

IN THE MATTER OF	*	BEFORE THE MARYLAND
HAMID S. TOFIGH, D.D.S.	*	STATE BOARD OF
RESPONDENT	*	DENTAL EXAMINERS
License Number: 11554	*	Case Numbers: 2014-134, 2014-078 2014-074, 2014-005, 2013-167, 2013- 164, 2012-181, 2012-135, 2012-134, 2012-016 and 2011-248

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On July 2, 2014, the Maryland State Board of Dental Examiners (the "Board") hereby charged **HAMID S. TOFIGH, D.D.S.** (the "Respondent"), License Number 11554, under the Maryland Dentistry Act (the "Act"), Md. Health Occ. Code Ann. §§ 4-101 *et seq.* and Md. Regs. Code ("COMAR") tit. 10, § 44.23 *et seq.*

The Board charged the Respondent with violating the following provisions of the Act under H.O. 4-315(a):

§ 4-315. Denials, reprimand, probations, suspension, and revocations -- Grounds.

(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:

- (2) Fraudulently or deceptively uses a license;
- (3) Obtains a fee by fraud or attempts to obtain a fee by fraud;
- (6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;
- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
- (18) Violates any rule or regulation adopted by the Board;

- (20) Willfully makes or files a false report or record in the practice of dentistry;
- (21) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filling or recording of the report, or induces another to fail to file or record the report;
- (23) Abrogates or forgives the copayment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected; [and/or]
- (32) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board.

The Board charged the Respondent with violating the following COMAR provisions:

COMAR 10.44.23.01

A. A dentist, dental hygienist, or dental radiation technologist may not engage in sexual misconduct.

B. Sexual misconduct of either a verbal or physical nature includes, but is not limited to:

(1) Sexual behavior with a patient in the context of a professional evaluation, treatment, procedure, or other service to the client or patient, regardless of the setting in which professional service is provided;

(2) Sexual behavior with a patient under the pretext of diagnostic or therapeutic intent or benefit;

(4) Touching a patient in a sexual manner; [or]

(7) Sexual behavior that would be considered unethical or unprofessional according to the American Dental Association, the National Dental Association, the American Dental Hygienists' Association, or the National Dental Hygienists' Association[.]

The Board charges the Respondent with violating the following code of ethics pertaining to the dentistry profession, which states:

**American Dental Association
Principles of Ethics and Code of Professional Conduct**

Section 1 -- Principle: Patient Autonomy ('self-governance')

The dentist has a duty to respect the patient's rights to self-determination and confidentiality.

Code of Professional Conduct

1.B. Patient Records. Dentists are obligated to safeguard the confidentiality of patient records. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of a patient or another dental practitioner, dentists shall provide any information in accordance with applicable law that will be beneficial for the future treatment of that patient.

Advisory Opinions

1.B.1. Furnishing Copies of Records. A dentist has the ethical obligation on request of either the patient or the patient's new dentist to furnish in accordance with applicable law, either gratuitously or for nominal cost, such dental records or copies or summaries of them, including dental x-rays or copies of them, as will be beneficial for the future treatment of that patient. This obligation exists whether or not the patient's account is paid in full.

Section 2 -- Principle: Nonmaleficence ("do no harm")

The dentist has a duty to refrain from harming the patient.

Section 3 -- Principle: Beneficence ("do good")

The dentist has a duty to promote the patient's welfare.

Section 5 -- Principle: Veracity ("truthfulness")

The dentist has a duty to communicate truthfully.

Code of Professional Conduct

5.A. Representation of Care. Dentists shall not represent the care being rendered to their patients in false or misleading manner.

Advisory Opinions

5.B.5. Dental Procedures. A dentist who incorrectly describes on a third party claim form a dental procedure in order to receive a greater payment or reimbursement or

incorrectly makes a non-covered procedure appear to be a covered procedure on such a claim form is engaged in making an unethical, false or misleading representation to such third party.

On August 6, 2014, the Respondent appeared before a Case Resolution Conference ("CRC") of the Board. Based on negotiations occurring as a result of this CRC, and further negotiations afterwards, the Respondent agreed to enter into this Consent Order, which consists of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. Licensing Information

1. At all times relevant to these charges, 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 September 22, 1994, under License Number 11554. The Respondent's license is renewed through June 30, 2014.

2. At all times relevant to these charges, the Respondent operated a dental practice at 5806 Hubbard Drive, Rockville, Maryland 20852.

3. In an Order for Summary Suspension (the "Order"), dated March 19, 2014, the Board summarily suspended the Respondent's Maryland dental license pursuant to Md. State Gov't Code Ann. § 10-226(c)(2). The Board found that there was a substantial likelihood that the Respondent posed a risk of harm to the public health, safety, or welfare, which imperatively required the emergency suspension of his license.

4. On April 2, 2014, the Board convened a show cause hearing to address whether to continue the Order. After hearing arguments from the parties, the Board, in

a letter dated April 11, 2014, continued the summary suspension of the Respondent's Maryland license to practice dentistry.

II. Basis of the summary suspension

5. In or around 2011-13, the Board received a series of complaints regarding the Respondent from former patients. These patients alleged that the Respondent engaged in a variety of professional improprieties when treating them. Such acts included but were not limited to violating professional standards or providing incompetent dental treatment, engaging in unprofessional or dishonorable conduct, fraudulently billing them for services he did not provide, withholding dental records upon their request, failing to address billing issues with them, and engaging in other acts of misconduct and wrongdoing.

6. After reviewing these complaints, the Board initiated investigations of the Respondent's actions under various Board case numbers.

7. In furtherance of these investigations, the Board issued a series of *subpoenas duces tecum* ("SDTs") to the Respondent for his patients' dental and billing records and directed him to provide treatment narratives for the patients involved. In none of the instances did the Respondent provide the records or treatment narratives within the time frames mandated in the Board's various SDTs.

8. During the course of these investigations, the Board, on or about December 27, 2013, received a complaint from a former patient ("Patient A")¹ who alleged that the Respondent provided incompetent dental treatment to her, her spouse ("Patient B") and two children ("Patients C and D"), billed for services he did not provide, engaged in sexual

¹ To ensure confidentiality, the names of patients or other individuals will not be disclosed in this Consent Order. The Respondent is aware of the identities of all patients and other individuals referenced herein.

misconduct with her during an examination, refused to provide her with her dental records, and harassed her and her family with rude and threatening telephone calls.

9. In her complaint, Patient A alleged that the Respondent treated her and her family in an incompetent manner resulting in failing root canal treatments and recurring infections. Patient A also alleged that the Respondent billed her insurance company on multiple occasions for procedures such as crowns, crown buildups, prophylaxis, composite fillings and root canal treatments that he never provided or that he provided such services in an incompetent manner. Patient A provided evidence from subsequent treating dentists who substantiated that the Respondent did not perform dental procedures he represented he performed and/or that he performed such services in an improper manner.

10. With respect to allegations of sexual misconduct, Patient A alleged that during an office visit in or around May 2013, the Respondent made inappropriate sexual contact with her during an examination.

11. With respect to allegations pertaining to harassment and unprofessional conduct, Patient A reported that subsequent treating dentists advised her that she and her family did not receive dental treatment the Respondent represented he provided and for which he billed.

