelines at the Office.

10. In the Inspection Report, the Board Inspector noted violations of the CDC Guidelines in a range of areas, specifically as outlined below.[3]

Section I: Policies and Practices

- **I.1 Administrative Measures**
  - No written infection prevention policies or procedures were available for review.[4]
  - Many of the supplies necessary for adherence to Standard Precautions were not readily available. For example, Disposable Lab Jackets were kept in the Respondent's personal bathroom and according to the Respondent she issues one jacket per day unless it becomes visibly soiled, "otherwise they will use one for the morning and one for the afternoon"). No Hi-Quality Utility Gloves were available in the sterilization area. The only gloves available were in a box on the counter. An open container of ultrasonic cleaning material was also under the sink, but no utility gloves could be found anywhere in the office.
  - The Office has no system in place for early detection and management of potentially infectious persons at initial points of patient encounter. There were no signs or precautions posters anywhere for staff or the patients – no posting of "Cover Your Cough" at entrance.
- **I.2 Infection Prevention Education and Training**
  - The Respondent could not produce any proof of Infection Prevention/OSHA Bloodborne Pathogens Training according to federal

[3] The headings and numbering system used to outline the CDC-related issues herein are derived from the CDC's published "Infection Prevention Checklist," which the Board Inspector employed as a tool in completing her inspection.

[4] A copy of the "Infection Prevention Checklist for Dental Settings, Basic Expectations for Safe Care" was given to the Respondent at the inspection. Upon receipt, the Respondent stated that she had never seen the checklist before.

and state requirements or based on evidenced-based guidelines for herself or any of the employees hired during the year.

- **I.3 Dental Health Care Personnel Safety**
    - The Office has no exposure control plan that is tailored to the specific requirements of the Office.
    - Documentation regarding immunizations was not available. For example, the current CDC recommendations for the immunizations, evaluation, and follow-up, as well as, a written policy regarding a list of all required and recommended immunizations for DHCP was not available.
    - There is no documentation that a log of needle-sticks, sharps injuries, and other employee exposure events is maintained according to state and federal requirements.
    - There was no documentation that referral arrangements are in place to qualified health care professionals to ensure prompt and appropriate provision of preventative services, occupationally related medical services, and post-exposure management with medical follow-up.
    - There is no documentation that following an occupational exposure event, postexposure evaluation and follow-up are available at no cost to the employee and are supervised by a qualified healthcare professional.
    - No written policy concerning contact of personnel with patients when personnel have potentially transmissible conditions.
- **I.4 Program Evaluation**
    - No documentation that written policies and procedures for routine monitoring and evaluation of the infection prevention and control program.
    - No documentation of adherence with immunizations, hand hygiene, sterilization monitoring, and proper use of PPE practices.
- **I.5 Hand Hygiene**
    - Supplies necessary for adherence to hand hygiene were readily accessible. A soap dispenser was present at the sink in the first operatory, however, no soap came out of the dispenser, and the sink did not appear to be used. The fourth operatory had a dental chair, but it did not have a sink or any means of hand hygiene.

- No posting of a hand hygiene protocol poster.
- No documentation that DHCP are trained regarding appropriate indications for hand hygiene including handwashing, hand-antisepsis, and surgical hand antisepsis.

- **I.6 Personal Protective Equipment (PPE)**
  - No documentation that DHCP personnel receive training on proper selection and use of PPE.
  - Clean disposable lab jackets are not readily available.[5]

- **I.7 Respiratory Hygiene/Cough Etiquette**
  - No documentation that policies and procedures have been implemented or that DHCP receive training on the importance of containing respiratory secretions in people who have signs and symptoms of a respiratory infection.

- **I.8 Sharps Safety**
  - No documentation of written policies, procedures, and guidelines for exposure prevention related to sharps safety and post-exposure management of sharps injuries.
  - There is no evidence of policy that DHCP identify, evaluate, and select devices with engineered safety features at least annually or as they become available in the market.

