

IN THE MATTER OF * BEFORE THE MARYLAND
 JOSEPH LEE DYSON, JR., D.D.S. * STATE BOARD OF DENTAL
 RESPONDENT * EXAMINERS
 LICENSE NUMBER: 8597 * CASE NUMBERS: 2011-137

* * * * *

PRE-CHARGE CONSENT ORDER

On October 14, 2014, the State Board of Dental Examiners (the "Board") summarily suspended the license of Joseph Lee Dyson, Jr. D.D.S., DOB: 10/04/1958 ("the Respondent"), license number: 8597, to practice dentistry under the Maryland Dentistry Act, (the "Act") Md. Health Occ. ("H.O.") Code Ann. §§ 4-101 *et seq.* (Repl. Vol. 2009), concluding that the public health, safety and welfare imperatively required emergency action pursuant to Md. State Gov't. Code Ann. § 10-226(c)(2).¹

In lieu of issuing charges against the Respondent and conducting an evidentiary hearing under §§ 4- 315 and 4-318 of the Act, the Board decided to resolve this case against the Respondent by way of this Pre-Charge Consent Order. All parties to this Pre-Charge Consent Order agree that the Board would have charged the Respondent with violating the Act, if there was not a pre-charge resolution. The pertinent provisions of the Act are as follows:

**H.O. § 4-315. Denials, reprimand, 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

¹ This Consent Order superseded the Board's October 14, 2014 Order for Summary Suspension.

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;
- (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 guidelines on universal precautions;

The pertinent regulations provide:

Md. Code Regs. 10.52.11:

.03 Compliance Requirements for an Individual.

An individual who is performing patient care activities shall:

- A. Comply with the principles of universal precautions;
- C. Comply with current professional standards of patient care with regard to disinfection and sterilization of reusable devices used in patient care procedures; including:
 - (2) Properly disposing of needles and other sharps devices.

.05 Compliance Requirements for Health Care Professional with Private Professional Office.

A. A health care professional who practices in a private professional office shall:

- (1) Ensure that an individual who performs patient care services in the professional's office:
 - (a) Complies with the principles of universal precautions, [and]
 - (c) Complies with current professional standards of patient care with regard to disinfection and sterilization of reusable devices used in patient care procedures;

Following, the parties agreed to enter into this Pre-Charge Consent Order as a means of resolving this matter:

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice dentistry in the State of Maryland. The Respondent initially received his license to practice dentistry on or about September 22, 1983.
2. The Respondent's license to practice dentistry expires on June 30, 2015.
3. The Respondent owns and operates a dental practice located in Baltimore, Maryland.
4. On or around January 2011, the Board received a complaint alleging that the Respondent was not in compliance with CDC guidelines.² The complaint also alleged that the Respondent was inappropriately billing patients and insurance providers.
5. As a result of the complaint, the Board requested that Dr. A., a Board approved expert conduct an inspection of the Respondent's dental practice.³
6. On February 28, 2013, Dr. A conducted an inspection of the Respondent's dental practice.

² The Center for Disease Control (CDC) is a federal agency dedicated to designing protocols to prevent the spread of disease. The CDC has issued 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 and the dentist's staff to and from patient.

7. During inspection of the Respondent's dental practice, Dr. A found numerous CDC violations. In a subsequent report to the Board, Dr. A indicated that some of the CDC violations found were significant.

8. The CDC violations found by Dr. A included: (1) failure to maintain slow speed hand pieces in verifiably sterilized, seal bags; (2) inadequate weekly spore testing; (3) inadequate medical waste disposal; (4) failure to maintain hepatitis B records prior to 2005; and (5) inadequate dental waterline protocol baseline.

9. On or about June 18, 2014, the Board agreed to issue the Respondent an Advisory Letter, instead of taking disciplinary action against his license. One of the conditions set forth in the Advisory Letter required that the Respondent come into compliance with CDC and OSHA guidelines within fifteen days.

10. The Advisory Letter dated June 18, 2014, also advised the Respondent that the Board would conduct a random and unannounced inspection of his dental office.

11. On or about July 2, 2014, the Respondent agreed to the conditions set forth in the Advisory Letter.

12. On August 22, 2014, an unannounced inspection of the Respondent's dental practice was conducted. The inspection was conducted by Dr. B., a Board approved expert.

³ To ensure confidentiality, names are not used in this document. The Respondent may obtain the names by contacting the Administrative Prosecutor.

13. During inspection of the Respondent's dental office, Dr. B. found the following CDC violations:

A. The dental practice did not maintain an up to date exposure control plan for proper infection prevention;

B. There were no provisions made for the separation of clean and dirty instruments in order to prevent the risk of cross contamination;

C. The ultrasonic unit solution was dirty and had not been changed for some time. The ultrasonic unit was dirty and poorly maintain. Dental instruments were left in the ultrasonic unit overnight or longer;

D. The autoclave was poorly maintained and had not been cleaned or serviced for some time;

E. Heat tolerant instruments were found in cold sterilization solution. The container holding the cold sterilization solution was dirty and unlabeled. There was no date on the cold sterilization container to document when the cold sterilization solution had been changed;

F. The cleaning of contaminated instruments was inadequate. Instruments that were wrapped and processed were not properly pre-cleaned. Debris was observed on instruments inside the sterilization pouches and within the processed sterilization pouch. Instruments were rusted and covered with stain, dirt, and/or debris. Considerable debris was found on one elevator an elevator that was removed from a pouch;

G. There were significant deficiencies in sterilization. Multiple instruments packs did not display the proper chemical indicator which would confirm

that proper sterilization parameter had been met. Biological monitoring was not being performed on a weekly basis; and

