

IN THE MATTER OF	*	BEFORE THE
VAQAR AHMAD CHOUDRY, D.D.S.	*	MARYLAND STATE BOARD
RESPONDENT	*	OF DENTAL EXAMINERS
License Number: 13215	*	Case Number: 2014-043
* * * * *	*	* * * * *

FINAL ORDER

PROCEDURAL BACKGROUND

On or about September 16, 2015, the Maryland State Board of Dental Examiners (the “Board” or “MBE”) notified Vaqar Ahmad Choudry, D.D.S. (the “Respondent”) that he was being charged with violations of certain provisions of the Maryland Dentistry Act (the “Act”), Md. Code Ann., Health Occupations (“Health Occ.”) §§ 4-101 *et seq.* (2014 Repl. Vol.) and Md. Code Regs. (“COMAR”) 10.44.03 *et seq.* In light of a federal conviction, Respondent was notified that his charges were amended and superseded on or about April 20, 2016.

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

Health Occ. I § 4-315. Grounds for denial, suspension, or revocation of dentistry licenses.

(a) 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:

- (2) Fraudulently or deceptively uses a license;
- (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;
- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

- (20) Violates any rule or regulation adopted by the Board; [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 the Board's disciplinary statutes[.]¹

In addition, the Board alleges that the Respondent violated the following provision of COMAR 10.44.03:

01. Unprofessional or Dishonorable Conduct.

C. The following shall constitute unprofessional or dishonorable conduct in the practice of dentistry, dental hygiene, or dental radiation technology:

- (2) Engaging in conduct which is unbecoming a member of the dental profession[.]

On July 19, 2017, a hearing on the merits was held. Present were the following Board members, which constituted a quorum: Arthur C. Jee, D.M.D., Margaret A. Kern, R.D.H., Louis G. DePaola, D.D.S. M.S., Barry L. Cohan, D.D.S., Cheryl Bruce, R.D.H., Arpana Singh Verma, D.D.S., David A. Williams, D.D.S., Robert R. Windsor, D.D.S., Allan Kroopnick, Ph.D., James P. Goldsmith, D.M.D., Jane S. Casper, R.D.H. M.A., Ronald F. Moser, D.D.S., Roslyn L. Chester, R.D.H. M.A., Stefan N. Miller, Consumer Member, Hari Razdan, Consumer Member. The Respondent was present and represented by counsel throughout the hearing. The Board reviewed the entire record and all submissions prior to issuing this order.

SUMMARY OF THE EVIDENCE

The following exhibits were admitted into evidence during the hearing:

STATE'S EXHIBITS

No.

¹ (21) does not constitute a ground for disciplinary action under the Board's disciplinary statutes.

- 1 License Printout for Respondent
- 2 Licensing Unit File for Respondent
- 3 Affidavit in Support of Search Warrant, 9/13/13
- 4 Order for Summary Suspension, 9/18/13
- 5 Documents from DEA investigation
- 6 Plea Agreement, 6/5/14
- 7 *U.S. v. Vaqar Ahmad Choudry*
- 8 Trial Transcript, 9/16/15
- 9 Trial Transcript, 9/17/15
- 10 Trial Transcript, 11/19/15
- 11 Amended Charges, 4/20/16
- 12 *Choudry v. State*, 2/3/17
- 13 National Practitioner Data Bank documents
- 14 Supplemental Investigative Report, 5/23/17

RESPONDENT'S EXHIBITS

- 1 Documents Evidencing Completion of
Conditions of Probation
- 2 Order Terminating Federal Probation
- 3 Mandate Vacating State Conviction
- 4 Notice of Dismissal of State Charges
- 5 Transcript of State Sentencing
- 6 Letters to Judge Sherbin
- 7 Letters in Support of Respondent

8	Certificate and Letters Showing No Malpractice Claims
9	Docket of Patient B Criminal Case
10	Continuing Education Verifications of Completion, 2017
11	Continuing Education Verifications of Completion, 2015
12	Frederick Nastri Appraisals and Resume
13	Information on CPEP ProBE Program
14	Brian Burke Cellular Phone Records
15	Patient B Cellular Phone Records
16	DEA Reports, 9/8/13
17	University of Oklahoma Certificate and Letter from Oklahoma Board of Dentistry
18	Diploma from University of Western Ontario
19	Letter from Respondent to MBE, 6/15/10
20	Letter from Respondent to Sharon Oliver, 9/6/11
21	Letter Concerning Dr. Smith and Wayne Wilson, 3/30/10
22	Danielle Gonnelli Memo re: Interview of Sarah Riehl, 4/19/11
23	Letter from MD OIG to Dr. Smith, 7/28/10
24	Letter from MBE to Respondent, 7/12/10
25	Letter from Respondent to Danielle Gonnelli, 9/25/12
26	Danielle Gonnelli Memo to File re: Telephone Call with Respondent