12. Patient A stated that as a result, on or about September 7, 2013, she telephoned the Respondent to obtain her family's dental records. In response, the Respondent telephoned her multiple times during a short period of time. In these telephone calls, the Respondent repeatedly threatened and cursed at Patient A and Patient B, who was also present, which caused Patient A, Patient B and their family

members extreme distress and fear. To date, the Respondent has not provided Patient A with her family's dental records.

13. As a result of this complaint, the Board, on or about January 7, 2014, issued an SDT to the Respondent for all dental records pertaining to Patients A, B, C and D, and directed him to provide narratives of his evaluation, treatment and billing with respect to these patients. The SDT required compliance on or before January 15, 2014.

14. The Respondent did not produce patient records and the directive for production of treatment narratives within the time period mandated under the January 7, 2014, SDT.

15. By letter, dated February 3, 2014, the Board notified the Respondent that he was in non-compliance with the above SDT as well as several other outstanding investigatory subpoenas and treatment narratives from other ongoing Board investigations, including the following:

(a) in Board Case Number 2014-005, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about September 30, 2013;

(b) in Board Case Number 2014-074, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about December 11, 2013; and

(c) in Board Case Number 2014-078, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about December 11, 2013.

16. The Board informed the Respondent that if he did not comply with all outstanding SDTs and directives to provide treatment narratives by February 6, 2014, he

would be subject to possible Board disciplinary action, including but not limited to the issuance of disciplinary charges and/or a summary suspension of his licensure.

17. The Respondent, however, did not comply with any of the outstanding SDTs or directives for production of treatment narratives as mandated in the Board's February 3, 2014, letter.

18. As a result, the Board issued its Order, dated March 19, 2014, in which it summarily suspended the Respondent's Maryland dental license.

19. The Board continued the suspension of the Respondent's license after a show cause hearing convened on April 2, 2014.

III. Further Board investigation

20. The Respondent provided records to the Board pertaining to Patients A through D on or about March 25, 2014.

21. The Board referred the Respondent's patient records pertaining to Patients A through D and other patient records it obtained in other ongoing investigations (Patients E through N) to an expert in general dentistry (the "Expert") for a review of the Respondent's compliance with the Act and applicable Board regulations.

22. The Expert reviewed complaints under Board Case Numbers 2014-134 (Patients A through D); 2014-078 (Patient E); 2014-074 (Patient F); 2014-005 (Patient G); 2013-167 (Patient H); 2013-164 (Patient I); 2012-181 (Patient J); 2012-134 (Patient K); 2012-135 (Patient L); 2012-016 (Patient M); and 2011-248 (Patient N).

A. Expert Report Summary

23. The Expert issued a report of his findings, dated April 23, 2014. The Expert summarized the Respondent's actions in the following categories: dental record keeping; incompetent dental care; fraudulent billing practices; failure to cooperate with Board Orders and investigations; and unprofessional conduct.

Dental Record Keeping

24. With respect to dental record keeping, the Expert stated:

The dental record keeping of . . . [the Respondent] . . . throughout this review was consistently incompetent and egregiously deficient which greatly hindered the ability for the Board to conduct its investigation . . . Furthermore, the recordkeeping problems greatly impacted the ability of the patients to understand and resolve issues related to billing and treatment provided which also impacted the continuity of care with subsequent providers.

25. The Expert noted the following deficiencies in the Respondent's dental records:

- (a) Failure to document medical history;
- (b) Failure to document treatment provided;
- (c) Failure to document the medical necessity of treatment performed;
- (d) Failure to document dental materials used in treatment;
- (e) Failure to document local anesthesia used in treatment;
- (f) Failure to maintain x-rays, laboratory records, insurance records and financial records;
- (g) Failure to maintain signed, detailed, accurate and organized records;
- (h) Failure to document in-person conversations, telephone conversations and other correspondence with patients; and
- (i) Failure to document complaints pertaining to the dentist and staff and their manner of resolution.

Incompetent Dental Care

26. The Expert found that the Respondent provided incompetent dental care/substandard treatment to patients that included the following:

- (a) Documentation and record keeping failures;
- (b) Endodontic treatment that was performed in a grossly incompetent manner;
- (c) Crown and bridge treatment performed in a grossly incompetent manner; and
- (d) Restorative treatment performed in a grossly incompetent manner.

Fraudulent Billing Practices

27. The Expert found that the Respondent engaged in fraudulent billing practices that included the following:

- (a) Billing for services never provided;
- (b) Duplicate billing for the same services;
- (c) Upcoding of dental services;
- (d) Charges in excess of agreed upon fees;
- (e) Billing in excess of the contractual provider network negotiated fee; and
- (f) Abrogation of patient co-payments.

Failure to Cooperate/Comply with Board Orders and Investigations

28. The Expert found numerous examples of where the Respondent failed to comply with Board SDTs, orders and requests for complete dental records, and that his "lack of compliance greatly hindered the ability of the Board to conduct its investigation."

Unprofessional or Dishonorable Conduct

29. The Expert identified numerous instances of where the Respondent engaged in unprofessional conduct/behavior that included the following:

- (a) Fraudulent billing practices;

- (b) Failure to provide dental records;
- (c) Rude, threatening and abusive conduct;
- (d) Failure to address and resolve patient concerns regarding treatment and billing; and
- (e) Failure to cooperate with a lawful Board investigation.

B. Patient-Specific Allegations

30. Examples of the above findings are set forth in the following summaries:

Case Number 2014-134

Patient A

31. Patient A submitted a complaint, dated December 27, 2013, in which she alleged that the Respondent provided incompetent dental treatment to her, her spouse (Patient B) and her two minor children (Patients C and D); billed for services he did not provide; engaged in sexual misconduct with her during an examination; refused to provide her with her dental records; and harassed her and her family with rude and threatening telephone calls on numerous occasions.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

32. The Respondent failed to comply with numerous requests to provide dental records, which were made by the Board, Patient A, and Patient A's insurance carrier.

33. Patient A made numerous requests to the Respondent for her dental records after learning that he billed her insurance carrier for procedures he did not perform and provided incompetent dental care when treating her and members of her family. The Respondent consistently refused to provide those dental records to Patient A, however.

34. Patient A made a complaint to her insurance carrier regarding the Respondent's billing irregularities. The insurance carrier directed the Respondent to

provide her dental records for its inspection. The Respondent, however, failed to comply with the insurer's directive to provide these treatment records.

35. As a result of Patient A's complaint, the Board, on or about January 7, 2014, issued the Respondent a SDT to his address of record to produce the dental records of Patients A through D, directing him to produce the records on or before January 15, 2014. The Respondent did not produce the records in compliance with the Board's SDT, however.

36. By letter to the Respondent's address of record, dated February 3, 2014, the Board advised the Respondent that his failure to comply with the Board's SDT could result in Board disciplinary action and instructed him to comply with the SDT by February 6, 2014. On February 7, 2014, the Respondent requested additional time to produce the records. In response, the Board extended the time until February 14, 2014.

37. On February 8, 2014, the Respondent notified the Board that due to pending litigation involving Patient A, he would not comply with the Board's directive until after the legal matter was resolved.