- **I.9 Safe Injection Practices**
  - No documentation of written policies, procedures, and guidelines for safe injection practices.

- **I.10 Sterilization and Disinfection of Patient Care Items and Devices**
  - No written policies and procedures available to ensure reusable patient care instruments and devices are cleaned and reprocessed appropriately before use on another patient.

[5] *See supra* Section I.1.

- No documentation of policies, procedures, and manufacturer reprocessing instructions for reusable instruments and dental devices available, in or near the reprocessing area.

- No documentation that DHCP responsible for reprocessing reusable dental instruments and dental devices are appropriately trained upon hire, at least annually, or whenever new equipment or processes are introduced.

- No documentation that routine maintenance for sterilization equipment is performed according to manufacturer instructions and documented by written maintenance records. The Office had an incomplete monthly autoclave cleaning log, and a blank biologic indicator (Spore Strip Test) log was posted in the kitchen/eating area. At the end of the day, the Respondent found another biologic indicator (Spore Strip Test) log, but that log was also incomplete and indicated that spore testing was completed monthly from January 2019 to August 2019. However, despite allegedly taking spore tests monthly, after the inspection, but before the close of business on the day of inspection,[6] the Respondent submitted two documents for consideration: a report from a biological monitoring company with a date range of 01/01/19 to 12/31/19, which showed the results of only one single biological test sent on 05/22/2019 and received on 06/07/2019; and a "warning" from the biological monitoring company indicating that the Serial number, Brand or Model of the autoclave tested on 05/22/2019 was not included with the test strip.

- Burs were not packaged.

- Only some XCP instruments were sterilized. Many XCP instruments were located in bags that were not sealed and had not undergone heat change. The bags were also labeled "unwrapped."

- Some endo file packages were opened.

- No documentation of policies and procedures in place outlining the dental setting response in the event of a reprocessing error/failure.

[6] At the time of the inspection, there were no actual test results from an independent lab that processes biological testing.

- **I.11 Environmental Infection Prevention and Control**

    - No written policies and procedures available for routine cleaning and disinfection of environmental surfaces.

    - There was no documentation that DHCP performing environmental infection prevention procedures receive job-specific training about infection prevention and control management of clinical contact and housekeeping surfaces upon hire, when procedures/policies change, or at least annually.

    - There was no documentation to confirm that cleaning, disinfection, and use of surface barriers are periodically monitored and evaluated to ensure that they are consistently and correctly performed.

    - No documentation for the protocol of the decontamination of spills of blood or other bodily fluids.

- **I.12 Dental Unity Water Quality**

    - No documentation that policies and procedures are in place for maintaining dental unit water quality that meets EPA regulatory standards for drinking water.

    - No documentation that policies and procedures are in place for using sterile water as a Coolant/irrigant when performing surgical procedures. Distilled water was available for autoclave use, but no sterile water was available.

    - No documentation that written policies and procedures are available outlining response to a community boil-water advisory.

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

- **II.1 Hand Hygiene is Performed Correctly**

    - No patient observations were made during the inspection.

- **II.2 Personal Protective Equipment (PPE) is Used Correctly**

    - No patient observations were made during the inspection; however, clean disposable lab jackets are not readily available[7] and the Respondent met

[7] *See supra* Sections I.1 and I.6.

with the Board Inspector in the conference room wearing a pink disposable gown and blue hair bonnet.

- Puncture and chemical resistant utility gloves for cleaning instruments and performing housekeeping tasks involving contact with blood or OPIM were not available for use.[8] Sterile surgeon's gloves for surgical procedures were not available for use.

- **II.3 Respiratory Hygiene/Cough Etiquette**

  - Tissues or no-touch receptacles for disposal of tissues were not provided in the waiting area.

  - No resources for patients to perform hand hygiene in or near the waiting area was available.

  - Face masks are not offered to coughing patients and other symptomatic persons when they enter the Office.

