

IN THE MATTER OF

MICHAEL V. MARCHESE, D.M.D.

Applicant for Licensure

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BEFORE THE

MARYLAND STATE BOARD

OF DENTAL EXAMINERS

Case Number: 2015-101

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CONSENT ORDER

PROCEDURAL BACKGROUND

On February 18, 2015, the Maryland State Board of Dental Examiners (the "Board") notified **MICHAEL V. MARCHESE, D.M.D.** (the "Applicant") of its intent to deny his Application for Dental Licensure by Examination (the "Application") pursuant to the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ. I") §§ 4-101 *et seq.* (2014 Repl. Vol.).

The Board based its action on the following provisions of the Act:

**Health. Occ. I § 4-315. Denials, reprimands, probations, suspensions, and revocations – Grounds.**

- (a) *License to practice dentistry.* -- Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry . . . to any applicant . . . if the applicant . . . :
  - (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
  - (7) Has had a license to practice dentistry revoked or suspended in any other state;
  - (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

- (17) Is mentally or physically incompetent to practice dentistry; [and/or]
- (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 this section[.]

**Health Occ. I § 4-302. Qualifications of applicants.**

- (a) *In general.* -- Except as otherwise provided in this title, to qualify for a license, an applicant shall be an individual who meets the requirements of this section.
- (b) *Moral character.* -- The applicant shall be of good moral character.

On May 20, 2015, the Applicant appeared before a Case Resolution Conference (the "CRC") of the Board. As a result of negotiations occurring before the CRC, the Applicant agreed to enter into the following Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

**FINDINGS OF FACT**

The Board finds the following:

**I. Application for Dental Licensure**

- 1. The Applicant submitted his Application to the Board, dated September 5, 2014, which the Board received on September 8, 2014.
- 2. In Section IV of the Application, entitled, "Character and Fitness," the Applicant answered "YES" to the following questions, which asked:

- (a) Has any licensing or disciplinary board of any jurisdiction, including Maryland, or any federal entity denied your application for licensure, reinstatement, or renewal, or taken any action against your license, including but not limited to reprimand, suspension, revocation, a fine, or non-judicial punishment? If you are under a Board Order or were ever under a Board Order in a state other than Maryland you must enclose a certified legible copy of the entire Order with this application.

(b) Have any investigations or charges been brought against you or are any currently pending in any jurisdiction, including Maryland, by any licensing or disciplinary board or any federal or state entity?

(f) Have you pled guilty, nolo contendere, had a conviction or receipt of probation before judgment or other diversionary disposition of any criminal act, excluding minor traffic violations?

(g) Have you plead guilty, nolo contendere, had a conviction, or receipt of probation before judgment or other diversionary disposition for any alcohol or controlled dangerous substance offense, including but not limited to driving while under the influence of alcohol or controlled dangerous substances?

3. The Applicant provided brief written explanations for the affirmative responses he provided to the above Character and Fitness questions. The Applicant disclosed that he had an active dental license in Pennsylvania, and was currently on probation and subject to an Order by the Pennsylvania State Board of Dentistry (the "PA Board"). The Applicant stated that the PA Board took such action after he pleaded guilty in 2013 to charges of simple assault, terroristic threats and "DUI." The Applicant stated that as a "condition of resolution of these charges," he entered into a monitoring agreement with the PA Board. The Applicant also stated that he is currently subject to a monitoring agreement in Maryland through the Dentist Well-Being Committee.

## **II. Subsequent Board Investigation**

4. The Board investigated the Applicant's representations in his Application and determined that the PA Board took a series of disciplinary actions against him in 2013 and 2014.



**PA Board Order, dated January 25, 2013**

5. On or about January 25, 2013, the PA Board actively and indefinitely suspended the Applicant's Pennsylvania dental license, which he had held since 2003, finding that he was "unable to practice dentistry with reasonable skill and safety to patients by reason of any mental or physical condition."

