

IN THE MATTER OF
ALVIN E. LEE, D.D.S.

Respondent

License Number: 12926

* * * * *

* BEFORE THE MARYLAND
* STATE BOARD OF
* DENTAL EXAMINERS
* Case Number: 2017-231

CONSENT ORDER

On July 18, 2018, the Maryland State Board of Dental Examiners (the “Board”) charged **ALVIN E. LEE, D.D.S.**, (the “Respondent”), License Number 12926, with violating the Maryland Dentistry Act (the “Act”), Md. Code Ann., Health Occ. I (“Health Occ.”) §§ 4-101 *et seq.* (2014 Repl. Vol.) and COMAR 10.44.30 *et seq.*

The Board charges the Respondent with violating the following provisions of the Act and COMAR:

Health Occ. § 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, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(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]

(34) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board[.]

COMAR 10.44.30.02 General Provisions for Handwritten, Typed and Electronic Health Records.

- B. Dental records shall include:
 - (1) A patient's clinical chart as described in Regulation .03 of this chapter[.]
- I. A dental record shall contain:
 - (3) The patient's address and telephone number;
 - (4) The patient's date of birth;
 - (6) Emergency contact information; [and]
 - (7) Medical and dental histories which shall be updated at each visit[.]
- K. Dental records shall:
 - (2) Be detailed[.]
- L. Entries shall be signed or initialed by the individual who provided the treatment.

COMAR 10.44.30.03 Clinical Charts.

- A. Each patient's clinical chart shall include at a minimum the following:
 - (2) Reasons for the patient's visit;
 - (3) Treatment plans that are signed and dated by both the treating dentist and the patient;
 - (4) Patient's complaints;
 - (5) Diagnosis and treatment notes;

- (6) Progress notes;
- (7) Post operative instructions;
- (8) Study models;
- (9) In-person conversations, telephone conversations, and other correspondence with the patient or their representative;
- (10) Identification of medications prescribed, administered, dispensed, quantity, and direction for use;
- (11) Clinical details with regard to the administration of:
 - (a) Nitrous oxide;
 - (b) Anxiolytics;
 - (c) Sedation; and
 - (d) General anesthesia.
- (12) Radiographs of diagnostic quality;
- (13) Periodontal charting;
- (14) Laboratory work authorization forms and correspondence to and from laboratories; [and]
- (15) Informed consent[.]

COMAR 10.44.30.05 Violations.

Failure to comply with this chapter constitutes unprofessional conduct and may constitute other violations of law.

On September 5, 2018, a Case Resolution Conference was held before a committee of the Board. As a resolution of this matter, the Respondent agreed to enter this public Consent Order consisting of the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. LICENSING BACKGROUND

1. At all times relevant, the Respondent was and is licensed to practice dentistry in the State of Maryland. The Respondent was originally licensed to practice dentistry in Maryland on August 14, 2002, under License Number 12926. The Respondent's license is current through June 30, 2018.

2. At all times relevant, the Respondent maintained an office for the practice of dentistry in Bowie, Maryland.

3. On or about June 7, 2017, the Board received a copy of a health care claim from the Maryland Health Care Alternative Dispute Resolution Office in which a patient (the "Patient")¹ alleged that the Respondent in June 2014 failed to treat tooth abscesses prior to placement of a bridge, which caused injury to the Patient and required the Patient to obtain additional treatment.

4. Based on the Patient's health care claim, the Board initiated an investigation of the matter.

II. BOARD INVESTIGATION

A. Failure to Cooperate with Investigation

5. On or about July 24, 2017, the Board mailed a subpoena to the Respondent's home address listed in his health care claim for the Patient's dental record

¹ To ensure confidentiality and privacy, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

by first-class and certified mail. The subpoena directed the Respondent to provide the Patient's dental record to the Board by August 7, 2017. Both mailings were later returned to the Board as unclaimed/undeliverable.

6. On or about August 21, 2017, the Board mailed another subpoena to the Respondent's address of record with the Board, which was his practice address, by first-class and certified mail, directing him to provide to the Board the Patient's dental record by September 4, 2017. The first-class mail was not returned, and the certified mail receipt was signed. The Respondent failed to provide the Patient's dental record to the Board by September 4, 2017.

7. On or about September 22, 2017, and October 17, 2017, the Board mailed a Second Request and a Final Notice to the Respondent with respect to the previously issued subpoena for the Patient's dental record by first-class and certified mail to the Respondent's practice address. The Respondent failed to respond to the Board's Second Request and Final Notice in a timely manner.

8. On or about November 13, 2017, the Respondent emailed Board staff acknowledging receipt of the previously sent notices/subpoena and requested a thirty-day extension to provide the Board with the Patient's dental record.