38. On March 19, 2014, the Board summarily suspended the Respondent's Maryland dental license.

39. On March 25, 2014, the Respondent sent the patient records to the Board.

40. The Respondent failed to comply with multiple requests by Patient A, Patient A's insurance carrier, and the Board to provide dental records. Although the Respondent ultimately provided the records, he did so in violation of the directive contained in the SDT, and only after the Board summarily suspended his dental license. When the Respondent did provide an untimely response to the SDT (over one month

after they were due), he failed to include copies of insurance submissions and billing records with them.

Unprofessional or Dishonorable Conduct

41. The Respondent engaged in rude, abusive and threatening behavior towards Patient A. When Patient A determined that the Respondent billed for services he did not provide and provided what she believed to be incompetent dental care to her, she attempted to contact him on numerous occasions to obtain her dental records, without success.

42. On September 7, 2013, Patient A telephoned the Respondent, again in an attempt to obtain her dental records. The Respondent responded by telephoning her approximately seven times within a 45-minute time period on that date. In these telephone calls, the Respondent used rude, threatening, profane language towards Patient A. The Respondent's profane-laden telephone calls were overheard by Patient B. The Respondent's threatening telephone calls to Patient A frightened her and Patient B and caused them extreme emotional upset.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

43. The Respondent fraudulently billed for numerous services he did not provide to Patient A.

Tooth # 1

44. On date of service March 14, 2009, the Respondent completed a statement of actual services to Patient A's insurance company for a crown and build-up on Tooth # 1. Patient A's dental record, however, indicates that no treatment was performed on this date of service and a crown and build-up was never performed on this tooth. Additionally,

this tooth was extracted prior to the date of service. The Respondent billed for a service he never provided for a tooth that was not present.

Tooth # 2

45. On dates of service March 14, 2009, and October 27, 2012, the Respondent completed statements of actual service to Patient A's insurance company for a crown and build-up on Tooth # 2. Patient A's dental record, however, indicates that no treatment was performed on March 14, 2009, and that only that a crown build-up was performed on October 27, 2012. On both dates of service, the Respondent did not document that a crown was placed on this tooth. The absence of an existing crown was also documented in a letter, dated November 7, 2013, from Patient A's subsequent treating dentist. The Respondent billed on multiple occasions for services he never provided.

Tooth # 3

46. On dates of service, March 14, 2009, October 27, 2012, and November 17, 2012, the Respondent completed statements of actual service to Patient A's insurance company to replace an existing crown on Tooth # 3.. Patient A's dental record indicates that no treatment was performed on March 14, 2009, or November 17 2012, and that only a crown was prepared on October 27, 2012. The Respondent billed on at least two occasions for services he never provided.

Tooth # 15

47. On date of service June 18, 2013, the Respondent completed a statement of actual services to Patient A's insurance company for a crown on Tooth # 15. Patient A's dental records indicate that no treatment was performed on this date of service and a crown was never performed on this tooth. The absence of an existing crown was

documented in a letter, dated November 7, 2013, from Patient A's subsequent treating dentist.

48. On the same date of service, June 18, 2013, the Respondent completed a statement of actual services to Patient A's insurance carrier for crown lengthening. In a letter dated November 7, 2013, Patient A's subsequent treating dentist reported that no crown lengthening was evident. The Respondent billed for a service that he never provided.

Tooth #s 30 and 31

49. By correspondence dated, November 12, 2013, Patient A's insurance company informed Patient A that payments to the Respondent for crowns for Tooth #s 30 and 31 had been made and had been retracted due to the Respondent's failure to respond to an inquiry by the insurer. Patient A's dental record indicates that the Respondent did not place crowns on these teeth. The Respondent billed for multiple services that he never provided.

Occlusal Guard

50. The Respondent submitted a bill to Patient A's insurance carrier for an occlusal guard on November 27, 2012. In Patient A's dental record, the Respondent documented that he fabricated an occlusal guard but did not document that he delivered one to Patient A. In addition, Patient A reports never receiving an occlusal guard. The Respondent billed for a service that he never provided.

Scaling and Root Planing

51. Patient A reported that she was billed for scaling and root planing that was never performed. The Respondent reported that he performed full mouth scaling and root planing on January 14, 2012. This procedure is generally not performed in a single visit due to concerns of anesthetizing the entire mouth. The Respondent documented and billed for a procedure that he did not provide.²

Tooth # 2--Root Canal/Crown Build-up/Crown Lengthening

52. On May 13, 2013, the Respondent initiated root canal therapy on Tooth # 2 and also billed Patient A's insurance company for a crown build-up and crown lengthening. The Respondent's clinical notes indicate that the build-up was "temporary." The Respondent inappropriately billed for a crown build-up when he only provided a routine temporary filling to seal the endodontic access opening. According to the Expert, it also was "not plausible that a surgical crown lengthening involving hard tissue was performed in conjunction with the root canal."

Additional Billings for Services Not Provided

53. Patient A submitted explanations of benefits from her insurance company that indicate that the Respondent billed for a number of services that are not reflected in Patient A's dental records and were not provided. The Respondent billed for multiple services that he did not provide for the following dates of service:

<u>Date of Service</u>	<u>CDT Code</u>
June 11, 2010	2750, 2750, 2750
October 23, 2012	0140
December 1, 2012	2335, 2335, 2335, 2393

² The Respondent documented in Patient A's treatment notes that he performed full mouth scaling and root planing on May 9, 2009, and October 24, 2009. These procedures, however, are generally not performed in a single visit due to concerns of anesthetizing the entire mouth. These appear to be procedures that, although documented, were never performed.

54. The Respondent also upcoded services provided. On June 21, 2011, the Respondent provided preventive resin restorations (CDT 1352) on seven teeth (tooth #s 4, 5, 12, 19, 29, 30 and 31, on the occlusal surfaces). The Respondent upcoded and submitted for reimbursement the services he provided as CDT 2391 (one surface posterior composite restorations), however.

Incompetent Root Canal Treatment of Tooth #s 2 and 15

55. The Respondent provided incompetent endodontic treatment to Patient A. The Respondent performed incompetent endodontic treatment on Tooth #s 2 and 15. Patient A continued to experience pain after the Respondent's treatment, which caused her to seek a consultation with another dentist. This dentist evaluated Patient A on October 16, 2013, and reported that the endodontic fill on Tooth # 2 was short and Patient A was experiencing pain. The subsequent treating dentist reported that the endodontic fill on Tooth # 15 was thin with only two canals being obturated. As a result, this dentist referred Patient A to another dentist for re-treatment.

56. Patient A underwent an evaluation on October 18, 2013, by another dentist, who recommended re-treatment. This dentist reported that both teeth were symptomatic with short endodontic fills. The dentist also noted a previously untreated distal-buccal canal on Tooth # 2 and a previously untreated mesial-buccal canal on Tooth # 15, which he re-treated.

Patient B

Fraudulent Billing Practices

57. The Respondent billed for numerous services he did not provide to Patient B.

Tooth # 6

58. On date of service, December 4, 2012, the Respondent completed a statement of actual services to Patient B's insurance company for a crown on Tooth # 6. Patient B's dental records indicate that a crown was never performed on Tooth # 6. The Respondent billed for a service that he never provided.

Tooth #s 8 and 9

59. Patient B reported that the Respondent billed his insurance carrier for crowns and build-ups on Tooth #s 8 and 9 on date of service June 8, 2009. Patient B's dental record indicates that the Respondent did not perform these procedures on this date, however. The Respondent billed for services that he never provided.