  - Persons with respiratory symptoms are not encouraged to sit as far away from others as possible.

- **II.4 Sharps Safety**

  - No patient observations were made during the inspection.

  - No puncture resistant sharps containers were located in any of the treatment rooms/operatories. Only five puncture resistant sharp containers were found in the entire Office, and they were located inside a cabinet under the sink in the sterilization area – one was an overfull sharps container with the safety feature removed and the other four sharps containers were completely full and stored in the same location.

  - Carpules and needles are available in the treatment areas, however, in the dental materials lab, a medium size bag of unclean, used disposable syringes was stored in an upper cabinet. Liquid condensation was evident in the bag with a clear and a yellow substance in some of the syringes. Some syringe needles were uncapped and presented a sharps hazard.[9]

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[8] *See supra* Section I.1.

[9] The Respondent reported that they were used to place Cetacaine topical anesthetic liquid into dappen dishes for patient use.

- In the kitchen/eating area there was a dirty (needleless) syringe lying between a phone and numerous binders titled "EOB," "Day Sheets," and "Smartpractice Invoices."

- During the inspection the Respondent could not furnish documentation or any records of proper and legal disposal of any biohazard waste products. After the inspection, the Respondent sent a manifest for biohazard waste management which indicates sporadic invoices. The last invoice was dated 6/30/19 for $2.24, followed by numerous "credit" entries.

- **II.5 Safe Injection Practices**

  - No patient observations were made during the inspection.

  - Disposable syringes found in the dental materials lab were reused.

  - In one of the treatment operatories, a syringe with a clear solution was found with the endodontic instruments suggesting that disposable syringes may be reused during endodontic treatment for irrigation.

  - The Respondent demonstrated the use of disposable syringes to draw up Cetacaine topical anesthetic liquid from a multidose vial, at which time, she did not disinfect the top or use a new disposable syringe. The multidose vial medication container of Cetacaine was reentered with a used needle and the vial was not dated.

- **II.6 Sterilization and Disinfection of Patient Care Items and Devices**

  - Single-use devices, *i.e.*, disposable syringes were not discarded after one use.

  - There were multiple examples of unverifiable sterilization of critical and semi-critical items such as burs, bur blocks, XCP equipment, and miscellaneous instrumentation. Burs did not appear to be sterilized. Sterilization packs were not always sealed, some packets were torn/damaged, some packets had been opened, and some had external indicators that did not always change to the proper dark shade. These packs were found in drawers from which the staff supply the operatories for patient use or located directly in treatment operatories.

  - The ultrasonic bath did not have a cover. The solution in the ultrasonic bath was cloudy and did not cover instruments and a lid was not sitting on top of the ultrasonic unit allowing an aerosol to form. The ultrasonic chemical was stored under the sink uncovered. There was no

documentation of changing the solution in this device, or what type of solution was used in this device.

- Work-practice controls that minimize contact (such as long handled brushes) or puncture and chemical resistant utility gloves were not available.

- Hinged instruments were not open prior to sterilization.

- Clear, visible bag pouches were used with an exterior chemical indicator; however, the bags were not always sealed and autoclaved and the integrity of autoclaved pouches was compromised when packets were torn or opened and restored.

- Only one autoclave was on the premises. Sterile packs were not labeled at a minimum with the cycle or load number, the date of sterilization, or an expiration date. The only bags with writing were inoperable handpieces from 2018; and some of those packets had been exposed to heat and others had not.

- FDA-cleared medical devices for sterilization are not used according to manufacturer's instruction. Equipment maintenance logs were incomplete.

- At the time of the inspection, there were no concurrent biologic test results available. Documentation provided after the inspection indicated that only one (incomplete) biologic spore test had been completed since January.[10]

- There were no logs for the sterilizer cycles.

- Some instruments were out in an open area of the sterilization area. After sterilization, most instruments were stored in drawers.