6. The PA Board took such action based on the following facts, to which the Applicant stipulated:

(a) the Applicant, from April 2012 through August 2012, experienced anxiety and depression that manifested itself in "paranoid-type" ideation for which he sought treatment as a result of pending legal matters, one of which entailed his having been surveilled by a private investigator and his subsequent belief that his dental office was subject to a listening device or devices;

(b) the Applicant, at the time of the issuance of the Order, was facing pending misdemeanor criminal charges including: (i) simple assault (18 Pa. C.S. § 2701(a)(3)); (ii) recklessly endangering another person (18 Pa. C.S. § 2705); (iii) terroristic threats (18 Pa. C.S. § 2706(a)(1)); (iv) criminal mischief-damage property (18 Pa. C.S. § 3304(a)(5); and (v) driving while under the influence of a controlled substance; and

(c) the Applicant was offered but declined enrollment in the Pennsylvania Department of State, Professional Monitoring Program for the period from August 2012 through December 2012.

**PA Board Order, dated July 18, 2014**

7. The Applicant filed petitions for reinstatement to the PA Board in December 2013 and March 2014, after which hearings were conducted and the following additional facts were found:

(a) On or about June 5, 2013, the Applicant pleaded guilty to simple assault and terroristic threats in Dauphin County, Pennsylvania, arising from a confrontation the Applicant had with an individual he believed was conducting surveillance on his family and house. The Applicant brandished a weapon during this incident, which took place on or about April 29, 2012. The Applicant was sentenced to two years of probation, to run concurrently for each of the guilty pleas involving the incident in question. The Applicant's probation remains in full force and effect until June 5, 2015;

(b) On or about October 5, 2012, the Applicant operated a motor vehicle in which he struck another vehicle from behind. The Applicant disclosed to police that he had taken Restoril and Xanax, both benzodiazepines and Schedule IV controlled dangerous substances, the evening prior to the incident. On or about May 23, 2013, the Applicant pleaded guilty to driving under the influence of drugs or a combination of drugs ("DUI") in Lebanon County, Pennsylvania. The Applicant was incarcerated for three days and was placed on probation. On or about August 14, 2013, the Applicant's probation for this offense was transferred to Dauphin County. The Applicant has since completed his probation for his DUI.

8. On or about July 18, 2014, the PA Board issued an Order entitled, *Final Order Adopting Hearing Examiner's Proposed Adjudication and Substituting Board*



*Order* (the "PA Board Final Order"), in which it granted in part the Applicant's petition for reinstatement. The PA Board suspended the Applicant's license for five years, retroactive to November 15, 2013, immediately stayed the suspension, and placed the Applicant on probation for no less than five years, retroactive to November 15, 2013, subject to a series of probationary terms and conditions. The PA Board stated that its discipline would be effective as of August 18, 2014.

#### **IV. Grounds for Denial of Application for Licensure**

9. On or about February 18, 2015, the Board issued a document entitled, *Notice of Intent to Deny Application for Dental License Under the Maryland Dentistry Act*, in which it stated that it had grounds to deny the Applicant's Application pursuant to specific grounds under Health Occ. I § 4-315. Specifically, the Board found that it had ground to deny the Applicant's Application based on the following grounds under Health Occ. I § 4-315(a): Health Occ. I § 4-315(a)(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; Health Occ. I § 4-315(a)(7) Has had a license to practice dentistry revoked or suspended in any other state; Health Occ. I § 4-315(a)(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; Health Occ. I § 4-315(a)(17) Is mentally or physically incompetent to practice dentistry; and Health Occ. I § 4-315(a)(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 this section.

10. The Board stated that it also had grounds to deny the Applicant's Application in that the Applicant did not possess good moral character, a requirement for licensure pursuant to Health Occ. I § 4-302

**CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant is in violation of Health Occ. I § 4-315. The Board further finds that the Applicant meets the good moral character requirement for licensure pursuant to Health Occ. I § 4-302.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of July, 2015, by a majority of the Board considering this case:

**ORDERED** that the Applicant shall be evaluated by a Board-approved psychologist (the "Evaluating Psychologist") to determine his fitness to practice dentistry. The Applicant agrees to provide the Evaluating Psychologist with all records and information the Evaluating Psychologist requests to conduct the evaluation and shall sign all releases and consent forms to ensure that the Evaluating Psychologist is able to obtain all records and information, including mental health records and information, necessary for a complete and thorough evaluation. The Applicant shall also sign all releases and consent forms to ensure that the Board receives all necessary documents and information from the Evaluating Psychologist; and it is further