Additional Billings for Services Not Provided

60. Patient B submitted explanations of benefits from his insurance company that indicated that the Respondent billed for a number of services that are not reflected in Patient B's dental records and were not provided. The Respondent billed for multiple services that he did not provide for the following dates of service:

<u>Date of Service</u>	<u>CDT Code</u>
June 8, 2009	2750, 2750, 2950, 2950, 7210, 7210
January 14, 2012	2335, 2335
January 28, 2012	1110, 4341, 4341, 4341, 4341
November 27, 2012	0120, 0220, 0230, 0230, 0230, 1110, 2391, 2392, 4341, 4341, 4341, 4341

Incompetent Root Canal Treatment of Tooth # 6

61. The Respondent provided incompetent endodontic treatment to Patient B. Patient B presented to another dentist on September 9, 2013, for an evaluation of Tooth # 6, which the Respondent previously treated. This dentist took radiographs that showed a periapical radiolucency associated with a short endodontic fill. Patient B was subsequently referred to an endodontist, who reported that Patient B's endodontic fill on Tooth # 6 was approximately nine mm short of the apex. The endodontist recommended and provided re-treatment for this tooth.

Patient C

Additional Billings for Upcoding/Services Not Provided

62. On January 14, 2012, the Respondent documented that he performed preventative resin restorations (CDT Code 1352) on Tooth #s 5, 20, 21 and 28, but the treatment was upcoded and submitted to Patient C's insurance carrier for payment as CDT Code 2391 (one surface posterior composite).

63. The Respondent billed for services that he did not provide for the following dates of service:

<u>Date of Service</u>	<u>CDT Code</u>
November 27, 2012	2391, 2391, 2391
January 5, 2013	0120, 0272, 1120, 1203

Patient D

Additional Billings for Upcoding/Services Not Provided

64. On June 21, 2011, the Respondent documented that he performed preventive resin restorations, CDT code 1352, on Tooth #s B, I, L and S, but the treatment was upcoded to Patient D's insurance carrier for payment as CDT code 2391 (one surface posterior composites).

65. The Respondent also billed for services that he did not provide for the following dates of service:

<u>Date of Service</u>	<u>CDT Code</u>
November 16, 2010	2391, 2391
December 1, 2012	0220, 0230

Case Number 2014-078

Patient E

66. The mother of Patient E filed a complaint alleging that the Respondent engaged in fraudulent billing practices, incompetent dental care and incompetent record keeping when treating Patient E.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

67. After receiving this complaint, the Board, on or about December 11, 2013, issued a SDT to the Respondent for Patient E's dental records, directing him to produce the records on or before December 27, 2013. The Respondent failed to comply with the Board's SDT in a timely manner. The Respondent did not provide these records to the Board until January 31, 2014.

68. The Respondent failed to cooperate with the Board's investigation by failing to produce Patient E's dental record in compliance with the Board's December 11, 2013, SDT.

Incompetent Dental Care/Recordkeeping

69. On or about January 15, 2013, Patient E presented to the Respondent after a referral from a general dentist. The Respondent took a periapical x-ray and made a general diagnosis of upper anterior nursing bottle decay. The Respondent recommended

that Patient E be treated in a hospital setting, a recommendation Patient E's mother rejected.

70. On or about June 8, 2013, Patient E presented to a pediatric dentist who recommended resin composite crowns to be performed in a hospital setting under general anesthesia. Patient E's mother declined the treatment, however.

71. On or about July 20, 2013, Patient E returned to the Respondent who placed MIDL composites on Tooth #s D-G due to nursing bottle decay, using chloral hydrate oral sedation. Approximately one week later, Patient E's mother reported that the restorations on Tooth #s D, G and E failed.

72. On or about August 3, 2013, Patient E's dental record contains a cursory notation, "redid (illegible) composite," with no clinical detail. The Respondent billed the procedure as CDT Code 0140, limited oral evaluation. Patient E's mother reported that two weeks later the restorations on Tooth #s E and F failed.

73. Patient E's mother reported that on or about September 7, 2013, the Respondent replaced the failed restorations on Tooth #s E and F with strip crowns. Patient E's mother supplied a \$198.00 credit card receipt for this date of service, although Patient E's clinical record contains no entry for this appointment and the payment is not recorded in the patient account summary. Patient E's mother reported that the strip crown the Respondent placed on Tooth # E failed one week later.

74. The Respondent failed to adequately record patient treatment in the patient dental record and failed to record patient payments in Patient E's financial record. In addition, the Respondent placed numerous failed restorations that failed pre-maturely, requiring replacement. The Respondent inappropriately treated Patient E in that he

should have refused to treat Patient E in his office and followed the recommendations that Patient E be treated in a hospital setting.

Case Number 2014-074

Patient F

75. Patient F submitted a complaint to the Board in which she alleged that the Respondent engaged in fraudulent billing practices.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

76. After receiving this complaint, the Board, on or about December 11, 2013, issued the Respondent a SDT for Patient F's dental record, directing him to produce the record by December 27, 2013.

77. On December 20, 2013, the Respondent's office responded that it could not locate the records and that the complaint was due to a fee dispute.

78. On or about January 7, 2014, the Respondent faxed the Board a request for an extension of time until February 28, 2014, to produce the records.

79. On February 3, 2014, the Board sent the Respondent a notice that he had failed to comply with the Board's SDT and demanded compliance by February 6, 2014. On February 7, 2014, the Respondent telephoned the Board to request an extension.

80. On February 8, 2014, the Respondent submitted a narrative that characterized Patient F's complaint as a fee dispute, without addressing the specifics of the allegation.

81. On March 25, 2014, six days after the Board summarily suspended the Respondent's dental license, the Respondent submitted Patient F's dental records to the Board.

82. The Respondent failed to cooperate with the Board's investigation by failing to produce Patient F's dental record in compliance with the Board's December 11, 2013, SDT.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

83. The Respondent fraudulently and unprofessionally submitted bills to Patient F's insurance company for crowns that he did not provide.

Tooth # 14

84. Patient F provided an explanation of benefits form from her insurance company that stated that the Respondent was paid for placing a crown on Tooth # 14 on February 2, 2013. However, Patient F's subsequent treating dentist performed the initial crown on Tooth # 14 and when the procedure was submitted to Patient F's insurance carrier, it was rejected because the Respondent had been previously paid for the service. The Respondent's dental record for Patient F indicates that he provided no treatment for Patient F on this date and there is no documentation in the record that he ever performed this procedure. Additionally, the subsequent treating dentist submitted clinical records, x-rays and other documentation confirming that there was no existing crown on Tooth # 14. The Respondent submitted a bill for a service he did not provide.

Tooth # 30

85. Patient F provided an explanation of benefits from her insurance company that the Respondent was paid for a crown on Tooth # 30 on April 7, 2010. However, the Respondent's dental record for Patient F indicates that he provided no treatment on this date of service. The Respondent billed for the procedure a second time on April 20, 2013, when the crown procedure was actually performed. Patient F then sought treatment from another dentist who took an x-ray that shows the crown on Tooth # 30 was unacceptable

due to an open mesial margin. The Respondent submitted fraudulent billing and provided incompetent dental care with respect to Tooth # 30.