27	Letter re: Dr. Smith, 12/14/10
28	Letter from Respondent to Ms. Sheffield James, 7/8/10
29	Letters of Appreciation to Respondent
30	Hagerstown Dental Center Advertisements for Services
31	Dental Examination Scores
32	Letter from Pete Summerfield to Danielle Gonnelli, 3/11/11
33	Picture of Dr. Smith's Sign
34	Subpoena Duces Tecum to Russo's Pharmacy, 3/23/10
35	DEA Report, 3/25/10
36	Dr. Smith Newspaper Advertisement, 5/12/10
37	Daily Operative Schedules
38	Memo Opinion and Order in <i>Smith v. Choudry</i> , 3/8/10
39	Letters from Respondent re: Tammy Crummit, 7/7/13
40	Letter from Pete Summerfield to Danielle Gonnelli, 3/14/11
41	Fax from Respondent to Bill McCartney, 8/16/10
42	Letter from Pete Summerfield to Adam Greivall, 7/29/10
43	Hagerstown Dental Invoice to Evelyn Potter, 3/10/09
44	Complaint Filed by Nicole Ann Mullen,

	12/23/09
45	Unemployment Decision for Nicole Mullen, 11/20/09
46	Unemployment Decision for Kylie Owens, 4/27/10
47	Cellular Telephone Records
48	Subpoena Duces Tecum to Respondent, 2/25/11
49	Explanation of Benefits for Patient C
50	Letter from Pete Summerfield to Richard Lauricella, 2/16/09
51	Letter from Sarah Rihel, 7/7/10
52	Stop Work Notice for Dr. Smith
53	Check from Dr. Smith to Dr. Choudry, 9/1/13
54	Letter from Pete Summerfield to Grant Gerber, 3/15/11
55	X-Ray of Nicole Mullen, 3/18/09
56	Patient A Identification Card
57	Consent Order re: James E. Sullivan, D.D.S.
58	Consent Order re: Walter Gillin
59	Sanctioning Guidelines

ARGUMENT

I. State's Argument

Mr. Robert Gilbert, Assistant Attorney General, Administrative Prosecutor, made the following arguments on behalf of the State. This case began following an investigation by the Federal Drug Enforcement Agency ("DEA") into tips that the Respondent was writing

illegitimate prescriptions to patients. An investigation revealed that not only was the Respondent writing medically unnecessary prescriptions, he was sleeping with at least two of his patients, and went so far as to solicit one of those patients – who was a confidential informant for the DEA – to locate a prepubescent girl for him to have sex with. Following an investigation, the Respondent was indicted by both federal and state authorities and struck a plea deal with federal authorities on one count of providing medically unnecessary prescriptions. This information caused the Board to summarily suspend the Respondent’s license on September 18, 2013; and to bring administrative charges forward on September 16, 2015, and caused the State to now recommend revocation of the Respondent’s license to practice dentistry.

The State called Sharon Oliver as a witness for the State, who testified to the following under oath. Oliver works as the Case Manager for the Board. Oliver identified and verified all of the exhibits for the State.

The State then called Detective Barry Ball as a witness for the State, who testified to the following under oath. Detective Ball is currently employed as an officer with the DEA. Detective Ball testified about the investigation surrounding the Respondent. Specifically, Detective Ball testified that two informants to the DEA were: “Patient A”; and “Patient B”, who were patients of the Respondent’s.² In addition, Patient A was a prostitute, and the Respondent was one of her frequent clients. Detective Ball testified that sometime prior to September 16, 2013, the Respondent asked Patient A if she could procure a prepubescent female with whom the Respondent could have sexual intercourse. Patient A, working with her mother, Patient B, and police officers, created a fictional 12-year-old child named “Chelsea” in response to the

² For confidentiality reasons, the identities of Patients A, B and C referenced herein will not be disclosed in this document. The Respondent is aware of the identity of all individuals referenced herein.

Respondent's request. Detective Ball testified that in exchange for the child's sexual services, the Respondent would pay Chelsea \$300, and write a prescription for 15 oxycodone pills for Patient B as a "finder's fee." Such a prescription was written and delivered. Per Detective Ball, a meeting was arranged with the fictional child at a Motel 6 in Hagerstown, and the police apprehended the Respondent on September 12, 2013, at that location. On September 16, 2013, the DEA notified the Board of the Respondent's arrest, and two days later, the board issued an order summarily suspending the Respondent's dental license.

