

IN THE MATTER OF	*	BEFORE THE MARYLAND
LINH HONG DUONG, D.M.D.	*	STATE BOARD OF
Respondent	*	DENTAL EXAMINERS
License Number: 10972	*	Case Numbers: 2015-139 & 2016-202
* * * * *	*	* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On June 13, 2016, the Maryland State Board of Dental Examiners (the "Board") summarily suspended the license of **LINH HONG DUONG, D.M.D.**, (the "Respondent"), License Number 10972, and charged him with violating certain provisions of the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. I ("Health Occ. I") §§ 4-101 *et seq.* (2014 Repl. Vol.), under Board Case Number 2016-202.

On February 1, 2017, a Case Resolution Conference was held before a committee of the Board. As a resolution of Board Case Number 2016-202, as well as a separate Board investigation under Case Number 2015-139, the Respondent agreed to enter into this public Consent Order consisting of the following Findings of Fact, Conclusions of Law, and Order.

The provisions of the Act under Health Occ. I § 4-315 pertinent to this Consent Order provide:

- (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:
 - (11) Permits an unauthorized individual to practice dentistry under the supervision of the applicant or licensee;

- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
- (21) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; [and]
- (30) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions[.]

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. BACKGROUND

1. At all times relevant, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was originally licensed to practice dentistry in Maryland on May 21, 1992, under License Number 10972. On June 13, 2016, the Board summarily suspended the Respondent's license to practice dentistry in Maryland after concluding that the public health, safety and welfare imperatively required such emergency action.

2. At all times relevant, the Respondent also holds a license to practice dentistry in the Commonwealth of Pennsylvania under License Number DS028574L. The Respondent's Pennsylvania dental license was temporarily suspended on or about May 13, 2016. By order, dated July 15, 2016, the Pennsylvania State Board of Dentistry (the "PA Board") accepted the Respondent's permanent voluntary surrender of his license to practice dentistry in Pennsylvania.

3. At all times relevant, the Respondent practiced dentistry at four locations throughout Pennsylvania and Maryland. The Respondent practiced dentistry at a dental office that he owned in Lancaster, Pennsylvania. Prior to July 2014, the Respondent was employed by another Maryland licensed dentist ("Dentist A")¹ to provide dental services at a dental practice ("Office A") located at 17904 Georgia Avenue, Suite 110, in Olney, Maryland. The Respondent was the only dentist providing dental care at Office A as Dentist A had relocated to California. After July 2014, the Respondent provided dental services at two locations in Maryland: a dental office ("Office B") located at 644 University Boulevard East, Silver Spring, Maryland, which was owned by another Maryland licensed dentist ("Dentist B"); and at a second dental office ("Office C"), located at 12123 Heritage Park Circle, Silver Spring, Maryland, which the Respondent co-owned with a Maryland licensed dental hygienist.

II. PRIOR DISCIPLINARY HISTORY

4. On June 20, 2001, the Respondent entered into a Consent Order with the Board in which the Board concluded as a matter of law that the Respondent was disciplined by a licensing authority of another state for an act that would be grounds for disciplinary action under then Md. Code Ann., Health Occ. ("Health Occ.") § 4-315(a)(19) (2000 Repl. Vol.). The actionable grounds under the Board's disciplinary statutes were that the Respondent: obtained a fee by fraud or attempted to obtain a fee by fraud, in violation of Health Occ. § 4-315(a)(3); was convicted of or pleaded guilty or *nolo contendere* to a felony or to a crime involving moral turpitude, in violation of Health Occ. § 4-315(a)(4); had had a license to practice dentistry revoked or suspended in any

¹ To ensure confidentiality, the names of individuals, hospitals and healthcare facilities involved in these cases, other than the Respondent's, are not disclosed in this document.

other state, in violation of Health Occ. § 4-315(a)(7); behaved dishonorably or unprofessionally, or violated a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); violated any rule or regulation adopted by the Board, in violation of Health Occ. § 4-315(a)(18); and willfully made or filed a false report or record in the practice of dentistry, in violation of Health Occ. § 4-315(a)(20).

5. The Respondent's 2001 Consent Order was based on a disciplinary action the Pennsylvania Board took against him in which the PA Board found that on March 16, 1999, he pleaded guilty in a Pennsylvania state court to two counts of state Medicaid Fraud, 62 P.S. § 1407(a)(1) [billing for services not provided, misrepresenting the complexity of services provided, and billing for services while excluded from Medicaid for default on student loan], and one count of Conspiracy to Commit Medicaid Fraud, 62 P.S. § 1407(a)(12). The Respondent was sentenced to: criminal probation for one (1) year; a fine of \$1,500.00, and restitution in amount of \$6,024.00. The PA Board found that the Respondent violated the Dental Law, at 63 P.S. § 123.1(a)(4), in that he was convicted of three felonies that constituted crimes involving moral turpitude.

