

IN THE MATTER OF	*	BEFORE THE MARYLAND
MALLORY LANKFORD, R.D.H.	*	STATE BOARD OF
Respondent	*	DENTAL EXAMINERS
License Number: 8035	*	Case Number: 2020-109

* * * * *

CONSENT ORDER

On or about May 15, 2020, the Maryland State Board of Dental Examiners (the “Board”) issued: a *Notice of Intent to Revoke License to Practice Dental Hygiene* (the “Charges”) to **MALLORY LANKFORD, R.D.H.** (the “Respondent”), dental radiation technologist (D.R.T.) license number 8035, based on her violations of the Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. (“Health Occ.”) §§ 4-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.); and the regulations adopted by the Board, found at COMAR 10.44.01 *et seq.*; and an *Order for Summary Suspension* pursuant to its authority under Md. Code Regs. (“COMAR”) 10.44.07.24, determining that there was a substantial likelihood that the Respondent posed a risk of harm to the public health, safety, or welfare; and Md. Code Ann., State Gov’t § 10-226(c)(2) (2014 Repl. Vol. & 2019 Supp.), and concluding that the public health, safety and welfare imperatively require emergency action.

The pertinent provisions of law are as follows:

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

- (b) License to practice dental hygiene. -- Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dental hygiene, a teacher's license to practice

dental hygiene, or a temporary license to practice dental hygiene to any applicant, reprimand any licensed dental hygienist, place any licensed dental hygienist on probation, or suspend or revoke the license of any licensed dental hygienist, if the applicant or licensee:

- (3) Behaves unprofessionally or in a grossly immoral way, or violates a professional code of ethics pertaining to the dental hygiene profession;
- (9) Violates any rule or regulation adopted by the Board[.]

COMAR 10.44.27.02 Definition.

- A. In this chapter, the following term has the meaning indicated.
- B. Term Defined. "General supervision" means the supervision of a dental hygienist by a dentist in a private dental office where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

COMAR 10.44.27.04 Guidelines for Operating under General Supervision in a Private Dental Office.

- A. In addition to the requirements contained in Health Occupations Article, §4-308(l), Annotated Code of Maryland, if a dental hygienist works under general supervision in a private dental office where a dentist is not on the premises while authorized dental hygiene services are provided, the requirements in §§B—F of this regulation shall be met.
- B. Both the private dental office and the dental hygienist shall maintain written documentation of at least 1,500 hours of dental hygiene clinical practice in direct patient care before commencing practice.
- C. Before an appointment, the patient or the custodial parent or legal guardian of a minor or incompetent adult shall:
 - (1) Be informed that a dental hygienist will be providing services previously prescribed by a dentist who will not be on the premises during the appointment; and
 - (2) Consent in writing to receiving the dental hygiene services.

- D. A copy of the signed consent shall be maintained in the patient's record.
- E. The number of unsupervised clinical hours worked by a dental hygienist in any given 3-month period shall be less than 60 percent of the dental hygienist's total hours worked during that 3-month period. To insure compliance with this provision, the supervising dentist and the dental hygienist shall maintain a written record of the dental hygienist's total monthly hours worked and the total number of monthly hours worked by the dental hygienist when a dentist was not on the premises.
- F. A supervising dentist may not have more than two dental hygienists working under the dentist's general supervision at any given time, regardless of the number of offices in which the supervising dentist practices dentistry.

COMAR 10.44.27.05 Penalties.

A violation of this chapter by a dentist or dental hygienist is unprofessional conduct.

FINDINGS OF FACT

The Board finds the following facts:

1. At all times relevant hereto, the Respondent has been licensed to practice dental hygiene in the State of Maryland and practiced at a private practice located in Salisbury, Maryland (the "Practice"). The Respondent was initially licensed on June 19, 2019. Her license is current through June 30, 2021.
2. On February 13, 2020, the Board received a complaint from a former colleague of the Respondent who was the patient care coordinator at the Practice (the "Complainant"). The Complainant reported that the Respondent practiced dental hygiene without a supervising dentist being present on-site, *i.e.* under general supervision, in

violation of the Board's regulations.¹ According to the complaint, the Respondent was only permitted to practice with direct supervision because she had not yet attained the requisite experience.

3. Based on the complaint, the Board initiated an investigation.

4. On or about March 2, 2020, the Board's investigator participated in an on-site inspection of the Practice. During the inspection, a Board-assigned inspector observed that the Respondent may be practicing without direct supervision.

5. On or about March 9, 2020, the Board's investigator conducted an interview with the Complainant under oath. The Complainant stated "this is [the Respondent's] first dental hygiene job out of hygiene school," from which she graduated in May 2019.

6. The Complainant also reported that on several occasions, the Respondent had been scheduled to work under general supervision, *i.e.* without a dentist supervisor on the premises. Each time, however, the Complainant had preemptively "cancelled the patients because I knew she [the Respondent] wasn't ready." The Complainant added, "I think just in general I don't think she [the Respondent] was brave enough to tell them no."

7. In addition, the Complainant compiled a tally of the total number of hours the Respondent worked over the course of her employment at the Practice until approximately February 2020, when the Complainant left the Practice. By the Complainant's count, the Respondent had accrued a total of 717 hours of clinical experience.

¹ COMAR 10.44.27.04 specifies the conditions under which a registered dental hygienist is permitted to practice under general supervision. In summary, the Board's rule requires the dental hygienist to have completed at least 1500 hours of clinical practice in direct patient care before operating under general supervision. In addition, each patient must consent in writing to the dental hygiene services being provided under general supervision.