- Sterile packets were torn or opened.

- There was no record that high-level disinfection products are used and maintained according to manufacture instructions.

- The handpieces located in autoclave bags were not operable and were marked as "damaged." Operable dental handpieces were found attached to lines in all four operatories. The handpieces were not sterilized and left

[10] *See supra* Section I.10.

in the sterile pouches until the patient is in the chair. Other handpieces were located unbagged or in opened bags.

- **II.7 Environmental Infection Prevention and Control**
    - Surface barriers were utilized inconsistently. There were multiple examples of missing barrier protection on dental units, water lines, A/W syringes, HVE, SVE, connectors, and computer mouse.
    - A bottle for Birex surface disinfectant in the sterilization area did not have an expiration date.
    - Regulated medical waste is not handled and disposed of according to local, state, and federal regulations.
    - There were no biohazardous waste containers located in any of the operatories or in the sterilization area.
    - The only biohazard medical waste container was located in the dental materials laboratory and it was filled to the top and emitted a foul odor.
- **II.8 Dental Unit Water Quality**
    - There was no evidence that waterline testing was ever performed. There were no maintenance logs.
    - There was no evidence of daily or weekly flushing of the dental unit water lines being performed.
    - No sterile saline or sterile water was available for performing surgical procedures.

11. The Board Inspector concluded the report by stating that the list of violations "cannot be placed in a short statement because they are too numerous" and that based on the violations of the CDC Guidelines found during the CDC Inspection, in particular those listed above, there exists a risk to patient and staff safety.

12. As a licensed dentist who practices at and owns the Office located in Prince George's County, Maryland, 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 failure to comply with CDC Guidelines in her practice of dentistry at the Office 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); and failing to comply with Centers for Disease Control's guidelines on universal precautions in violation of Health Occ. § 4-315(a)(30).

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 *Order for Summary Suspension* of the Respondent's license to practice dentistry in the State of Maryland, issued October 11, 2019, is hereby **TERMINATED**; and it is further

ORDERED that the Respondent shall be immediately placed on **PROBATION** for a minimum period of **TWO (2) YEARS**, and continuing until the following conditions are satisfactorily completed:

1. Prior to the Board's termination of the probation, the Respondent shall pay a monetary penalty of **FIVE THOUSAND DOLLARS** ($5,000) by bank certified check or money order made payable to the Maryland Board of Dental Examiners;

2. Within ten (10) business days of the Board's termination of suspension, a Board-assigned inspector shall conduct an unannounced inspection at the Office in order to evaluate the Respondent and his staff 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;

3. On or before the fifth day of each month, the Respondent shall provide to the Board a copy of the current patient appointment book for that month for the Office;

4. Within three (3) months of the termination of suspension, the Respondent shall successfully complete a Board-approved in-person twelve (12) credit hour course(s) in infection control protocols, which may not be applied toward her license renewal;

5. Within three (3) months of the termination of suspension, the Respondent shall successfully complete, and demonstrate to the Board such completion, a Board-approved in-person four (4) credit hour course(s) in professional ethics, which may not be applied toward her license renewal;

6. During the probationary period, the Office shall be subject to quarterly unannounced onsite inspections by a Board-assigned inspector;

7. 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;

8. 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;

9. Any non-compliance with the Maryland Dentistry Act, all related statutes and regulations, and CDC and OSHA guidelines shall constitute a violation of probation and of this Consent Order.

ORDERED that after the conclusion of **TWO (2) YEARS** from the effective date of the 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 this 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 this 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).

October 16, 2019
Date

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

CONSENT

I, Adenike Gbenle, 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.

10-16-2019
Date

A Gbenle.
Adenike Gbenle, D.D.S.
The Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 16TH day of OCTOBER, 2019, before me, a Notary Public of the foregoing State and City/County personally appear Adenike Gbenle, D.D.S., and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Notary Public

My commission expires: 10/10/2023