6. Pursuant to the 2001 Consent Order, the Board suspended the Respondent's license to practice dentistry in Maryland for a period of three (3) years with all but six (6) months stayed, followed by thirty (30) months of probation with the probationary conditions that the Respondent make an anonymous donation of \$3,000.00 to the Maryland Foundation for Dentistry for the Handicapped; and successfully complete a Board-approved course in ethics.

7. The Respondent successfully completed the terms and conditions under the 2001 Consent Order, after which the Board terminated his probation on August 4, 2004.

III. CASE NUMBER 2015-139

8. On or about February 12, 2015, the Board received a complaint from a patient (the "Complainant") of Office A, who had been receiving dental care from the Respondent since May of 2014. The Complainant stated that in July 2014, the Respondent abruptly canceled her appointment for the seating of a crown without any explanation. The Complainant stated that she tried to contact the Respondent many times without success and later discovered that Office A was closed with its door locked.

9. Based on the complaint, the Board initiated an investigation of the Respondent under Case Number 2015-139.

10. From April to November 2015, the Board issued numerous subpoenas to the Respondent at his address of record and other addresses belonging to him for the Complainant's patient chart, but the Board never received a response from the Respondent.

11. On or about December 29, 2015, a Board investigator received a telephone call from the Respondent, who stated that he was no longer employed by Dentist A to operate Office A and that he had no access to the Complainant's dental chart. The Respondent provided the Board investigator with Dentist A's contact information in California.

12. On or about April 19, 2016, the Respondent appeared at the Board's offices for a Board interview. During the interview, the Respondent stated that in addition to his own dental office in Pennsylvania, he was then providing dental services along with Dentist B at Office B and with a dental hygienist at Office C, both of which were located in Silver Spring, Maryland. The Respondent further stated that he practice once a week at Office B and had no ownership interest there, but he did co-owned Office C with a Maryland licensed dental hygienist.

IV. CASE NUMBER 2016-202

13. On or about May 13, 2016, while the Board was investigating Case Number 2015-139, the PA Board notified the Board that it had issued a temporary suspension of the Respondent's dental license in Pennsylvania based on allegations that he failed to conform to infection control guidelines of the Centers for Disease Control and Prevention ("CDC Guidelines") while practicing dentistry in Pennsylvania.

14. Based on the PA Board's temporary suspension order, the Board initiated a complaint against the Respondent and an investigation of his practices in Maryland under Case Number 2016-202.

15. On or about May 23, 2016, a Board-contracted infection control expert (the "Board Inspector"), along with a Board investigator, went to Office B for the purpose of conducting an infection control inspection. Dentist B and an administrative staff person were present during the inspection. The Respondent was not present during the inspection. Dentist B stated that she and the Respondent provided dental services at Office B. The Board Inspector did not observe any patient treatment during the inspection.

16. Based on his inspection, the Board Inspector found that the Respondent's and Dentist B's practice of dentistry at Office B posed a "significant infection control risk to the general public." The Board Inspector concluded,

The primary risk is the lack of any spore testing occurring in practice, the lack of verifiable instrument sterilization and the lack of biohazard waste management. The office performs non-verifiable infection control processes with regard to instrument management, sterilization and storage. The office lacks any protocols or written documentation. The office lacks any documentation to support sterilization processes and any documentation to support equipment maintenance and biohazard waste removal and management.

17. Specifically, during the inspection, the Board Inspector found the following violations of the CDC Guidelines that were categorized as either critical or required remedial action:

- a. No written infection control program or manual;
- b. No written policy or procedure for prevention of transmission of blood borne pathogens;
- c. No written policy for hand hygiene;
- d. No written policy for Personal Protective Equipment;
- e. No written policy for managing semi-critical and critical items;
- f. No written protocol outlining sterilization process;
- g. No weekly biological monitoring logs;
- h. No maintenance logs for equipment;
- i. No written policy for aseptic patient care;
- j. No written policy for surface and environmental disinfection;
- k. No written policy for managing spills;

- l. No written policy for preventing cross contamination;
- m. Inconsistent sterilization of critical instruments;
- n. Inconsistent management of stored instruments;
- o. No biohazard waste removal;
- p. No spore testing;
- q. No contact information for occupational exposure;
- r. Inconsistent barrier protection;
- s. Inappropriate management of sharps containers;
- t. No documentation of education and training for infection control process;
- u. No exposure and injury forms and logs;
- v. No policy for waste management; and
- w. No policy for waterline testing and management.

18. In or around July 2016, the Board received a final order from the PA Board, dated July 15, 2016, in which it accepted the Respondent's permanent voluntary surrender of his license to practice dentistry in the Commonwealth of Pennsylvania.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes the following as a matter of law: the Respondent's co-ownership of Office C with a dental hygienist constitutes: permitting an unauthorized individual to practice dentistry under the supervision of the applicant or licensee, in violation of Health Occ. I § 4-315(a)(11); and behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. I § 4-315(a)(16).

The Board further finds that the Respondent's failure to comply with CDC Guidelines in his practice of dentistry at Office B in Maryland constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. I § 4-315(a)(16); and except in an emergency life-threatening situation where it is not feasible or practicable, failing to comply with the Centers for Disease Control's guidelines on universal precautions, in violation of Health Occ. I § 4-315(a)(30).