Tooth # 31

86. Patient F provided an explanation of benefits from her insurance company that the Respondent submitted a claim for service for a crown and build-up on Tooth # 31 on both April 7, 2010, and May 1, 2010. The Respondent's dental record for Patient F, however, indicates that he did not provide any treatment for those dates of service and there is no documentation in the record that he ever performed these procedures. Patient F's subsequent treating dentist submitted documentation, clinical records, intra-oral photographs and x-rays that confirm that there was no existing crown and build-up on Tooth # 31. The Respondent submitted bills for services he did not provide.

Unprofessional or Dishonorable Conduct

87. In her complaint, Patient F provided email correspondence from her to the Respondent's office highlighting her attempts to resolve her billing issues. The Respondent's office was uncooperative in addressing the matter, which included failing to reimburse Patient F's insurance company for the services he received payment for but did not provide. The Respondent's office threatened to send Patient F to collections for balances of services not provided and refused to address the issue with her further unless she paid the office \$300.00 for its time and efforts.

Case Number 2014-005

Patient G

88. Patient G submitted a complaint to the Board alleging that the Respondent engaged in deceptive advertising practices.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

89. As a result of this complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT for Patient G's records, dated September 30, 2013, directing him to produce the records by October 11, 2013. The Respondent failed to produce the records in accordance with the SDT, however.

90. The Respondent contacted the Board by facsimile transmission, dated January 7, 2014, to request an extension of time to comply with the SDT until February 28, 2014, citing issues associated with management changes and renovations to his office.

91. On February 3, 2014, the Board sent the Respondent a notice of failure to comply and instructed him to produce the records on or before February 6, 2014. On February 7, 2014, the Respondent telephoned Board staff to request an extension, reporting that he just received the SDT and letter of non-compliance, despite his earlier responses indicating his knowledge of the matters.

92. On February 18, 2014, the Respondent provided the records and a narrative of treatment regarding Patient G.

93. The Respondent failed to cooperate with an investigation of the Board in that he failed to comply with the Board's SDT and failed to produce Patient G's dental records in a timely manner.

Unprofessional or Dishonorable Conduct

Tooth #s 8 and 9

94. On or about May 1, 2012, Patient G presented to the Respondent with a coupon for porcelain veneers on Tooth #s 8 and 9. The Respondent instead recommended bonding, with a two-year warranty against breakage.

95. The Respondent performed the bonding but within two weeks, the bonding fractured. On May 21, 2012, Patient G presented to the Respondent's office where the Respondent made a referral for porcelain veneers. Patient G then presented for two different appointments where she was informed that the "technician" was not available and the office would call to reschedule. Patient G was never called to reschedule, however, and when she did contact the office she was told to visit another office using the same group name. Patient G then attempted to contact the Respondent's office by telephone, email and letter but never received a response.

96. The Respondent engaged in unprofessional or dishonorable conduct in that he gave Patient G a warranty against veneer breakage but then refused to honor the warranty against fracture, and by failing to respond to Patient G's repeated attempts to contact him regarding the matter.

Case Number 2013-167

Patient H

97. Patient H submitted a complaint to the Board alleging that the Respondent failed to provide him his dental records, despite repeated requests, provided incompetent dental care, and engaged in fraudulent billing practices.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

98. Patient H reported that as of January 23, 2014, the Respondent failed to provide his dental records despite written requests, dated May 7, 2013, July 12, 2013, October 8, 2013, and November 5, 2013.

99. As a result of this complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT, dated February 25, 2013, directing him to produce Patient H's dental records, statements for services

provided, claims for insurance benefits, records of payment, billing and/or insurance records, account history and a list of transactions on or before March 6, 2013.

100. The Respondent provided an untimely and incomplete response to the Board's SDT. The Respondent failed to comply with the SDT within the time period mandated by the Board, *i.e.*, March 6, 2013. The Respondent did not produce Patient H's dental records until March 11, 2013. The Respondent failed to provide the billing/insurance records as ordered in the SDT, which impeded the Expert from investigating allegations that the Respondent engaged in fraudulent billing practices.

101. The Respondent failed to cooperate with a lawful investigation conducted by the Board in that he failed to comply in a timely manner with the Board's SDT and failed to provide all information mandated under the SDT.

Incompetent Dental Care/Unprofessional or Dishonorable Conduct

102. In his complaint, Patient H stated that on December 21, 2012, the Respondent delivered a bridge on Tooth #s 28-31 (with pontics on Tooth #s 29 and 31). Patient H reported that within 24 hours, he experienced pain associated with the bridge. Patient H called the Respondent's office and was told that the Respondent would contact him. The Respondent never responded, however. Patient H reported that he made ten additional attempts to contact the Respondent's office but received no response.

103. On January 25, 2013, Patient H's bridge became loose and he then consulted with another dentist, who provided a panorex radiograph, intra-oral photograph of the debonded bridge and a letter reporting that Patient H presented with multiple dental problems. Among the problems were hopeless Tooth #s 23 and 24 secondary to extensive decay and the loose bridge at Tooth #s 28-31, where abutment Tooth # 28 was decayed with a poorly-performed root canal to include an excessive overfill. The

subsequent treating dentist further reported that the bridge was rocking and no longer properly supported by the abutments making re-cementation impossible. This dentist recommended extraction of abutments # 28 and # 30 with subsequent placement of implants.

104. On February 6, 2013, Patient H presented to another dentist for a second opinion and lower partial denture consultation. This dentist's treatment plan included extraction of Tooth #s 17, 19, 23, 24 and the bridge abutments #s 28 and 30, along with composite restorations on Tooth #s 20, 25 and 26, and an interim lower partial denture.

105. The Respondent's dental record indicates an undated consultation note that a periodontal referral and endodontic referral for possible re-treatment of Tooth # 28 and an initial treatment of Tooth # 30 was made but refused by Patient H. The consultation note also states that Patient H was strongly advised to see the periodontist and endodontist before starting any bridge work.

106. The Respondent provided incompetent dental treatment to Patient H in that he failed to properly treatment plan Patient H's dental issues or proceed in a methodically-sequenced manner. Prior to performing the prosthetic treatment phase, the Respondent should have but failed to address Patient H's periodontal health, the status of hopeless Tooth #s 23 and 24, and the endodontic status of abutments #s 28 and 30. Instead, the bridge the Respondent placed quickly failed and subsequent providers recommended the extraction of the abutments along with other teeth in the lower arch. The Respondent was aware of many of these issues and even though Patient H refused to accept periodontal and endodontic referrals, the Respondent inappropriately proceeded with treatment.

Fraudulent Billing Practices

107. Patient H filed a complaint with the Board alleging that the Respondent submitted dental claims to her insurance carrier without authorization or assignment of benefits, and stated that he submitted a number of claims for services he did not provide.

108. Because the Respondent failed to provide insurance/billing information to the Board in compliance with the Board's SDT, the Expert could not make a finding on this issue.

Case Number 2013-164

Patient I

109. On or about February 11, 2013, Patient I filed a complaint with the Board alleging that the Respondent failed to provide him his dental records despite repeated requests, provided incompetent dental treatment to him and engaged in fraudulent billing practices.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

110. As a result of the above complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT for Patient I's dental records, dated February 25, 2013. The Board's SDT also directed the Respondent to provide statements for services provided, claims for insurance benefits, records of payment, billing and/or insurance records, Patient I's account history and a list of transactions. The Board directed the Respondent to comply with the SDT on or before March 6, 2013.