9. On or about November 17, 2017, the Board sent a letter to the Respondent by first-class and certified mail directing him to provide the Patient's dental record to the Board by December 1, 2017. The certified mailing was signed and claimed at the Respondent's practice address. The Respondent, however, failed to provide the Patient's dental record to the Board by December 1, 2017.

10. On or about December 13, 2017, the Board sent another “Final Notice” to the Respondent by first-class and certified mail directing him to provide to the Board the Patient’s dental record by December 27, 2017. The certified mail was signed and claimed at the Respondent’s practice address. The Respondent, however, failed to provide the Patient’s dental record to the Board by December 27, 2017.

11. On or about January 8, 2018, the Board received a written response from the Respondent and documents, which the Respondent certified as the Patient’s complete dental record.

B. Record Keeping Violations

12. The Patient’s dental record, which the Respondent certified as the Patient’s complete dental record for four years of treatment, consisted of nine radiographs, an appointment log and the Patient’s account history/financial ledger.

13. The Patient’s dental record failed to include the following documents as required by the Board’s record keeping regulations: clinical details of the Patient’s dental treatment; demographic information such as the Patient’s date-of-birth, telephone number and emergency contact; medical and dental history; the reasons for the Patient’s visit; treatment plans signed and dated by the Respondent and the Patient; the Patient’s complaints; diagnosis and treatment notes; progress notes; post-operative instructions provided; study models; any conversation or correspondence with the Patient; identification of medications prescribed, administered, dispensed, quantity and direction for use; administration of nitrous oxide, anxiolytics, sedation or general anesthesia;

radiographs of diagnostic quality; periodontal charting; laboratory authorization forms; or informed consent.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's failure to comply with the Board's subpoena directing that he provides the Patient's dental record to the Board in a timely manner despite at least four notices from the Board between July and December 2017, which the Respondent acknowledged having received, constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); and willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the Board, in violation of Health Occ. § 4-315(a)(34).

The Board further concludes that the Respondent's failure to keep adequate dental record, as set forth in detail above, constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); and violating any rule or regulation adopted by the Board, *i.e.* COMAR 10.44.30 *et seq.*, in violation of Health Occ. § 4-315(a)(20).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

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

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **EIGHTEEN (18) MONTHS**. During the probationary period, the Respondent must comply with the following terms and conditions:

1. **Within six (6) months** of the date of this Consent Order, the Respondent shall enroll in and successfully complete Board-approved in-person courses consisting of: six (6) credit hours in dental recordkeeping; and two (2) credit hours in professional ethics. The Respondent shall be responsible for submitting written documentation to the Board of his successful completion of the courses. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board with adequate written verification that he has completed the courses according to the terms set forth herein.
2. **Within eighteen (18) months** of the date of this Consent Order, the Respondent shall pay a fine in the amount of **Two Thousand Five Hundred dollars (\$2,500.00)** of which **one thousand five hundred dollars (\$1,500.00)** is **STAYED**, payable to the Maryland State Board of Dental Examiners.
3. The Respondent is subject chart reviews by the Board. The Board, at its discretion, may conduct office visits for the purpose of chart review to ensure that the Respondent is in compliance with recordkeeping standards.
4. The Respondent shall comply with the Maryland Dentistry Act and all laws, statutes and regulations pertaining thereof.

AND IT IS FURTHER ORDERED that after the conclusion of **EIGHTEEN (18) MONTHS** from the date of this Consent Order, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board committee, may grant the termination if the Respondent has fully and satisfactorily complied with all of the

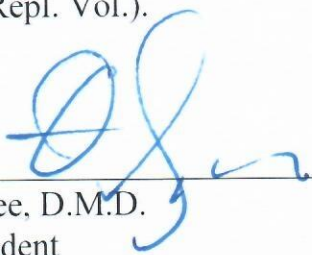
probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including additional probationary terms and conditions, a reprimand, suspension, revocation and/or a monetary penalty; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions, §§ 4-101 *et seq.* (2014 Repl. Vol.).

10/17/2018
Date



Arthur C. Jee, D.M.D.
Board President
Maryland State Board of Dental Examiners

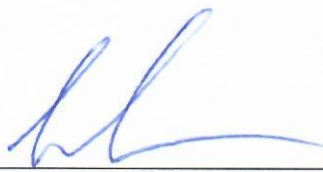
CONSENT

I, Alvin E. Lee, D.D.S., acknowledge that I had the opportunity to retain counsel but elected not to consult with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

10/17/2018
Date


Alvin E. Lee, D.D.S.
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Prince George's

I HEREBY CERTIFY that on this 10th day of October, 2018, before me, a Notary Public of the foregoing State and City/County personally appear Alvin E. Lee, D.D.S., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Regina Parker
Notary Public

My commission expires: 11-12-2018

