

IN THE MATTER OF
ASUGMAN ATAM, D.D.S.

RESPONDENT

License Number: 9213

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BEFORE THE
MARYLAND STATE BOARD OF
DENTAL EXAMINERS

Case Number: 2004-040

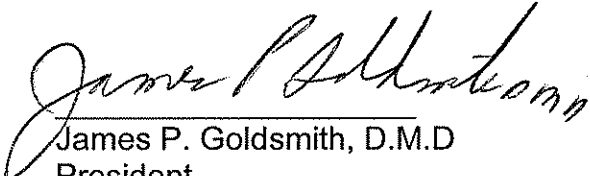
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ORDER FOR TERMINATION OF CONSENT ORDER

Being satisfied that Asugman Atam, D.D.S. has complied with the terms and conditions of the Consent Order dated May 19, 2004, by a vote of a full quorum of the Maryland State Board of Dental Examiners on November 1, 2006, it is hereby **ORDERED** that the aforementioned Consent Order is **TERMINATED** and that Dr. Atam's Maryland dental license is without restrictions.

2-28-07

Date


James P. Goldsmith, D.M.D.
President

IN THE MATTER OF
ASUGMAN ATAM, D.D.S.

Respondent

License Number : 9213

BEFORE THE MARYLAND

STATE BOARD OF

DENTAL EXAMINERS

Case Number: 2004-040

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CONSENT ORDER

The Maryland State Board of Dental Examiners (the "Board") on March 18, 2004, charged ASUGMAN ATAM, D.D.S. ("Respondent"), date of birth: 5/22/49, license number: 9213, under the Maryland Dentistry Act, Md. Health Occ. ("H.O.") Code Ann. § 4-101 *et seq.* (2000 & Supp. 2003) for violations of § 4-315(a). The pertinent provisions of H.O. § 4-315(a), and those under which the charges were brought, are as follows:

(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...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; and

(18) Violates any rule or regulation adopted by the Board[.]

The regulations violated by the Respondent are: Md. Regs. Code ("COMAR") tit. 10, §§ 44.01.05C(1)&(3); 44.01.06; 44.01.08A; 44.19.06B and 44.19.08 C&D which provide:

10.44.01.05 Dental Assistants Recognized as Qualified in General Duties.

C. A dentist may not use the services of a dental assistant qualified in general duties¹ to perform any of the following services on the basis that the dental assistant meets the qualifications of § A of this regulation:

- (1) Examination, diagnosis, and treatment planning;
- (3) Oral prophylactic procedures, including scaling, root planing, and polishing teeth.

10.44.01.06 Radiographs.

A dentist may not permit a dental assistant to place and expose radiographs unless the dental assistant is a dental assistant certified to practice dental radiation technology.

10.44.01.08 Penalties for Violations of These Regulations.

A. A dentist who uses the services of a dental assistant who is not qualified or for purposes other than what is permitted may be found guilty of unprofessional conduct under the Health Occupations Article, § 4-315(a)(16), Annotated Code of Maryland, or violating any rule or regulation adopted by the Board under Health Occupations Article, § 4-315(a)(18).

10.44.19 Dental Radiation Technologist

.06 Prohibitions.

B. An individual shall be certified by the Board as a dental radiation technologist before a licensed dentist may employ the individual to practice dental radiation technology.

.08 Penalties for Violations of These Regulations.

C. A licensed dentist who employs an individual to practice dental radiation technology who is not certified under these regulations is guilty of unprofessional conduct and may be subject to disciplinary action under Health Occupations Article, § 4-315, Annotated Code of Maryland.

¹ Section A of the regulation governs dental assistants recognized as qualified in general duties and provides as follows:

- A. A dentist may use the services of a dental assistant to perform certain duties if the dental assistant:
 - (1) Is certified by the Dental Assisting National Board as qualified in general duties; or
 - (2) Was recognized by the Board of Dental Examiners, on or before the effective date of these regulations, as a dental assistant in general duties.

Only dental assistants qualified in general duties are permitted take alginate impressions for intraoral appliances. The employee of the Respondent was not qualified in general duties or certified in any way. No dental assistant is permitted to perform prophylaxis procedures.

