

IN THE MATTER OF
NANETTE LaROSE, D.D.S.
Respondent
License Number: 12709

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BEFORE THE MARYLAND
STATE BOARD OF
DENTAL EXAMINERS
Case Number: 2018-178

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CONSENT ORDER

On or about April 6, 2018, the Maryland State Board of Dental Examiners (the "Board") issued: **CHARGES** against **NANETTE LaROSE, D.D.S.** (the "Respondent"), License Number 12709, under the Maryland Dentistry Act, codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 *et seq.* (2014) (the "Act"); and an **ORDER FOR SUMMARY SUSPENSION**, by which it summarily suspended the Respondent's license to practice dentistry in the State of Maryland. The Board took such action pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c) (2014 Repl. Vol.), concluding that the public health, safety and welfare imperatively required emergency action.

Specifically, the Board charges the Respondent with violating the following provisions of the Act:

Health Occ. § 4-315

- (a) *License to practice dentistry.* – Subject to the hearing provisions of § 4-318 of this subtitle, the Board may ... reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the ... licensee:
 - (16) Behaves ... unprofessionally;
 - (28) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's ["CDC"] guidelines on universal precautions...;

On April 18, 2018, a Show Cause Hearing was held at the Board's office. As a resolution of the issues raised in the Charges and Order for Summary Suspension, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.¹

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent has been licensed to practice dentistry in Maryland. The Respondent was initially licensed on or about November 15, 1999, under license number 12709. The Respondent's license is current through June 30, 2019.

2. At all times relevant hereto, the Respondent, a sole practitioner, maintained an office for the private practice of dentistry located at 9652 Pennsylvania Avenue, Upper Marlboro, MD 20772 (the "Office").

Complaint

3. On or about February 27, 2018, the Board received a complaint (the "Complaint") from an individual (the "Complainant") who identified herself as a dental hygienist formerly employed at the Office.

4. In the Complaint, the Complainant indicated that she worked at the Office in December 2017 and January 2018 as a temporary hire.

5. The Complainant included allegations that the Office lacks critical equipment and supplies, and the Respondent is disregarding important sanitation protocols designed to prevent the spread of infection.

¹ The Board continues to investigate other issues under the case number shown above. This Consent Order resolves only the issues raised in the Charges and Order for Summary Suspension issued in this case, specifically issues related to CDC Guidelines.

6. Based on the Complaint, the Board initiated an investigation regarding the Respondent's compliance with CDC guidelines.²

7. In furtherance of the investigation, the Board assigned an expert in infection control protocols (the "CDC Expert") to conduct an inspection of the Office.

8. On or about March 5, 2018, the CDC Expert, accompanied by a Board investigator and an infection control consultant, conducted an inspection of the Office to determine whether the Respondent was complying with the CDC guidelines.

9. Following the inspection, the CDC Expert completed a report (the "Expert Report") regarding the Respondent's compliance with CDC Guidelines at the Office.

10. In the Expert Report, the CDC Expert noted "multiple serious issues to resolve in order to achieve full compliance with" the CDC Guidelines.

11. Although no patient care was observed that day, the CDC Expert noted a wide range of deficiencies, including: lack of documentation of compliance mandates, inconsistent instrument sterilization, questionable equipment maintenance, and basic cleanliness in the clinic area..." and concluded that based on these deficiencies, the Office presents "a serious risk of disease transmission to both patients and DHCPs [Dental Healthcare Professionals]."

Initial Appearance and Condition of the Office

² The Centers for Disease Control and Prevention ("CDC") is a federal agency dedicated to designing protocols to prevent the spread of disease. The CDC has issued guidelines (the "CDC Guidelines") for dental offices which detail the procedures deemed necessary to minimize the chance of transmitting infection both from one patient to another and from the dentist, dental hygienist and dental staff to and from the patients. These guidelines include some very basic precautions, such as washing one's hands prior to and after treating a patient, and also sets forth more involved standards for infection control. Under the Act, all dentists are required to comply with the CDC guidelines, which incorporate by reference Occupational Safety and Health Administration's ("OSHA") final rule on Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030). The only exception to this rule arises in an emergency which is life-threatening *and* where it is not feasible or practicable to comply with the guidelines.