8. According to the Complainant, the tally was “generous” and likely overestimated the true total.

9. The Complainant also supplied the Board’s investigator with records from the Respondent’s treatment of three patients from February 8, 2020. The records indicate that the Respondent practiced under general supervision on that day.

10. For example, the clinical note lists the provider as the Respondent and lists “None” in the “Additional provider” section.

11. At least one of the records explicitly notes “Gen Sup” in the clinical note.

12. The record for only one of the three patients contains a written consent to general supervision, signed by the patient on February 8, 2020.²

13. The Respondent has provided information that she worked under direct supervision until February of 2020, when she believed she had acquired sufficient hours to work under general supervision for the Practice, and that she worked under general supervision on only limited occasions thereafter. Respondent has provided documentation that to date, she has accumulated 1564 hours of clinical practice.

The Respondent’s Name

14. According to the records received by the Board, and allegations by the Complainant, the Respondent is practicing under a name that is different from the name under which she is licensed. The chart notes from February 8, 2020, show her listed as Mallory Lankford Illian. She is licensed under the name cited above.

² A consent form such as this would only be permissible for hygienists with the requisite 1500 hours of experience. See COMAR 10.44.27.04.

15. Respondent has provided information that she was married on November 2, 2019 but inadvertently failed to timely advise the Board of a name change.

CONCLUSIONS OF LAW

The Respondent's conduct as described above, constitute violations of the Act and the regulations adopted by the Board as cited above.

ORDER

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

ORDERED that the Order for Summary Suspension, issued on May 15, 2020, is hereby **TERMINATED**; and it is further

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

ORDERED that the Respondent's license to practice dental hygiene in Maryland is **SUSPENDED** for **15 (FIFTEEN) DAYS**, commencing on May 30, 2020;

ORDERED that from the date of the Board's the Order for Reinstatement, the Respondent shall be placed on **PROBATION** for a period of **EIGHTEEN (18) MONTHS** under the following terms and conditions:

- i. Within six (6) months of the date of the execution of the Consent Order, the Respondent shall successfully complete a Board-approved in-person (or, if in-person courses are not available due to the current State of Emergency, then by video-conference) four (4) credit hour **course(s) in professional ethics**, which may not be applied toward her license renewal requirements.
- ii. Within six (6) months of the date of the execution of the Consent Order, the Respondent shall successfully complete a Board-approved in-person (or, if in-person courses are not available due to the current State of Emergency, then by video-conference) four (4) credit hour **course(s) in Center for Disease Control and Prevention (CDC) Infection Control**

Protocols, which may not be applied toward her license renewal requirements.

- iii. If the above-mentioned courses are not completed within three (3) months of the date of the Consent Order, the Board may allow an extension of three (3) additional months if the Respondent demonstrates to the Board's satisfaction that she was unable to complete the courses despite a good-faith effort.
- iv. During the period of probation, the Respondent shall submit **quarterly reports** to the Board documenting in detail the following:
 - (a) All current places of employment; and
 - (b) A signed report for the quarter including (1) the number of hours she worked in total and the locations where worked; (2) the number of hours she worked without a dentist on site providing supervision as required by COMAR 10.44.27.04E; and (3) a signed statement certifying that she has complied at all times with the Board's regulations regarding general supervision of hygienists;
- v. The Respondent shall immediately update the Board regarding her current legal name using the Board's official procedure and shall cease practicing under any name other than her legal name;
- vi. The Respondent shall immediately inform the Board if her name changes in the future;
- vii. The Respondent is fined in the amount of five hundred dollars (\$500), four hundred dollars (\$400) of which is STAYED pending satisfactory compliance with this consent order, with the remaining **ONE HUNDRED DOLLARS (\$100)**, due within 60 (sixty) calendar days of the execution of the Consent Order;
- viii. The Respondent shall at all times practice in accordance with the Maryland Dentistry Act and the Board's regulations;

AND IT IS FURTHER ORDERED that no part of the training or education that the Respondent receives in order to comply with this Consent Order may be applied to her required continuing education credits, and it is further

ORDERED that the Respondent shall at all times cooperate with the Board, any

of its agents or employees, and with the Board-assigned inspector, 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 the Respondent shall be responsible for all costs incurred under this Consent Order; and it is further

ORDERED that after a minimum of eighteen (18) months from the effective 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. The Board shall grant termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending investigations or outstanding complaints related to the findings of fact in this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

ORDERED that after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to

practice dentistry in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent;

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Md. Code Ann., Gen. Prov. §§ 4-101 et seq. (2014).

June 17, 2020
Date

Francis X. McLaughlin, Jr.
Francis X. McLaughlin, Jr., Executive Director
Maryland State Board of Dental Examiners

CONSENT

By this Consent, I, Mallory Lankford, R.D.H., agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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 any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had the opportunity to have consulted with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its effect.

6/17/2020
Date

Mallory Lankford
Mallory Lankford, R.D.H.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF: Wicomico

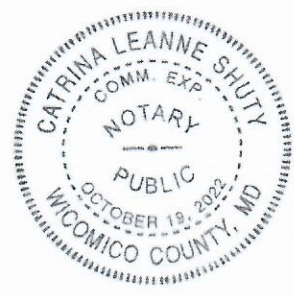
I HEREBY CERTIFY that on this 16th day of June

2020, before me, a Notary Public of the State and County aforesaid, personally appeared³ Mallory Lankford, R.D.H., and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Catrina Leanne Shuty
Notary Public

My commission expires: 10/19/2022



³ During the current State of Emergency, and in compliance with the Governor's emergency orders, notarization may be accomplished remotely.