D. A licensed dentist who supervises an individual practicing dental radiation technology who is not certified under these regulations is guilty of permitting an unauthorized individual to practice dentistry under the supervision of that licensed dentist, and may be subject to disciplinary action under Health Occupations Article, § 4-315, Annotated Code of Maryland.

The Code of Ethics provision violated by the Respondent is: American Dental Association, Principles of Ethics and Code of Professional Conduct, § 2.C. which provides:

2.C. USE OF AUXILIARY PERSONNEL..

Dentists shall be obliged to protect the health of their patients by only assigning to qualified auxiliaries those duties which can be legally delegated. Dentists shall be further obliged to prescribe and supervise the patient care by all auxiliary personnel working under their direction.

As a result of negotiations between the Office of the Attorney General, by Kimberly S. Cammarata, Assistant Attorney General, the Respondent, through his counsel, Elliott Alman, Esquire, and the Board, the Respondent and the Board agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order, as set forth herein.

FINDINGS OF FACT

1. The Respondent is, and at all times relevant to these charges, was licensed to practice dentistry in the State of Maryland, initially receiving her license on July 31, 1985.
2. On or about August 8, 2003, the Board received a complaint alleging that the Respondent permitted an unauthorized person to practice dental hygiene. The Board referred the complaint to its investigative unit.

3. The complainant, a former employee of the Respondent, advised that the Respondent permitted her dental assistant, Nwando S. Osegbe, to take radiographs and perform prophylaxis on patients.

4. The Respondent admitted during an investigative interview that she permitted Nwando S. Osegbe to perform prophylaxis and polish teeth on a few patients.

5. Nwando S. Osegbe advised that she takes radiographs, takes alginate impressions for intraoral appliances and performs prophylaxis on patients. Ms. Osegbe advised that she performed these tasks at the direction of the Respondent.

6. Patient A² advised that on or about August 5, 2003, he presented to the Respondent's office for a routine cleaning. He advised that after a brief conversation with the Respondent, the Respondent instructed Ms. Osegbe to perform the cleaning. Ms. Osegbe then performed a prophylaxis on Patient A.

7. Patient B advised that on or about August 8, 2003, she presented to the Respondent's office for a routine examination and cleaning. She advised that she was taken back to the operatory by Ms. Osegbe and that Ms. Osegbe examined her teeth for decay and then performed a prophylaxis. Patient B was not examined or even seen by the Respondent.

8. Nwando S. Osegbe is not a licensed dentist or licensed dental hygienist. Ms. Osegbe is not certified by the Board to take radiographs nor is she a certified or qualified dental assistant.

² In order to protect patient confidentiality, patient names are not included in this Consent Order.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent has violated H. O. § 4-315(a)(11), (16) and (18) which provide:

(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; and

(18) Violates any rule or regulation adopted by the Board[.]

The Respondent also violated Code Md. Regs. 10, §§ 44.01.05C(1)&(3); 44.01.06; 44.01.08A; 44.19.06B and 44.19.08 C&D. In addition, the Respondent violated The Code of Ethics, American Dental Association, Principles of Ethics and Code of Professional Conduct, § 2C.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is by the Maryland State Board of Dental Examiners, hereby:

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

ORDERED that the Respondent is placed on **PROBATION** for a period of **TWO (2) YEARS** from the date this Order is signed by the Board, subject to the following conditions:

A. Pro Bono Community Service

1. The Respondent shall perform, without remuneration, forty (40) hours of *pro bono* community service dentistry as proposed by the Respondent and approved by the Board.

2. Upon completion of the forty (40) hours of *pro bono* community service dentistry required, the Respondent shall file a written report with the Board that verifies that the Respondent performed the *pro bono* community service dentistry without remuneration, and which describes with particularity the professional services performed.

3. If requested by the Board, the Respondent shall make available for the Board, or its designee, all records of treatment for each patient for whom *pro bono* dentistry was performed.