**ORDERED** that if the Evaluating Psychologist determines that the Applicant is fit to practice dentistry, the Board shall **GRANT** the Applicant's Application; and it is further



**ORDERED** that if the Board grants the Applicant's Application for a dental license, it shall place the Applicant on **PROBATION** for a period concurrent with the probationary period imposed under the PA Board Final Order, dated July 14, 2014. As a condition of the Board's probation, the Applicant shall be subject to all conditions mandated under the PA Board Final Order. The Applicant's violation of any probationary condition mandated under the PA Board Final Order shall constitute a violation of this Order. In addition to those conditions mandated under the PA Board Final Order, the Applicant shall be subject to the following terms and conditions:

1. The Applicant at all times shall comply with and practice according to the Maryland Dentistry Act and all laws and regulations pertaining to the practice of dentistry.

2. The Applicant shall remain enrolled with the Dentist Well-Being Committee (the "Committee") and shall be subject to all contracts and/or agreements entered into with the Committee. The Applicant shall be subject to and shall follow all directives mandated by the Committee. The Applicant shall sign all releases and consent forms to ensure that the Board receives all necessary documents and information from the Committee.

3. The Applicant shall fully comply with all of the terms and conditions contained in any treatment and urine/toxicology monitoring contracts. Such urine/toxicology screening shall be administered through the PA Board at a rate not to exceed 50 times per year, each year during the remainder of the Applicant's probation with the Board. During the period of probation, the Applicant shall abstain completely from the use of controlled substances, mood altering drugs, narcotic analgesics and



alcoholic beverages, in any form, unless he is a *bona fide* patient of a licensed physician who is aware of his treatment and urine/toxicology contracts and terms of this Consent Order, and such medications are lawfully prescribed by the physician. If the Applicant tests positive on any urine/toxicology test, such a result shall constitute a violation of his probation and a violation of this Consent Order, unless the result is positive for a lawfully prescribed medication by a physician who is prescribing such medications for a *bona fide* medical condition. The Applicant understands and agrees that if the Board or the Committee requests that he undergoes urine/toxicology screening and he fails to provide a specimen, such failure shall constitute a violation of his probation and this Consent Order.

**AND IT IS FURTHER ORDERED** that after the conclusion of the probationary period imposed above, and provided the Applicant has completed the above probationary conditions, he may file a written petition to the Board requesting termination of his probation. After consideration of his petition, the probation may be terminated through an order of the Board or a designated Board committee. The Board, or designated Board committee, will grant the termination only if the Applicant has fully and satisfactorily complied with all of the probationary terms and conditions of this Consent Order, including the probationary period set forth above, and there are no outstanding complaints about him before the Board; and it is further

**ORDERED** that if the Applicant violates any of the terms or conditions of this Consent Order, or the probationary conditions set forth herein, the Board shall provide the Applicant with the opportunity to appear for a show cause hearing before the Board. The Applicant understands and agrees that the Board may impose any other


disciplinary sanctions it may have imposed, including a reprimand, probation, suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and it is further

**ORDERED** that the Applicant shall not apply for early termination of probation; and it is further

**ORDERED** that the Applicant shall be responsible for all costs incurred under this Consent 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 (2014).

07/15/2015  
Date

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




**CONSENT**

I, Michael V. Marchese, D.M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. I admit to the Findings of Fact and accept the 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.

7-9-15  
Date

  
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Michael V. Marchese, D.M.D.  
Applicant


NOTARY

STATE OF Maryland  
CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 9 day of July, 2015, before me, a Notary Public of the State and County aforesaid, personally appeared Michael V. Marchese, D.M.D., 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.

**TIERRA HENSON**  
Notary Public  
Baltimore County  
Maryland  
My Commission Expires April 20, 2019

  
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Notary Public

My commission expires: 4-20-2019

CONFIDENTIAL  
NOTARY PUBLIC  
TIERRA HENSON