

IN THE MATTER OF
RANDAL R. YAZHARY, D.D.S.
RESPONDENT

License Number: 11517

* BEFORE THE MARYLAND
* STATE BOARD OF
* DENTAL EXAMINERS

* Case Number: 2011-261

* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE DENTISTRY**

The State Board of Dental Examiners (the "Board") hereby **SUMMARILY SUSPENDS** the license of **RANDALL R. YAZHARY, D.D.S.** (the "Respondent"), License Number 11517, to practice dentistry in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., St. Gov't § 10-226(c)(2014 Repl. Vol.), concluding that the public health, safety and welfare imperatively require emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

I. Licensing Information

1. The Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed to practice dentistry in Maryland on or about August 18, 1993, under License Number 11517. The Respondent's license is renewed through June 30, 2015.

¹ The statements respecting the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

II. Prior Board Disciplinary Action

2. In or around 2011, the Board initiated an investigation of the Respondent under Case Number 2011-261 after reviewing a claim against him that was filed before the Health Claims Alternative Dispute Resolution Office. The claim was filed by a former patient who alleged that the Respondent negligently and improperly performed aspects of root canal therapy ("RCT") and crown placement when treating her in 2008-09.

3. As part of its investigation, the Board referred this case and an additional five charts of patients in which the Respondent performed RCT to an endodontist for an expert review. The reviewer found several deficiencies in the Respondent's performance of RCT and concluded that the Respondent practiced dentistry in a professionally incompetent manner or in a grossly incompetent manner.

4. Based on these findings, the Board, pursuant to a charging document dated March 21, 2013, charged the Respondent with violating disciplinary provisions of the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 et seq.

5. The Respondent resolved the Board's disciplinary charges by entering into a Consent Order with the Board, dated November 6, 2013 (the "Consent Order"), in which the Board concluded as a matter of law that the Respondent practiced dentistry in a professionally incompetent manner or in a grossly incompetent manner, in violation of Health Occ. § 4-315(a)(6).

6. Pursuant to the Consent Order, the Board suspended the Respondent's license to practice dentistry for one year, which it immediately stayed, and placed him

on probation for three years, subject to a series of probationary terms and conditions that included mandatory remediation in endodontics.

7. Among other probationary terms and conditions, the Board required that the Respondent successfully complete the following:

Condition Four (4)

Within six (6) months of the date the Board executes this Consent Order, the Respondent shall successfully complete, at his expense, at least four (4) hours of coursework in dental recordkeeping that is approved by the Board. The Respondent shall obtain Board-approval of this coursework prior to enrolling in it. The Board will approve the coursework only if it deems the subject matter and curriculum are adequate to satisfy its concerns. The Board reserves the right to require the Respondent to provide further information regarding the coursework he proposes and further reserves the right to reject the course the Respondent proposes and require submission of an alternative proposal. The Respondent shall be responsible for submitting timely written documentation to the Board of his successful completion of this coursework. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal.

Condition Five (5)

Within six (6) months of the date the Board executes this Consent Order, the Respondent shall successfully complete and pass, at his expense, the ADEX examination on dental diagnosis and the formulation of dental treatment plans. The Respondent shall be responsible for submitting timely written documentation to the Board that he successfully passed the ADEX examination.

III. Pending Board Disciplinary Actions

Case Number 2010-249

8. The Board initiated an investigation of the Respondent after receiving a complaint from a former patient who alleged that he made surgical errors and deviated from "common and accepted" standards when providing dental treatment to her. The complainant also expressed concerns about the Respondent's professional ethics when he provided dental treatment to her.

9. As part of its investigation, the Board referred this case and the dental records of five other patients to whom the Respondent provided dental treatment to a board-certified expert in oral and maxillofacial surgery (the "Expert") for review.

10. The Expert submitted a report in which he concluded as follows:

My findings are that . . . [the Respondent] . . . has provided incompetent care and treatment to . . . [the case of the complainant under Case Number 2010-249] . . . regarding the health care record, diagnostic and surgical management. There is suspect diagnostic acumen, inadequate surgical implant care and questionable billing practices. These findings are reinforced by the five additional records reviewed.