111. The Respondent did not provide the Board with the records in compliance with the Board's SDT, however.

112. On or about July 2, 2013, the Board sent investigators to the Respondent's office and obtained Patient I's chart. The Respondent's chart failed to contain complete

documentation relating to insurance submissions, billing and the patient account history. The Respondent's failure to produce all information the Board demanded in its SDT impeded the Expert from investigating the complaint and allegations that the Respondent engaged in fraudulent billing practices.

113. The Respondent failed to cooperate with the Board's investigation in that he failed to comply with the Board's SDT, dated February 25, 2013.

Unprofessional or Dishonorable Conduct

114. Patient I attempted to obtain his dental records from the Respondent on multiple occasions in order to determine the type and size of a dental implant in order to complete the prosthetic phase with another provider. Despite numerous contacts, the Respondent's office failed to comply with Patient I's requests. A sample of these contacts is noted:

October 5, 2012--Patient I requested a release of x-rays and implant information.

October 5, 2012--The Respondent's office responded, "That is what happens when you complain, your relation gets worse with your doctor now."

October 5, 2012--Patient I replied, "Where is my x-ray?"

October 5, 2012--The Respondent's office replied, "Pay reasonable fee and I will try my best to get copy for you. I do not make any money from you. Your fund will go to the independent contractors who duplicate the x-rays and records and postage costs."

October 5, 2012--Patient I replied, "How much?"

October 5, 2012--The Respondent's office replied, "Now that you have complained to BBB (Better Business Bureau), the chart has been taken from my office. I have to go to the corporate office. That is about 45 minutes driving and duplication cost is about \$198. Send a check to the office and once the check gets cleared, you will (sic) a copy of the x-rays."

October 26, 2012--the Respondent's office replied, "I am in the process of ordering some abutment parts for your implants. The parts are expensive,

but before I place an order, you need to send a letter to BBB as soon as possible to withdraw your complaint. Please forward a copy of your letter to me. As soon as I verify that with BBB, I will order your implant parts."

October 26, 2012--Patient I replied, "I am not withdrawing my complaint unless this issue is resolved. I need information about my implant because I will just have it done here in Chicago. I need a copy of my x-ray and I need to know what happened to the payment I made for the lower left implant that was never started."

November 2, 2012--The Respondent's office replied, "There is still a charge for it."

November 8, 2012--Patient I replied, "I need the information about my implant or I will be escalating this complaint to the department of health and mental hygiene in MD."

November 8, 2012--The Respondent's office replied, "I do not have your original records. Apparently the previous office manager sent it to BBB after you complained to them. I could have give you these information (**sic**) before when I was in contact with her, but now it is out of my hand. The former office manager has moved. Complaining just makes things worse. I was trying my best to negotiate with you, but you just take your own way. Remove your complaint from BBB, and let me see if I can get your records back."

November 8, 2012--Patient I replied, "This is what BBB told me, apparently they did not receive the information you sent them and I don't believe that you don't have a copy of my record. By law you are supposed to have copy of the record for 5 years."

November 8, 2012--The Respondent's office replied, "Believe me, if I had the records, I would have given it to you. I guess when you started to have a shaky relationship with the other office manager, she may have taken it with her. Last time, I talked to her, she was upset because you complained and told me that she needs to remove her complaint and \$89 to give her copy of the record. At this time her phone is disconnected. It is not too late, remove your complaint and pay \$89, so I can forward the check to her, she might still respond to you. This is a legal fee too, and MD law says that the records can be copied and given to the patient with a reasonable fee."

November 8, 2012--Patient I replied, "I don't need a copy I need the ID of the implant, what brand is it? I will be mailing my complaint to the state for withholding this information and to the consumer protection for misleading me about your fees if this is not resolved by tomorrow."

November 8, 2012--The Respondent's office replied, "Brand is keystone."

November 8, 2012--Patient I replied, "What else do I need to know? They need to order the parts."

November 8, 2012--The Respondent's office replied, "That is all the information I know. Good luck."

November 8, 2012--The Respondent's office again replied, "I know this because of the implant sales person. Any good dentist who place implant should be able to do the rest of the job for you. Next time do not make your relation bad to a dental office. Or any professional office to go what you had to go through."

115. The Respondent behaved dishonorably or unprofessionally in that he failed to provide dental records upon request, attempted to collect fees in excess of reasonable charges for copying and postage, communicated with Patient I in a dismissive and disrespectful manner, and attempted to coerce Patient I to withdraw a complaint.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

116. The Respondent engaged in fraudulent billing practices in that he billed for services he did not provide. Examples include the following:

- (a) the Respondent received payment for a bridge for Tooth #s 29-31, which he never performed; and
- (b) the Respondent billed Patient I for an implant for Tooth # 19, which he never performed.

Case Number 2012-181

Patient J

117. The parent of Patient J, a minor child, filed a complaint with the Board alleging that the Respondent engaged in fraudulent billing practices. This complaint was in conjunction with a complaint forwarded by the Maryland Insurance Administration from a private insurer regarding fraudulent billing practices and the Respondent's failure to

provide requested records or reimbursement to the insurer for procedures that were billed but were not provided.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

118. On or about May 18, 2011, Patient J presented to another dentist who diagnosed decay on the facial surfaces of Tooth #s E and F. Due to Patient J's age, this dentist recommended that she be treated by a pediatric dentist.

119. On or about June 4, 2011, Patient J presented to the Respondent with a diagnosis of one surface facial decay on Tooth #s E and F. Despite the prior diagnosis, the Respondent performed the restorative treatment and billed for four-surface MIDL composites as opposed to one-surface restorations. The Respondent billed Patient J for a comprehensive examination, prophylaxis and a fluoride treatment, even those the procedures were never performed.

120. On or about July 2, 2011, Patient J presented to the Respondent after the facial restorations on Tooth #s E and F debonded. Despite the fact that Tooth #s E and F were to be redone, the Respondent instead billed Patient J for restorations on Tooth #s D and G. Additionally, although the Respondent previously documented that he restored the MIDL surfaces on Tooth # E, his clinical note for this appointment indicates that only a one-surface facial restoration was present.

121. The complaint on behalf of Patient J contains a periapical x-ray and a signed statement from Patient J's subsequent treating dentist that there was no evidence of any kind for restorations on Tooth #s E or F.

122. The Respondent engaged in fraudulent billing practices and engaged in unprofessional and dishonorable conduct when he billed for services he did not provide and recorded false documentation that he provided those dental services.

Case Number 2012-134

Patient K

123. Patient K filed a complaint with the Board alleging that the Respondent engaged in fraudulent billing practices.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

124. After receiving this complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT, dated February 17, 2012, directing him to produce Patient K's records and his appointment book on or before March 5, 2012.

125. On February 22, 2012, the Respondent responded that due to computer issues he could not forward Patient K's records. The Respondent claimed that Patient K's complaint was the result of a fee dispute.

126. On or about April 27, 2012, the Office of the Attorney General sent correspondence to the Respondent ordering him to provide Patient K's records and his appointment book within ten days. On or about June 27, 2013, the Board again issued a SDT.