II. Respondent's Argument

Mr. Price O. Gielen, Esq., made the following arguments on behalf of the Respondent. The Respondent and his family fled religious persecution in Pakistan. The Respondent studied dentistry while in Pakistan, and continued such studies first in Canada, and then in the United States. After becoming a licensed dentist in the States, the Respondent purchased Hagerstown Dental Center from a Dr. Smith, with whom the Respondent had ongoing difficulties. The Respondent practiced dentistry for years without issue. The events that precipitated this order began in the summer of 2013, when the Respondent's marriage grew strained and the Respondent started drinking alcohol. Earlier on in 2013, the Respondent came to know Patient A, her sister, Patient C, and their mother, Patient B. Patient A and Patient C are both prostitutes with criminal records consisting of drug possession and distribution. As the Respondent's marital issues worsened and his alcohol consumption increased, the Respondent's mental hygiene began to slip, and the Respondent turned to Patient A and Patient C for short-term gratification. According to Dr. Choudry, he dug himself a hole deeper than he realized or ever intended, and ever since being indicted in September 2013. Since that time, Dr. Choudry has sought to rectify his name and reputation, and to be a better husband and father. Dr. Choudry's counsel argued

that neither the federal or state charges carried much weight, as evidenced by the Respondent coming to a plea deal in which he pled guilty to only one charge of issuing a medically unnecessary prescription, and the state charges being reversed on appeal. The Respondent asked for forgiveness for becoming entangled in criminal activity and sleeping with patients, and requested that the Board view the Respondent's four-year license suspension, and his resulting unemployment and accumulated debt, as punishment enough for his conduct.

The Respondent called Frederick Nastri as a witness for the Respondent, and he testified to the following under oath. The Respondent qualified Nastri as an expert testimony witness on psychological evaluations. Nastri testified about his interview with the Respondent in a clinical context, and noted that the Respondent sometimes engages in "rationalization" of his conduct. The Respondent cited his drinking, deteriorating marriage, and friendship with Patient A and Patient C as causing the Respondent confusion concerning the "Chelsea" incident. Nastri testified that the Respondent's conduct constituted "poor judgment."

The Respondent was called as a witness, and testified to the following under oath. The Respondent testified that until September 2013, the only issues with his practice stemmed from his interactions with Dr. Smith. During the summer of 2013, the Respondent's marriage became troubled, the Respondent started drinking – which, he testified, his religion prohibits him from doing – and the Respondent grew closer to Patient A, Patient C, and Patient B. The Respondent testified that he did not ask Patient A to find a sexually willing 12-year-old girl, but rather that Patient A, Patient C, Patient B, and himself would often joke that Patient A and Patient C look much younger than they are. According to the Respondent, he believed that he was going to meet Patient A at the Motel 6 on September 12, 2013, and not anyone named "Chelsea." The Respondent apologized to the Board for all of the grief and inconvenience he has caused, and

pleaded that the Board find the Respondent's suspension of four years sufficient to remedy his missteps.

FINDINGS OF FACT

The Board makes the following Findings of Fact based on the foregoing record:

1. The Respondent was initially licensed to practice dentistry in Maryland on or about March 27, 2003, under License Number 13215.
2. At all times relevant to these charges, the Respondent owned and operated a dental practice named the "Hagerstown Dental Center," located at 301 East Antietam Street, Hagerstown, Maryland 21740.
3. The Respondent remained duly licensed to practice dentistry in Maryland until September 18, 2013, when the Board issued an order summarily suspending his license pursuant to then Md. Code Ann., State Gov't § 10-226(c)(2)(2009 Repl. Vol.).
4. The Board summarily suspended the Respondent's license to practice dentistry in Maryland based on the following information.

(a) On or about September 13, 2013, a criminal complaint, captioned *United States of America v. Vaqar Ahmad Choudry*, under Case Number 13-2195-SKG, was filed against the Respondent in the United States District Court for the District of Maryland in which it was alleged that:

On or about September 6, 2013, the Respondent knowingly, intentionally and unlawfully distributed a quantity of a mixture or substance containing a detectible amount of oxycodone, in violation of 21 U.S.C. § 841; and

On or about September 9, 2013, using a facility or means of interstate commerce, the Respondent knowingly persuaded, induced, and/or attempted to persuade or induce, an individual who had not attained the age of 18 to engage in sexual activity for which the Respondent could be charged with a criminal offense, in violation of 18 U.S.C. § 2422.