H. There were no provisions in any operatory for the delivery of effluent water that meets CDC guidelines.

14. The conditions of the Respondent's dental practice, as set forth herein, warrants the suspension of the Respondent's license to practice dentistry.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent failed to comply with Control's guidelines on universal precautions, in violation of H.O. § 4-315(a)(16),(20), and (30).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 23rd day of December, 2014, by a majority of the quorum of the Board, hereby

ORDERED that upon receipt of a favorable CDC inspection report by a Board-approved CDC inspector⁴ retained by the Respondent, the suspension of the Respondent's license to practice dentistry shall be **LIFTED**;

ORDERED that upon reinstatement of the Respondent's license, he shall be placed on a minimum of **THREE (3) YEARS OF PROBATION** under the following terms and conditions:

⁴ The report shall be reviewed by the Board within 14 days of its submission by a Board-approved CDC inspector(different from the inspector who conducted the inspections referenced in the Finding of Facts). The Board shall ensure that the Respondent receives a copy of the report upon its completion.

1. Within **THREE (3) WEEKS** from the date the suspension is lifted, the Respondent shall retain, at his expense, a Board-approved consultant ("the Respondent's Consultant") to evaluate his current dental office for compliance with CDC guidelines during a full day of patient care, consisting of at least two (2) patients;

2. Within **FOUR (4) MONTHS** of the date that the suspension is lifted, the Respondent's Consultant shall conduct an unannounced inspection to re-evaluate the Respondent's current dental office for compliance with CDC guidelines and to train the Respondent and each employee of the office in applying the CDC guidelines to the dental practice. Thereafter an unannounced inspection shall be conducted on a quarterly basis for a period of **TWO (2) YEARS**. During the last year of the Respondent's probationary period only **TWO (2)** unannounced inspections will be required;

3. The Respondent shall ensure that the Respondent's Consultant provides a report to the Board within ten (10) days of the date of the inspection. The Board may communicate with the Respondent's Consultant regarding the findings of the inspection;

4. Based on unannounced inspections by the Board or the Respondent's Consultant, or future investigations of complaints, if the Board makes a finding that the Respondent is not in compliance with CDC guidelines in any office where the Respondent practices dentistry, it shall constitute a violation of this Pre-Charge Consent Order, and it may, in the Board's discretion, be grounds for immediately suspending the Respondent's license. In the event that the Respondent's license is suspended under this provision, he shall be afforded a Show Cause Hearing before the Board to show cause as to why his license should not have been suspended.

5. Within **TWELVE (12) MONTHS** of this Pre-Charge Consent Order, the Respondent shall complete four (4) credit hours of Board-approved infection control courses in addition to the two (2) required hours for a total of six (6) hours. The four (4) hours shall not be applied to his required continuing education credits required for license renewal;

6. The Respondent shall complete all required continuing education courses required for renewal of his license. No part of the training or education that he receives in compliance with this Pre-Charge Consent Order shall be applied to his required continuing education credits;

7. The Respondent shall comply with CDC guidelines, including Occupational Safety and Health Administration's ("OSHA") for dental healthcare settings;

8. The Respondent shall practice according to the Maryland Dentistry Act and in accordance with all applicable laws; and it is further

ORDERED that if the Respondent violates any of the terms or conditions of this Pre-Charge Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, may impose any sanction which the Board may have imposed in this case under §§ 4-315 and 4-317 of the Dental Practice Act, including additional probationary terms and conditions, reprimand, suspension, revocation and/or a monetary penalty, said violation of probation being proved by a preponderance of the evidence; and it is further

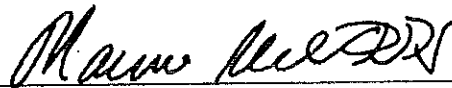
ORDERED that at the end of the probationary period, the Respondent shall file a written petition to the Board for termination of the probationary status and the removal of any conditions or restrictions that resulted from this disciplinary action, provided that Respondent (1) has satisfactorily fulfilled all the terms and conditions set forth herein, (2) is not in violation of this Pre-Charge Consent Order, and (3) there are no outstanding complaints against the Respondent and, (4) the Respondent has not received any unsatisfactory reports; and it is further

ORDERED that if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Pre-Charge Consent Order; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred under this Pre-Charge Consent Order; and it is further

ORDERED that the effective date of this Pre-Charge Consent Order is the date the Pre-Charge Consent Order is signed by the Board; and it is further

ORDERED that this Pre-Charge Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. General Provisions Code Ann. § 4-1601 *et seq.* (2014).



Maurice S. Miles, D.D.S., President
State Board of Dental Examiners

CONSENT OF JOSEPH L. DYSON, JR., D.D.S.

I, Joseph L. Dyson, Jr., D.D.S., acknowledge that I am represented by counsel and have consulted with counsel before entering this Pre-Charge Consent Order. By this Consent and for the purpose of resolving the issues raised in the Summary Suspension Order of October 14, 2014 by the Board and in anticipation administrative charges related thereto, I agree and accept to be bound by the foregoing Pre-Charge Consent Order and its conditions.

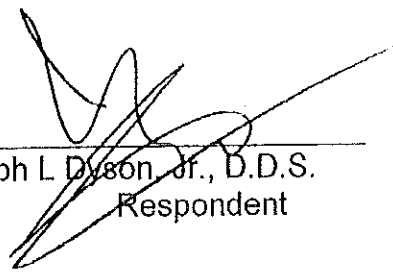
I acknowledge the validity of this Pre-Charge Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural 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 Pre-Charge Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that I might have filed after any such hearing.

I sign this Pre-Charge 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 the Pre-Charge Consent Order.

Date

12/22/14



Joseph L. Dyson, Jr., D.D.S.
Respondent