12. The Office bears a sign outside with the name "Five Star Dental." At the reception area, business cards bearing the name "Five Star Dental" and "Dr. Nanette LaRose" are displayed.

13. Initially, the Respondent refused to allow the inspection. Eventually, the Respondent consented to the inspection but insisted that she was exempt from any CDC compliance responsibilities per her rental agreement. At the time of the inspection the office had been closed to patients for some time.

14. The Office consists of a reception area, three treatment operatories, a sterilization/dental lab area, a dark room closet, a private office, a bathroom, a staff room, and a storage closet.

15. The dental units had torn upholstery, handpieces on the bracket trays, and debris-laden traps. Operatory sinks were stained and contained debris, and the floors were visibly soiled and littered with used cotton rolls, cotton tip applicators, and other single use items.

16. Used barriers were still in place in the first and second operatories, suggesting they are not changed after patient treatment.

17. Supplies for hand hygiene, including soap, were not available at all sinks. A first aid kit including the recommended medicaments was not available in the clinic area.

18. Household wipes are available for surface and object disinfection, but appropriate disinfectant, meeting the CDC standard of an EPA-registered hospital level disinfectant, was not available.

19. The radiographic equipment's registration with the Maryland Department of the Environment expired on 5/31/2015.

20. The fire extinguisher had not been inspected since 2015. A used coffee cup was in the sterilization area. The mandatory "We Take Precautions for You" poster was not posted.

21. Unprocessed instruments or instruments in torn processing bags and undated bags, were intermingled with bagged processed instruments in storage cupboards throughout the clinic area.

22. No records were available to indicate that the Respondent has instituted policies to ensure compliance with requirements for equipment calibration, testing, record keeping, staff training, or registrations.

23. In summary, there was no written infection control program that is tailored to the Office.

24. Additional areas in which the Office was noted to have serious deficiencies in compliance with CDC guidelines are outlined below in summary fashion.

Education and Training

25. There was no evidence of annual or initial training in infection control policies for staff.

Employee Health Records

26. There were no appropriate employee health records, including vaccination records or exposure records.

Exposure Management

27. There was no policy or manual to address post-exposure procedures, which must include emergency contact instructions, report forms, and a sharps injury log.

Infection and Environmental Control Policies and Logs

28. There were no practice-specific written policies regarding infection control policies for the Office. Missing were written policies regarding: sharps management, sterilization, personal protective equipment (PPE), hand hygiene, surface disinfection, and use of barriers.

29. Also missing were logs of practices that prevent the spread of infection of bloodborne and other pathogens, including: spore testing logs, waterline testing logs, equipment maintenance logs, and medical waste management logs.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct, including failing to comply with the CDC Guidelines, as described above, constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); and failing to comply with the CDC Guidelines, in violation of Health Occ. § 4-315(a)(28).

ORDER

Based on the foregoing findings, it is, by a majority of a quorum of the Board, hereby:

ORDERED that the Order for Summary Suspension, issued by the Board on April 6, 2018 to the Respondent is **TERMINATED** and the Board shall issue an **ORDER FOR REINSTATEMENT** simultaneously with this Consent Order; and it is further

ORDERED that this Consent Order replaces, supersedes, and incorporates the terms of the consent order resolving Board case number 2017-008, signed by the

Respondent March 8, 2018 and executed by the Board on March 22, 2018 (the "Previous Consent Order"); and it is further

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent is **FINED** in the amount of \$2000³; and it is further

ORDERED that the office located at 9652 Pennsylvania Avenue, Upper Marlboro, MD 20772 (the "Office"), shall remain **CLOSED PERMANENTLY** and the Respondent shall permanently refrain from treating patients at the Office; and it is further

ORDERED that the Respondent shall send a verification letter that she has acted in accordance with the provisions of Md. Code Ann., Health Gen. § 4-403 ("Destruction of medical records") in order to appropriately notify patients of the closure of the Office and maintain and/or relinquish to patients all pertinent medical records; and it is further