127. The Respondent did not provide the records until March 28, 2014.

128. The Respondent failed to cooperate with the Board's investigation in that he failed to comply in a timely manner with numerous Board SDTs/directives for Patient K's dental records and his appointment book.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

129. The Respondent billed for services he never provided (*i.e.*, Tooth #s 5 and 19), or misrepresented services he provided (*i.e.*, Tooth #s 14 and 30).

Tooth #s 5 and 19

130. In his complaint, Patient K provided an explanation of benefits from his dental insurer that stated that the Respondent submitted a claim and was paid for crowns on Tooth #s 5 and 19, with a date of service of August 29, 2009. The Respondent's dental record for Patient K, however, indicates that he never performed these procedures. Patient K's complaint also contained a statement from Patient K's subsequent treating dentist to Patient K's dental insurer that reference x-rays and intra-oral photographs showing that the teeth were never crowned.

Tooth #s 14 and 30

131. On or about December 11, 2008, the Respondent submitted an insurance claim to Patient K's insurance carrier for placement of porcelain fused-to-high-noble metal crowns for Tooth #s 14 and 30. The Respondent's laboratory prescription, dated December 11, 2008, indicates that the crowns were fabricated with non-precious metal as opposed to the high noble metal that was billed.

Unprofessional or Dishonorable Conduct

132. Patient K attempted to correct the Respondent's improper billings for Tooth #s 5 and 19. Regarding Patient K's inquiry to resolve these billing issues, the Respondent's office emailed Patient K on October 14, 2011, as follows:

I have reviewed few cases in the last few months and send correction claim to the insurance and all those patients had to pay a lot of money for their portion to the dental office that they wished never reviewed their files at the first place. I even send one person to court for not paying his portion of treatment. Now, I am trying to give you the heads up that if I get your file and review every procedure that the doctor did, I am positive that you will owe the office close to \$2000 which includes my fee for tracing the chart and look at every procedure with a magnifying glass and sending correction to insurance. I took a glance at the computer and got the report of the dental procedures that the doctor did you you, and it seems that he has treated you many times without charting your portion.

133. The Respondent engaged in unprofessional or dishonorable conduct in that his office attempted to dissuade Patient K from proceeding further as it threatened him with collections and the imposition of fees to address the billing issues while also acknowledging the abrogation of patient co-pays/fees.

Incompetent Dental Care

Tooth # 3

134. The Respondent provided incompetent endodontic treatment to Patient K. The Respondent completed a root canal on Tooth # 3 on October 31, 2009. Patient K's post-operative endodontic x-ray taken on this date indicates that the root canal was performed in an incompetent manner as the medial-buccal root appears to be either unobturated or minimally obturated.

Case Number 2012-135

Patient L

135. Patient L submitted a complaint to the Board alleging that the Respondent failed to replace a crown that fractured prematurely and acted unprofessionally towards her when she attempted to resolve the matter.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

136. As a result of this complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT for Patient L's dental records on January 23, 2012, directing him to produce the records on or before February 13, 2013.

137. The Respondent failed to cooperate with the Board's investigation in that he failed to provide Patient L's dental records in compliance with the Board's SDT. The Respondent did not provide the Board with these records until March 28, 2014.

Unprofessional or Dishonorable Conduct

138. On March 15, 2011, the Respondent prepared a crown on Tooth # 3. Patient L reported that the crown fractured less than two months after delivery. Patient L reported that the Respondent agreed that the crown was defective and further agreed that it would be replaced at no charge by other dentists in the practice since he now limited his practice to pediatric dentistry. Patient L reported that the Respondent's office was rude and unresponsive in several attempts to resolve the matter. Additionally, the office subsequently attempted to charge for the replacement crown and when Patient L presented for the crown replacement, the office was closed. Patient L presented to the office again, at which point the Respondent was unwilling to address the matter and called the police to have Patient L removed from the premises.

139. The Respondent, either directly, or through his office, engaged in unprofessional or dishonorable conduct towards Patient L and failed to resolve treatment issues.

Fraudulent Billing Practices/Unprofessional or Dishonorable Conduct

Tooth # 3

140. The Respondent engaged in fraudulent billing practices and unprofessional or dishonorable conduct in that he billed Patient L for a porcelain fused to high noble metal crown on Tooth # 3. The Respondent's laboratory prescription, dated May 15,

2011, however, states that the crown was fabricated with a non-precious metal as opposed to the high noble metal that was billed.

Case Number 2012-016

Patient M

141. Patient M submitted a complaint to the Board alleging that the Respondent failed to provide dental records upon request, acted unprofessionally towards him and provided incompetent dental care.

Failure to Cooperate/Comply with Board Subpoenas/Unprofessional or Dishonorable Conduct

142. After receiving the complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT, dated August 22, 2011, directing him to produce Patient M's records and a treatment narrative on or before September 12, 2011.

143. The Respondent failed to cooperate with the Board's investigation in that he failed to comply with the Board's SDT. The Respondent produced the records in an untimely manner on October 2, 2011, but failed to produce a patient narrative as required under the SDT.

Unprofessional or Dishonorable Conduct

144. Patient M also reported in his complaint that the Respondent failed to comply with his multiple requests for his dental records.

145. Patient M attempted to contact the Respondent's office on multiple occasions to address billing concerns and complaints regarding the Respondent's treatment. On July 6, 2011, Patient M sent the Respondent a certified letter addressing his concerns. Postal records indicate that the Respondent refused delivery on three occasions at which time the letter was returned to sender.

Incompetent Dental Care

Tooth # 31

146. The Respondent provided incompetent dental care to Patient M when performing a root canal, build-up and crown on Tooth # 31.

147. On or about December 4, 2010, the Respondent made a referral for Patient M to see an endodontist to treat Tooth # 31 due to calcified canals. Despite the referral and the issue of calcified canals, the Respondent proceeded to perform the root canal, which resulted in a separated file.

148. On or about December 11, 2010, the Respondent performed a crown lengthening and took the final impressions for the crown on the same day of the surgical crown lengthening that involved bone removal. Patient M reported that the Respondent did not fabricate a temporary crown, which is supported by the clinical record, which does not document the placement of a temporary crown. No appointment was scheduled for the crown delivery, which necessitated that Patient M follow up with the office.

149. On or about February 25, 2011, Patient M presented to the Respondent's office for delivery of the crown. Due to the delay in scheduling the crown delivery and the absence of a temporary crown, Patient M's tooth had shifted, requiring new impressions.

150. On or about July 6, 2011, Patient M presented to another dentist. In his clinical notes and in a letter, dated July 7, 2011, this dentist documented that Tooth # 31 had a poor core build-up and poor crown margins with porcelain adjusted on the occlusal surface to expose the metal. Also, the short margins exhibited voids underneath the crown. This dentist recommended that the build-up and crown be redone.

151. On or about August 17, 2011, Patient M made a formal complaint to his insurance carrier. The insurer referred Patient M to its regional consultant for an

evaluation of the treatment provided on Tooth # 31. The dental consultant determined that the Respondent's treatment was improper and recommended that the root canal be re-treated and the build-up and crown be replaced.

Case Number 2011-248

Patient N

152. Patient N submitted a complaint to the Board alleging that the Respondent failed to provide him with his dental records, engaged in unprofessional conduct and provided incompetent dental care.