(b) The criminal complaint was supported by an affidavit in which the affiant, an officer from the United States Drug Enforcement Administration ("DEA"), stated that

the DEA initiated an investigation of the Respondent in May 2013. The investigation focused initially on complaints and allegations that the Respondent was unlawfully distributing pain medication in the absence of any medical purpose. The DEA learned subsequently through a confidential source (“CS-1”) that the Respondent was seeking to engage in sexual activity with a minor child. Upon making this discovery, the DEA arranged a meeting between the Respondent, CS-1 and a fictional minor child at a motel in Hagerstown, Maryland. In exchange for CS-1’s assistance in arranging the meeting, the Respondent provided CS-1 with an illicit prescription for oxycodone [a narcotic analgesic and Schedule II controlled dangerous substance].

(c) On September 12, 2013, the DEA arrested the Respondent when he arrived at a pre-arranged location (reportedly, a motel) for his meeting with CS-1 and the fictional minor child.

(d) The DEA’s investigation of the Respondent incorporated various measures, including but not limited to a collection of reports from anonymous sources, pharmacists, and dentists; office visits by undercover officers and confidential sources; and the arrangement of a controlled meeting between CS-1 and the Respondent for the ostensible purpose of providing the Respondent with a minor child to have sex with, in exchange for which the Respondent provided CS-1 with one or more illegal prescriptions for oxycodone.

5. As of the date of these charges, the Respondent’s Maryland dental license remains summarily suspended.

6. Pursuant to a two-count Indictment under Criminal Case No. JFM-1-13-CR-00502-001, the Respondent was charged in the United States District Court for the District of Maryland with the following: Count One (1), between on or about September 6, 2013, and on or about September 12, 2013, using a facility or means of interstate commerce, did knowingly attempt to persuade, induce, entice, or coerce an individual whom the Defendant believed had not attained the age of 18 years to engage in sexual activity for which any person could be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b); and Count Two (2), on or about September 6, 2013, did knowingly, intentionally, and unlawfully distribute a quantity of a mixture or substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code Section 841(a)(1).³

³ Oxycodone is an opioid and Schedule II controlled dangerous substance.

7. On or about June 5, 2014, the Respondent executed a plea agreement with the United States Attorney's Office for the District of Maryland in which he agreed to plead guilty to Count Two (2) of the above-referenced Indictment, charging him with distribution of oxycodone, in violation of 21 U.S.C. § 841(a)(1).

8. Pursuant to the plea agreement, the Respondent stipulated to the following facts in support of the Indictment:

An investigation by the Drug Enforcement Administration has established that on September 6, 2013, the Defendant wrote a prescription to [name withheld] for 15 10 milligram units of Percocet. The Defendant wrote this prescription at his dental office in Hagerstown, MD. The Defendant agrees and admits that there was no legitimate medical need for this prescription, and that he wrote the prescription outside the course of his usual professional practice as a licensed dentist.

9. On or about August 4, 2014, the Respondent appeared in the United States District Court for the District of Maryland and pleaded guilty to Count Two (2) of the above-referenced Indictment, a felony. The Respondent was sentenced as follows: incarceration (time served); probation for three years, to commence upon his release from imprisonment; a fine of \$35,000.00; satisfactory participation in an approved substance and/or alcohol abuse treatment program; no contact with persons under the age of 18/shall not congregate or loiter near places frequented by children under the age of 18; shall receive psychological and psychiatric counseling and treatment; and payment of court costs.

10. The Respondent's guilty plea to and/or conviction for distribution of oxycodone, in violation of 21 U.S.C. § 841(a)(1), constitutes pleading guilty to or being convicted of a felony and/or a crime involving moral turpitude.

11. Pursuant to a five-count Indictment, dated February 27, 2014, under Case No. 21-K-14-49772, the Respondent was charged in the Circuit Court for Washington County, Maryland,

with the following: Count One (1), on or about the 30th day of September, 2012, A.D., did intend to knowingly solicit a minor to engage in activities that would be unlawful under Section 3-306 of the Criminal Law Article of Maryland, in violation of Md. Code Ann., Crim. Law § 3-324; Count Two (2), on or about the 30th day of September, 2012, A.D., did indecently expose his person in a public place, to wit: the dental office waiting room, in violation of Md. Code Ann., Crim. Law § 11-107; Count Three (3), between the 1st day of September, 2012, A.D., and the 1st day of September, 2013, A.D., did intend to knowingly solicit a minor to engage in activities that would be unlawful under Section 3-304 of the Criminal Law Article of Maryland, in violation of Md. Code Ann., Crim. Law § 3-324; Count Four (4), between the 1st day of September, 2012, A.D., and the 12th day of September, 2013, A.D., did intend to knowingly solicit a minor to engage in activities that would be unlawful under Section 3-306 of the Criminal Law Article of Maryland, in violation of Md. Code Ann., Crim. Law § 3-324; and Count Five (5), on or about the 12 day of September, 2013, A.D., did encourage by promise, to wit: CNI 1241, to take a minor child to the Motel 6, for prostitution, in violation of Md. Code Ann., Crim. Law § 11-303(a)(1)(2).