B. Donation

1. The Respondent shall make an anonymous donation in the amount of One Thousand Dollars (\$1000.00), payable within six (6) months from the date this Order is signed by the Board, to the Maryland Foundation of Dentistry for the Handicapped, the People's Community Health Center, or other Board approved charitable entity.

2. The Respondent shall submit a copy of the letter transmitting the anonymous donation and payment confirmation (e.g. carbon copy of money order or certified check) to the Board within sixty (60) days of the date of the donation.

C. Maryland Law Examination

1. Within ninety (90) days from the date this Order is signed by the Board, the Respondent shall take the Maryland Law Examination as set forth in COMAR 10.44.15.05 and obtain a grade of at least ninety percent (90%) without using any reference materials, books, or other aids during the examination.

2. The Respondent may retake the examination if she does not attain a score of at least ninety percent (90%). The Respondent's failure to attain a score of at least ninety percent (90%) after three (3) attempts shall constitute a Violation of Probation; and it is further

ORDERED that the Respondent shall provide to the Board, within ninety (90) days of the date of this Order is signed by the Board, (or within thirty (30) days of the date of hire of any new employee during the probationary period) a sworn affidavit signed by each dental assistant, radiation technician and hygienist working in the office, verifying that they have read, reviewed and understood this Consent Order and the law and regulations delineating what duties they are legally permitted to perform under the Maryland Dentistry Act. A copy of the applicable laws and regulations shall be attached to each signed affidavit; and it is further

ORDERED that during the term of probation, the Board or its agent, may conduct unannounced inspections of the Respondent's dental practice to determine compliance with the Maryland Dentistry Act; and it is further

ORDERED that the Respondent shall comply with all laws governing the practice of dentistry under the Act, and all rules and regulations promulgated there under; and it is further

ORDERED that if the Respondent fails to follow any of the terms and conditions of this Consent Order, such failure shall be deemed a Violation of Probation and of this Consent Order and the Board may take any action it deems appropriate under the Act, including, but not limited to, immediately suspending the Respondent's license, provided

the Respondent is given the opportunity for a show cause hearing at the next regularly scheduled meeting of the Board; and it is further

ORDERED that Two (2) Years from the effective date of this Order, the Respondent may petition the Board for termination of her probationary status without any conditions or restrictions whatsoever. If the Respondent has satisfactorily complied with all conditions of probation, including the full Two (2) Year period of probation, and there are no outstanding complaints regarding the Respondent, the Board shall terminate the probation; 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 this Consent Order is a PUBLIC DOCUMENT as defined in Md. State Gov't Code Ann. § 10-611 et seq. (1999).

Date

May 19, 2004

W. King Smith, D.D.S.
W. King Smith, D.D.S., President
Maryland Board of Dental Examiners

CONSENT

I, Asugman Atam, D.D.S., License No. 9213, by signing this Consent agree to be bound by the terms and conditions of the foregoing Consent Order. I acknowledge that I have read this Consent Order and that I have been represented and advised by my attorney, Elliott Alman, Esquire in the course of the Board's proceedings in relation to the Charges and this Consent Order.

I further acknowledge that, by signing this Consent Order, I admit to the findings of fact and conclusions of law and submit to its terms and conditions as a resolution of the Charges against me. By signing this Consent Order, I waive my right to contest the terms and findings herein and all challenges legal or otherwise to the proceedings before the Board.

I acknowledge the enforceability of this Consent Order as if it were made after a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other procedural protections to which I am entitled by law. I also recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing and am also waiving any other legal remedies I may have regarding resolution of this matter.

I have had the opportunity to review this Consent Order and sign it voluntarily, understanding its terms, meaning and effect.

05-19-04
Date

Asugman Atan
Asugman Atan, D.D.S.

Approved by: Elliott Alman, Esq.
Elliott Alman, Esquire

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 19 day of May, 2004,

before me, Notary Public of the State and City/County aforesaid, personally appeared

Augusta Aton, D.D.S., and made oath in due form of law that the foregoing

Consent was her voluntary act and deed.

AS WITNESSETH my hand and Notarial seal.

Shudre A. Drimsley
Notary Public

My Commission Expires: 10/1/07