Failure to Cooperate/Comply with Board Subpoena/Unprofessional or Dishonorable Conduct

153. After receiving the complaint, the Board initiated an investigation of this matter and in furtherance thereof, issued the Respondent a SDT, dated June 20, 2011, for Patient N's records, directing him to produce these records on or before July 8, 2011. The SDT was sent by regular and certified mail to the Respondent's address of record and after three failed attempts at delivery, the letter was returned to sender.

154. The Respondent did not produce Patient N's records until January 19, 2012.

155. On February 17, 2012, the Board served the Respondent with an additional SDT requesting his dental patient appointment book. On February 22, 2012, and July 30, 2012, the Respondent responded that the appointment book was not available either due to technical issues or a lack of access to front desk records.

156. The Respondent failed to cooperate with the Board's investigation in that he failed to comply with the Board's SDTs in a timely manner. Although the Respondent did produce Patient M's records on January 19, 2012, his production of these records was over six months after they were mandated under the June 20, 2011, SDT. In addition,

the Respondent failed to produce his patient appointment book as required under the February 17, 2012, SDT.

Unprofessional or Dishonorable Conduct

157. In his complaint, Patient N reported that he requested that the Respondent's office transfer his dental records to another provider. The Respondent's office stated that a fee of \$89 would be charged for the transfer. Patient N's subsequent treating dentist documented in her clinical notes that her office was unsuccessful in obtaining Patient N's dental records from the Respondent.

158. The Respondent engaged in unprofessional or dishonorable conduct in that he charged Patient N an exorbitant fee for records transfer and failed to produce them for Patient N's subsequent treating dentist.

Incompetent Dental Care

Tooth #s 12 and 19

159. The Respondent provided incompetent dental care to Patient N in that he performed incompetent root canals on Tooth #s 12 and 19.

Tooth # 12

160. On April 12, 2011, the Respondent performed a root canal on Tooth # 12, despite making a prior referral to an endodontist. On May 18, 2011, Patient N presented to another dentist and reported concerns regarding the tooth because the Respondent's office would not return his telephone calls. This dentist took x-rays and performed an examination. The x-rays indicated that the root canal was performed in an incompetent manner with obturation of the buccal and lingual canals completed to less than half the distance to the root apex. This dentist also documented that the root canal was

inadequate and required re-treatment. On June 11, 2012, Patient N presented to the University of Maryland School of Dentistry where additional x-rays and numerous subsequent clinical notes again documented the incompetently-performed root canal. On July 13, 2012, Tooth # 12 was ultimately extracted at the dental school.

Tooth # 19

161. On April 11, 2009, the Respondent performed a root canal on Tooth # 19. Despite making a prior referral to an endodontist due to a diagnosis of calcified canals, the Respondent incompetently performed the root canal, which resulted in separated instruments in both the mesial-buccal and mesial-lingual canals. Furthermore, Tooth # 19 exhibited advanced periodontal disease to include a furcation involvement for which the Respondent made a periodontal referral.

162. On April 18, 2009, despite the periodontal status of the tooth and the separated endodontic instruments that prevented obturation of the mesial canals, the Respondent proceeded to prepare a crown for the tooth even though the prognosis of the tooth was questionable.

163. On May 20, 2013, Patient N presented to the University of Maryland School of Dentistry where a re-treatment was ultimately performed on the tooth and a questionable prognosis was given due to Patient N's endodontic and periodontal issues.

IV. Board Charges

164. The Board finds that the Respondent's actions, as described above, constitute a violation the following provisions of the Act under H.O. § 4-315(a): (2), Fraudulently or deceptively uses a license; (3), Obtains a fee by fraud or attempts to obtain a fee by fraud; (6), Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner; (16), Behaves dishonorably or unprofessionally or

violates a professional code of ethics pertaining to the dentistry profession; (18), Violates any rule or regulation adopted by the Board; (20), Willfully makes or files a false report or record in the practice of dentistry; (21), Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report; (23), Abrogates or forgives the copayment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected; and/or (32), Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board.

165. The Board alleges that the Respondent's actions, as described above, constitute, in whole or in part, a violation of Sections 1, 2, 3 and/or 5 of the American Dental Association Principles of Ethics and Code of Professional Conduct.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act: (2), Fraudulently or deceptively uses a license; (3), Obtains a fee by fraud or attempts to obtain a fee by fraud; (6), Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner; (16), Behaves dishonorably or unprofessionally or violates a professional code of ethics pertaining to the dentistry profession; (18), Violates any rule or regulation adopted by the Board; (20), Willfully makes or files a false report or record in the practice of dentistry; (21), Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another

to fail to file or record the report; (23), Abrogates or forgives the copayment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected; and/or (32), Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board. The Board finds that the Respondent's actions, as described above, constitute a violation of Sections 1, 2, 3 and/or 5 of the American Dental Association Principles of Ethics and Code of Professional Conduct.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that the Board will *set* all charges pertaining to sexual misconduct with Patient A; and it is further

ORDERED that the Respondent does not contest Findings of Fact and Conclusions of Law, as set forth above; and it further

ORDERED that the Respondent's license is revoked for a period of four years, and that said revocation will commence as of March 19, 2014; and it is further

ORDERED, that the Respondent shall not apply for reinstatement until after March 19, 2018; and it is further

ORDERED that the Respondent's summary suspension is lifted, and it is further

ORDERED that the Respondent voluntarily waives all appeal rights to the Board's Final Order; and it is further

ORDERED that the Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions §§ 4-101 to 4-601.

02/25/2015
Date

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

CONSENT

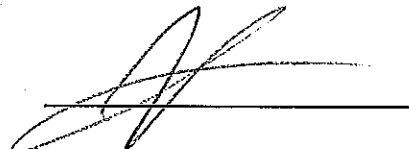
I, Hamid S. Tofigh, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. I do not contest the Findings of Fact and Conclusions of Law and by this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions.

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 as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal the Board's Final Order in this matter.

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

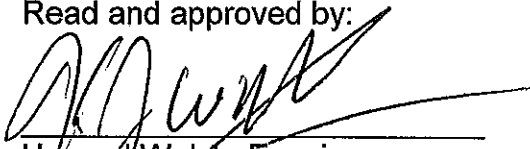
2-6-15

Date



Hamid S. Tofigh, D.D.S.
Respondent

Read and approved by:



Howard Walsh, Esquire
Counsel for Dr. Tofigh

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF: PRINCE GEORGE'S

I HEREBY CERTIFY that on this 14 day of FEBRUARY 2015, before me, a Notary Public of the State and County aforesaid, personally appeared Hamid S. Tofigh, D.D.S., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Eze Nwoji
Notary Public

Eze Nwoji
NOTARY PUBLIC
Prince George's County, Maryland
My Commission Expires 9/18/2016

If, after a hearing, the Board finds that there are grounds for action under the Maryland Dentistry Act, Md. Health Occ. Code Ann. §§ 4-101 *et seq.* (2009 Repl. Vol. and 2013 Supp.), and/or Md. Regs. Code tit. 10, § 44.23 *et seq.*, the Board may impose disciplinary sanctions against the Respondent's license, including revocation, suspension, probation, reprimand, and/or impose a monetary fine.

02/25/2015
Date

Examiners

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