12. On or about September 16, 2015, the Respondent entered pleas of not guilty to Counts Four (4) and Five (5) of the above Indictment,⁴ waived his right to a jury trial and elected to be tried before the Court. The trial commenced on September 16, 2015, and concluded on September 17, 2015. The Court found the Respondent guilty of Count Four (4) and not guilty of Count Five (5) of the above Indictment.

13. On or about November 19, 2015, the Respondent appeared for sentencing in the Circuit Court for Washington County, Maryland. The Respondent was sentenced as follows: incarceration for five years, which was immediately suspended; probation for two years, the first

⁴ By agreement of the parties, the parties severed Counts One (1) to Three (3) from Counts Four (4) and Five (5) and agreed to proceed to trial on Counts Four (4) and Five (5) of the Indictment.

six months of which was supervised; a fine of \$1,000.00; no unsupervised contact with children under 18 years old except his own children; supervision by the Sexual Offender Management Team; random urinalysis and total abstinence from alcohol, illegal substances and abusive use of any prescription drug, intoxicants or K2 spice; and payment of court costs.

14. The Respondent's conviction was overturned on appeal. The Court of Special Appeals held that Dr. Choudry did not solicit an actual minor or police officer posing as a minor, as required for conviction, when he arranged for the sexual encounter through his patient. It was the patient who actually called the police, to arrange a sexual encounter with a non-existent child. *Choudry v. State*, 231 Md. App. 656, 153 A.3d 895 (2017)

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated the several different provisions of the Dentistry Act and the Board's regulations. The Board found Detective Ball's testimony regarding the investigation of the Respondent's illicit activity to be credible and indicative that the Respondent has issued medically unnecessary prescriptions, pled guilty to one federal charge of issuing a medically unnecessary prescription, maintained a sexual relationship with multiple patients, and solicited one such sexual partner/patient to find a prepubescent girl willing to have sex with him. Further, the Board found the Respondent's explanation for the events leading to this hearing to be incredible and outlandish. Providing medically unnecessary prescriptions for painkillers constitutes a felony, is a crime involving moral turpitude, and is unbecoming of a member of the dental profession. Further, having sex with patients, and especially requesting that one of those patients produce a minor child willing to have intercourse, are unbecoming of a member of the dental profession. Accordingly, the Board finds that the Respondent violated Health Occ. § 4-315(a)(2) and (16) when he provided medically

unnecessary prescriptions, when maintained sexual relationships with patients; and when he solicited Patient A, a patient and sexual partner, to locate a minor child for him to have sex with, and Health Occ. § 4-315(a)(4) when he pled guilty to one federal charge of providing medically unnecessary prescriptions. In addition, the Board finds that, for the same reasons, the Respondent violated Health Occ. § 4-315(a)(20) by violating COMAR 10.44.03.01.(c)(2). This same conduct violated the Board's regulations.

The Board did not find that the Respondent violated Health Occ. § 4-315(a)(21). This charge is dismissed.

The Board determined the sanction in this matter in accordance with its sanctioning guidelines. Dr. Choudry's conviction for illegal prescription writing and attempt to use his status as a dentist to have a sexual encounter with a prepubescent minor was repugnant and indefensible. For this reason, the Board issued this order with the sanctions that follow.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of June, 2018, by the majority of the Board, hereby:


ORDERED that the Respondent's license to practice dentistry in the State of Maryland, under license number 13215, is hereby **PERMANENTLY REVOKED**; and be it further

ORDERED that the Respondent must immediately return to the Board both the wall and wallet size certificate number 13215; and it is further

ORDERED that, unless stated otherwise in the order, any time period begins when the order goes into effect. This final order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of the Board; and it is further

ORDERED that this final order is a PUBLIC DOCUMENT.

6-21-2018
Date



Tony Torain, Executive Director
Maryland State Board of Dental Examiners

NOTICE OF THE RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 4-319, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days from mailing of this Final Decision and 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 §§ 10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.