

IN THE MATTER OF
JOANNA MENJIVAR, D.R.T.
RESPONDENT

* **BEFORE THE MARYLAND**
* **STATE BOARD OF**
* **DENTAL EXAMINERS**
* **Case Number: 2019-020**

Certificate Number: 18195

* * * * *

FINAL ORDER

On or about August 1, 2019, the Maryland State Board of Dental Examiners (the "Board") notified **JOANNA MENJIVAR, D.R.T.** (the "Respondent"), dental radiation technologist (D.R.T.) certificate number 18195, of its intent to revoke her certificate based on her violations of the Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.); and the regulations adopted by the Board, found at COMAR 10.44.01 *et seq.*

The pertinent provisions of law are as follows:

Health Occ. § 4-505. Certification of dental radiation technologists

- (a) "Dental radiation technologists" and "practice dental radiation technology" defined; rules and regulations; competency requirements. -- The Board of Dental Examiners shall:
 - (2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist[.]
- (d) Certification required for practice. -- After July 1, 1988, an individual may not practice dental radiation technology unless certified by the Board.

COMAR 10.44.19.02 Certification Required.

An individual shall be currently certified by the Board as a dental radiation technologist before the individual may practice dental radiation technology on a human being in this State.

COMAR 10.44.19.05 Term and Renewal of Certification.

F. Certification After April 1.

- (1) A certificate holder who has failed to renew a certificate to practice dental radiation technology in this State by April 1 of the year in which the certificate is due for renewal is prohibited from practicing dental radiation technology in this State after the expiration date of the certificate.

- (3) The Board may take action against a dental radiation technologist for unprofessional conduct if the Board determines that the dental radiation technologist has practiced dental radiation technology in this State after the dental radiation technologist's certificate has expired. The Board may impose an administrative penalty through a nonpublic consent agreement in which the dental radiation technologist agrees to:
 - (a) Make an anonymous donation of \$100 to a charitable institution; and
 - (b) Perform:
 - (i) 10 hours of Board-approved pro bono community service; or
 - (ii) 10 hours of Board-approved pro bono dental services which the applicant may lawfully perform.

G. Notwithstanding the provisions of §E of this regulation, the Board may charge the dental radiation technologist with unprofessional conduct as provided in Regulation .12 of this chapter.

COMAR 10.44.19.08 Prohibitions.

A. An individual may not practice dental radiation technology on a human being in this State unless the individual is certified by the Board as a dental radiation technologist.

COMAR 10.44.19.12 Penalties for Violations of These Regulations.

A. Subject to the hearing provisions of this chapter, the Board may deny a certificate to practice dental radiation technology, reprimand any certified

dental radiation technologist, place any certified dental radiation technologist on probation, or suspend or revoke the certificate of any certified dental radiation technologist, if the holder of the certificate:

- (6) Violates any rule or regulation adopted by the Board;
- (15) Behaves dishonorably or unprofessionally.

FINDINGS OF FACT

The Board finds the following facts:

1. The Respondent was initially certified to practice dental radiation technology in Maryland on or about August 5, 2013, under certificate number 18195.

2. The Respondent's certificate expired on or about March 1, 2017.

3. On or about July 3, 2018, the Board received an Application for Reinstatement of Dental Radiation Technologist Certificate from the Respondent.

4. Attached to the Reinstatement Application, the Respondent submitted a notarized statement in which she admitted that after March 1, 2017, when her certificate expired, she had continued to practice dental radiation technology without a valid certificate. She stated, "The last time I took an x-ray at my job as an Dental Assistant was May 2, 2017."

1. On or about June 18, 2018, the Board reinstated the Respondent's certificate. Her current certificate is set to expire on or about March 1, 2021.

2. On August 3, 2018, the Board notified the Respondent, via certified mail and regular mail to the address she is required to maintain with the Board, that it is unlawful to practice dental radiation technology in Maryland without a valid certificate. In lieu of charging the Respondent with violations of the Board's regulations, the Board

offered her the opportunity to enter into a non-public consent agreement (the “Agreement”) to resolve the issue of her unauthorized practice.

3. The key terms of the proposed Agreement were: (1) performing ten (10) hours of *pro bono* service at a Board-approved site and (2) making a \$100 charitable donation to a Board-designated charitable organization. The Board’s offer indicated that in order to accept the offer, the Respondent must have responded by August 20, 2018. The Respondent failed to respond.

4. On September 25, 2018, the Board sent the Respondent a second notice, once again offering her the opportunity to sign the proposed Agreement in lieu of formal discipline. The second notice indicated that in order to accept the offer, the Respondent must have responded by October 5, 2018. The Respondent failed to respond.

5. On December 10, 2108, the Board sent a third and final notice to the Respondent, once again offering her the opportunity to sign the proposed Agreement in lieu of formal discipline. The final notice indicated that in order to accept the offer, the Respondent must have responded by December 28, 2018. The Respondent failed to respond.

CONCLUSIONS OF LAW

The Respondent’s unauthorized practice of dental radiation technology, as described above, constitute violations of the Act and the regulations adopted by the Board as cited above.

ORDER

Based on the foregoing, it is by the Board hereby:

ORDERED that the Certificate to practice dental radiation technology, certificate number 18195, is hereby **REVOKED**; and it is further

ORDERED that this document constitutes an Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. Code Ann., General Provisions, §§ 4-101 through 4-601 (Repl. Vol. 2014 & 2018 Supp.).

NOTICE OF RIGHT TO APPEAL

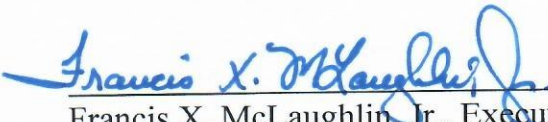
Pursuant to Health Occ. § 4-319, the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 (2014 Repl. Vol. & 2018 Supp.); and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Francis X. McLaughlin, Jr., Executive Director
Maryland State Board of Dental Examiners
SPRING GROVE HOSPITAL CENTER
Benjamin Rush Building
55 Wade Ave/Tulip Dr.
Catonsville, Maryland 21228

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

September 12, 2019
Date


Francis X. McLaughlin, Jr., Executive Director
Maryland State Board of Dental Examiners