Finally, the Board finds that the Respondent's permanent voluntary surrender of his license to practice dentistry in the Commonwealth of Pennsylvania, which the PA Board accepted through a final order, dated July 15, 2016, constitutes being disciplined by a licensing or disciplinary authority of any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes, in violation of Health Occ. I § 4-315(a)(21).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 5th day of April, 2017, by a majority of the Board considering this case:

ORDERED that the Respondent's license to practice dentistry in the State of Maryland is **SUSPENDED** for a minimum period of **ONE (1) YEAR**, to commence on June 13, 2016, when the Board summarily suspended the Respondent's license, and continuing until the Respondent has successfully complied with the following terms and conditions:

1. During the suspension of his license, the Respondent shall successfully complete the following Board-approved courses: a four

- (4) credit hour equivalent in-person course on infection control protocols; and an in-person course on professional ethics. The Respondent shall be responsible for submitting written documentation to the Board of his successful completion of these courses. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board with adequate written verification that he has completed the courses according to the terms set forth herein.
2. The Respondent shall submit documentation to the Board verifying his ownership interest in any dental practice(s) located in Maryland. The documentation must show that he either solely owns the dental practice(s), or that he co-owns the dental practice(s) with other licensed dentists, irrespective of the types of business entity involved.
 3. No earlier than one (1) month prior to the conclusion of the suspension period, the Respondent may submit a written petition to the Board requesting a termination of the suspension of his license.
 4. As soon as practicable after the Respondent's submission of a written petition for termination of the suspension of his license, a Board-contracted infection control inspector (the "Board Inspector") shall conduct infection control inspections of the Respondent's dental office(s) and any and all locations where the Respondent intends to practice dentistry in Maryland.
 5. Upon the Board's receipt of a favorable report(s) from the Board Inspector after inspection(s) and written verifications showing his full compliance with the terms and conditions of his suspension, the Board shall issue an Order terminating the suspension of the Respondent's license to practice dentistry in Maryland.

AND IT IS FURTHER ORDERED that upon the termination of the suspension of the Respondent's license, he shall be placed on **PROBATION** for a minimum period of **THREE (3) YEARS**, subject to the following terms and conditions:

1. Within thirty (30) days, or as soon as practicable, a Board Inspector shall conduct an unannounced infection control inspection of the Respondent's dental office(a) or any other facilities where he practices or intends to practice dentistry, including observing his treatment of patients, for compliance with CDC Guidelines. The Board Inspector shall be provided beforehand with a copy of the

Board file, this Consent Order, and any other documentation the Board deems relevant.


2. Thereafter, the Respondent shall be subject to quarterly unannounced infection control inspections by Board Inspectors.
3. The Board Inspector shall provide inspection reports to the Board within ten (10) business days of the date of each inspection and may consult with the Board regarding the findings of the inspections.
4. At any time during the probationary period, if the Board has reason to believe that the Respondent is not in compliance with CDC and Occupational Safety and Health Administration's ("OSHA") guidelines, the Board may conduct additional inspections on top of the quarterly inspections to ensure that the Respondent is in compliance.
5. The Respondent shall pay a fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** to the Board prior to the termination of his probation.
6. The Respondent shall practice dentistry in accordance with the Maryland Dentistry Act, all related statutes and regulations, and shall comply with CDC and OSHA guidelines on infection control for dental healthcare settings.
7. Any non-compliance with the Maryland Dentistry Act, all related statutes and regulations, and the CDC and OSHA guidelines shall constitute a violation of probation and of this Consent Order.
8. On or before the fifth day of each month, the Respondent shall provide the Board with a copy of his current dental patient appointment book for that month.
9. After the conclusion of one (1) year of the probationary period and only if the Respondent has received favorable reports from the Board inspectors as to all of the quarterly inspections, he may submit a written petition to the Board requesting a reduction or termination of the probationary condition requiring quarterly infection control inspections. If the Board is not persuaded that the Respondent has complied with CDC guidelines in all of the quarterly inspections, he shall continue to be subject to quarterly infection control inspections during the probationary period.

AND IT IS FURTHER ORDERED that after the conclusion of the **THREE (3)** **YEAR** probation, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board committee, shall grant the termination only if it is persuaded that the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions, including but not limited to his compliance with CDC Guidelines with respect to the quarterly inspections, and there are no pending complaints against him concerning similar violations; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of his probation or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including additional probationary terms and conditions, a reprimand, or a suspension or revocation of his license and/or a monetary penalty; and it is further

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

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


Ronald F. Moser, D.D.S.
Board President
Maryland State Board of Dental Examiners


CONSENT

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

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

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

3-13-17
Date



Linh Hong Duong, D.M.D.
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF

Prince George's County

I HEREBY CERTIFY that on this 13th day of March,

2017, before me, a Notary Public of the foregoing State and City/County personally appear Linh Hong Duong, D.M.D., and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Linda Cristina Calves

Notary Public

My commission expires:

4/10/2020