11. On or about June 18, 2014, the Board, under Case Number 2010-249, issued disciplinary charges against the Respondent, alleging that he practiced dentistry in a professionally incompetent manner, or a grossly incompetent manner, in violation of Health Occ. § 4-315(a)(6).

12. These charges are currently pending against the Respondent.

Case Number 2011-261

13. The Board initiated an investigation of the Respondent after monitoring his compliance with the probationary terms and conditions in the Consent Order.

14. The Board's investigation determined that the Respondent:

- (a) failed to complete Condition Four (4) of the Consent Order (requiring successful completion of at least four hours of coursework in dental recordkeeping) within the time frame mandated in the Consent Order, *i.e.*, within six months of the date the Board executed the Consent Order, or May 6, 2014; and
- (b) failed to complete Condition Five (5) of the Consent Order (requiring passing the ADEX examination) within the time frame mandated in the Consent Order, *i.e.*, within six months of the date the Board executed the Consent Order, or May 6, 2014.

15. On or about September 9, 2014, the Board issued a Violation of Probation and Charges Under the Maryland Dentistry Act, charging the Respondent with violating:

(a) the probationary terms and conditions of the Consent Order; and (b) the following disciplinary provisions of the Act: (i) Health Occ. § 4-315(a)(16) (Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession); and (ii) Health Occ. § 4-315(a)(31) (Fails to comply with any Board order).

16. These charges are currently pending against the Respondent.

Further Board Investigation

17. During the course of the Board's investigation into the Respondent's compliance with the probationary terms and conditions of the Consent Order, the Board learned that on or about September 26, 2014 (after the time period allowed under the Consent Order), the Respondent took the ADEX examination on Dental Diagnosis and the Formulation of Dental Treatment Plans. The Respondent failed the ADEX examination.

18. The Board concludes that, based on the Respondent's prior history of disciplinary action for professional incompetence, his pending charges involving professional incompetence, his failure to abide by the probationary terms and conditions set forth in the Consent Order, which resulted in pending disciplinary charges, and his failure to pass the ADEX examination, there is a substantial likelihood that the Respondent poses a substantial risk of harm to the public health, safety or welfare.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the Respondent constitutes a danger to the public and that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. Code Ann., State Gov't. § 10-226(c)(2)(2014 Repl. Vol.).

ORDER

Based on the foregoing findings, it is this 22nd day of December, 2014, by a majority vote of the State Board of Dental Examiners, by authority granted to the Board by Md. Code Ann., St. Govt. § 10-226(c)(2) (2014 Repl. Vol.), it is hereby:

ORDERED that the Respondent's license to practice dentistry in the State of Maryland, under License Number 11517, is hereby **SUMMARILY SUSPENDED**; and it is further


ORDERED that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled at the Board's next regularly scheduled meeting, at which the Respondent will be given an opportunity to be heard as to why the Order the Summary Suspension should not continue; and it is further

ORDERED that if the Respondent fails to request a Show Cause Hearing or makes a request for a Show Cause Hearing and fails to appear for it, the Board shall continue the Summary Suspension; and it is further

ORDERED that the Respondent shall immediately turn over to the Board all licenses to practice dentistry issued by the Board that are in his possession; and it is further

ORDERED that this document constitutes a Final Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. State Govt. Code Ann. § 10-617(h) (2014 Repl. Vol.).

12/22/2014
Date



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

NOTICE OF HEARING

A Show Cause Hearing to determine why the Order for Summary Suspension should not continue will be held before the Board at Spring Grove Hospital Center, Benjamin Rush Building, 55 Wade Avenue, Catonsville, Maryland 21228, at the Board's next regularly scheduled meeting, following a written request by the Respondent.

At the conclusion of the Show Cause hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may, within ten (10) days, request an evidentiary hearing. Unless otherwise agreed by the parties, the Board shall provide a hearing within forty-five (45) days after the Respondent's request. The Board shall conduct an evidentiary hearing under the contested case provisions of Md. Code Ann., State Gov't §§ 10-210 *et seq.*