

IN THE MATTER OF
RICHARD NICHOLS, D.D.S.
RESPONDENT

License Number: 6265

BEFORE THE
MARYLAND STATE BOARD OF
DENTAL EXAMINERS

Case Number: 2005-184

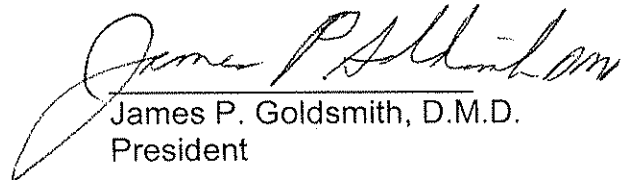
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ORDER FOR TERMINATION OF PROBATION

Being satisfied that Richard Nichols, D.D.S. has complied with the terms and conditions of a Consent Order dated August 17, 2005, it is this 7th day of March 2007 hereby **ORDERED** by the Maryland State Board of Dental Examiners that probation is **TERMINATED** and that Dr. Nichols' Maryland dental license is reinstated without restrictions.

3-26-07

Date


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

IN THE MATTER OF	*	BEFORE THE MARYLAND
RICHARD W. NICHOLS, D.D.S.	*	STATE BOARD OF
Respondent	*	DENTAL EXAMINERS
License Number: 6265	*	Case Number: 2005-184

* * * * *

CONSENT ORDER

On or about July 13, 2005, the Maryland State Board of Dental Examiners (the "Board") charged RICHARD W. NICHOLS, D.D.S ("Respondent"), license number 6265, under the Maryland Dentistry Act, Md. Health Occ. ("H.O.") Code Ann. §§ 4-101 *et seq.* (2000 & Supp. 2004) for violations of H.O. § 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:

- (6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;
- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; and
- (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 guidelines on universal precautions...

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is a dentist licensed to practice dentistry in the State of Maryland.

PATIENT A¹

2. On or about March 3, 2005, the Board received a complaint from Patient A who asserted that the staff working in the Respondent's office did not wear protective clothing, that there was no evidence of instrument sterilization, that there was a bad taste on the mouth mirrors, that the drill was hanging and not protected from contamination, that the instrument tray was unlined, and that the same fluoride bottle was reused from patient to patient. The patient also noted that neither water nor sinks were chair side.

3. The Board elected to conduct an inspection of the Respondent's dental practice.

Office Inspection

4. On May 19, 2005, Board consultant, Christine Wisnom, CDA, RN, BSN, conducted an unannounced inspection of the Respondent's office to determine compliance with the CDC guidelines on universal precautions. The consultant interviewed another dentist in the office, Dr. A.,² inspected the office, and observed patient care provided by Dr. A. The Respondent was not in the office at the time of the inspection.

5. On June 5, 2005, the consultant returned to the office to interview the Respondent and to observe him provide patient care. During the June 5 inspection, the consultant observed numerous violations as delineated herein.

Instrument Sterilization

6. There were two autoclaves in the office. Only monthly spore tests results were available for one of the autoclaves prior to June 2005.

¹ In order to protect patient privacy and the confidentiality of health care records, patient names are not contained in this Consent Order.

² The Respondent advises that he is an employee of Dr. A.

Sharps Management

7. The Respondent's dental assistant disposed of a glass carpule in a biohazard box and not in a sharps container. The biohazard box had a biohazard label but had a white/clear plastic liner.

Use of a Handpiece

8. The Respondent used a high-speed handpiece without using water spray to cool and irrigate the cutting surface of the bur and the teeth. The use of the hand piece in this manner may traumatize the inner layers of the teeth, the dentin and pulp, leading to pulpitis and necrosis requiring more advanced treatment, potential loss of the teeth, pain, inconvenience and cost for the patient.

Laboratory

8. There was no evidence that the prostheses and prosthodontic materials in the lab had been disinfected.

Hand Washing

9. The Respondent and his dental assistant washed their hands inconsistently prior to gloving or after de-gloving during patient care.

Protective Attire

10. The Respondent and his dental assistant wore the same mask throughout the care and treatment of three patients. The Respondent did not wear eye wear with side shields when treating patients where spraying and splattering occurred.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated H.O. § 4-315(a)(16), (28) and (31) which provide:

- (6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;

- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; and
- (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 guidelines on universal precautions...