ORDERED that from the date of the Board's Order for Reinstatement, the Respondent shall be placed on **PROBATION** for a period of **TWO (2) YEARS AND SIX MONTHS from the date of the Previous Consent Order** under the following terms and conditions:

1. Within six months of the effective date of the Previous Consent Order (i.e. March 22, 2018), the Respondent shall enroll in and complete an in-person course in professional ethics, approved in advance by the Board, equivalent to at least 6 continuing education (CE) credits;
2. Within six (6) months of the effective date of this Consent Order, the Respondent shall successfully complete an in-person Board-approved course equivalent to at least six (6) hours of continuing education (CE) credit in infection control protocols.
3. The Respondent shall report to the Board all facilities where she intends to practice dentistry in Maryland before accepting any offer of employment and before practicing dentistry at the facility. The Respondent shall include in her report the address and phone number of the practice and the name and phone number of any supervisor or

³ The fine in the amount of \$2000 is incorporated from the Previous Consent Order.

manager of the facility;

4. The Respondent shall notify the supervisor or manager of all facilities where she intends to practice dentistry in Maryland of her probationary status before accepting any offer of employment and before practicing dentistry at the facility;
5. The Board shall have absolute discretion to order a Board-assigned inspector to conduct an unannounced CDC inspection of the Respondent's practice in order to evaluate the Respondent and her staff regarding compliance with the Act and CDC Guidelines. The Board-assigned inspector shall be provided with copies of the Board file, the Consent Order, and any other documentation deemed relevant by the Board;
6. The Respondent shall provide to the Board the schedule of her regular weekly schedule of practice, including location and hours of practice and immediately apprise the Board of any changes;
7. If the Respondent opens a dental practice, the Respondent shall notify the Board at least 30 days prior to its opening. A Board-assigned inspector shall conduct an unannounced inspection within ten (10) business days after the practice opens in order to evaluate the Respondent and her staff regarding compliance with the Act and CDC guidelines. The Board-assigned inspector shall be provided with copies of the Board file, the Consent Order, and any other documentation deemed relevant by the Board, the practice shall be subject to quarterly unannounced onsite unannounced inspections by a Board-assigned inspector;
8. The Board-assigned inspector shall provide 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;
9. The Respondent shall, at all times, practice dentistry in accordance with the Act, the regulations adopted by the Board, and all laws governing the practice of dentistry in Maryland, and shall comply with CDC and Occupational Safety and Health Administration's ("OSHA") guidelines on infection control for dental healthcare settings; and
10. At any time during the period of probation, if the Board makes a finding that the Respondent is not in compliance with CDC and OSHA guidelines or the Act, the Respondent shall have the opportunity to correct the infractions within seven (7) days and shall be subject to a repeat inspection within seven (7) days to confirm that the violation has been remedied.

And it is further

ORDERED that no part of the training or education that the Respondent receives in order to comply with this Consent Order may be applied to her required continuing education credits, and it is further

ORDERED that the Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Board-assigned inspector, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of this Consent Order, and it is further

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

ORDERED that after a minimum of two (2) years from the effective date of the Order for Reinstatement, 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. In addition, the Respondent shall have the right to petition the Board for termination of probation upon the sale of her ownership interest in her Office. The Board shall grant termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending investigations or outstanding complaints related to the findings of fact in this Consent Order; and it is further


ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing

shall be an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

ORDERED that after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice dentistry in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Md. Code Ann., Gen. Prov. §§ 4-101 et seq. (2014).

04/19/2018
Date



Ali Behnia, D.M.D.
Vice-President
Maryland State Board of Dental Examiners

CONSENT

By this Consent, I, Nanette LaRose, D.D.S., agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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 any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having consulted with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its effect.

4/19/2018

Date

Nanette R. LaRose

Nanette LaRose, D.D.S.
Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF: BALTIMORE

I HEREBY CERTIFY that on this 19th day of April 2018

before me, a Notary Public of the State and County aforesaid, personally appeared Nanette LaRose, D.D.S., and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Sophistic Noel
Notary Public

My commission expires: 12/8/18