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 shall be **SUBJECT TO RESTRICTIONS** for a period of two (2) years from the date of this Order:

1. Within ten (10) days from the date of this Order, the Respondent shall retain a Board-approved consultant to evaluate the office where he is currently practicing for compliance with CDC guidelines and to train the Respondent and each employee of the office in applying the guidelines to the dental practice. The consultant shall be provided with a copy of all Orders in this case and all documentation pertinent to the investigation;

2. After the Respondent and the employees have been trained in the CDC guidelines and the consultant is satisfied that the Respondent and the employees have properly applied them in the dental practice, the consultant shall submit a detailed written report to the Board. The report must be satisfactory and must be approved by the Board;

3. The Respondent shall practice only in a setting where water lines are installed chairside in each operatory to allow water spray to be used with handpieces to cool and irrigate the cutting surface of the bur and the teeth. The Respondent shall

provide satisfactory evidence to the Board that he practices in such a setting and uses the water spray in conjunction with his handpiece use;

4. The consultant shall be present in the Respondent's office for at least one (1) full day of patient care within thirty (30) days from the date of this Order and one (1) additional day during the Respondent's first ninety (90) days of practice from the date of this Order, to ensure that the Respondent is complying with the CDC guidelines and the Act, and that all employees and practitioners in the office are in compliance;

5. The Respondent shall provide to the Board, on or before the fifth day of each month a listing of his regularly scheduled days and hours for patient care;

6. The Respondent shall be subject to a minimum of four (4) unannounced inspections by the consultant, or other Board-approved agent, during the first year from the date of this Order. The consultant shall provide reports to the Board, within ten (10) days of the date of the inspection, and may consult with the Board regarding the findings of the inspections. A finding by the Board indicating that the Respondent or his practice is not in compliance with the CDC guidelines shall constitute a violation of this Order and may, in the Board's discretion, be grounds for immediately suspending the Respondent's license. In the event that the Respondent's license is suspended under this provision, he shall be afforded a Show Cause Hearing before the Board to show cause as to why his license should not be suspended or should not have been suspended;

7. The Respondent shall also be subject to random, unannounced inspections by the Board or its representative(s), at any time during the effective dates of this Order. A finding by the Board indicating that the Respondent or his practice is not in compliance with the CDC guidelines shall constitute a violation of this Order and may, in the Board's discretion, be grounds for immediately suspending the

Respondent's license. In the event that the Respondent's license is suspended under this provision, he shall be afforded a Show Cause Hearing before the Board to show cause as to why his license should not be suspended or should not have been suspended;

8. The Respondent shall complete all required continuing education courses required for renewal of his license. No part of the training or education he receives in compliance with this Order shall be applied to his required continuing education credits;

9. The Respondent shall comply with the CDC guidelines, including Occupational Safety and Health Administration's ("OSHA") final rule on Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030); and it is further

ORDERED that the Respondent shall at all times cooperate with the Board, any of its agents or employees, and with his consultant, 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 eighteen (18) months from the effective date of this Order, the Respondent may petition the Board for termination of this Order without any conditions or restrictions whatsoever. If the Respondent has satisfactorily complied with all conditions of the Order, and there are no outstanding complaints regarding the Respondent, the Board may terminate the probation. At the conclusion of the two (2) year period, if not previously terminated, the Respondent may petition the Board for termination of the Order. If the Respondent has satisfactorily complied with all conditions of the Order and there are no outstanding complaints regarding the Respondent, the Board shall terminate the 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 this Consent Order is PUBLIC DOCUMENT as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004).

8/17/05
Date of Consent Order

Barry D. Lyon
Barry D. Lyon, D.D.S.
President
Maryland State Board of Dental Examiners

CONSENT OF RICHARD W. NICHOLS, D.D.S.

I, **RICHARD W. NICHOLS, D.D.S.**, License No. 6265, by affixing my signature hereto, acknowledge that:

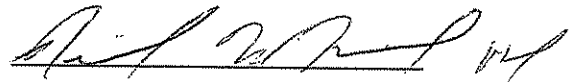
1. I have had the opportunity to consult with counsel, D. Elizabeth Walker, Esquire, before signing this document.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 4-318 (Supp. 2004) and Md. State Gov't. Code Ann. §§10-201 *et seq.* (2004)
3. I acknowledge the validity of this Consent Order as if entered into after 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 law.
4. I voluntarily enter into and consent to the foregoing Findings of Fact, Conclusions of Law and Order, provided that the Board adopts the foregoing Consent Order in its entirety. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order as set forth in § 4-318 of the Act and Md. State Gov't. Code Ann. §§ 10-201 *et seq.* (2004).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice dentistry in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

8/10/05

Date



Richard W. Nichols, D.D.S.



Reviewed and approved by: D. Elizabeth Walker, Esquire


NOTARY

STATE OF Maryland

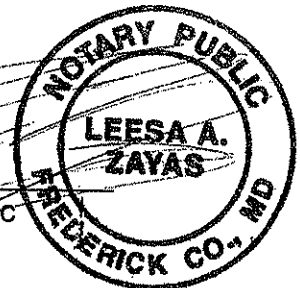
CITY/COUNTY OF Frederick

I HEREBY CERTIFY THAT on this 10th day of August, 2005, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Richard W. Nichols, D.D.S., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.



LEESA A. ZAYAS
Notary Public



NOTARY PUBLIC STATE OF MARYLAND
MY COMMISSION EXPIRES JULY 1, 2007

My Commission Expires: _____