

IN THE MATTER OF

*

BEFORE THE MARYLAND

CHINH N. LE, D.D.S.

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STATE BOARD OF DENTAL

Respondent

*

EXAMINERS

License Number: 13448

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Case Number: 2021-003

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CONSENT ORDER

In or around July 2020, the Maryland State Board of Dental Examiners (the "Board") opened an investigation of CHINH N. LE, D.D.S. (the "Respondent"), License Number 13448. Based on its investigation, the Board determined that it has grounds to charge the Respondent with violating the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 16-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.).

The pertinent provisions of the Act provide:

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 ... reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the ... licensee:

(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

(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 ["CDC"] guidelines on universal precautions...;

Prior to the Board issuing disciplinary charges, the Respondent agreed to enter this public Consent Order consisting of 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 September 1, 2004, under License Number 13448. The Respondent's license is current through June 30, 2022.

2. At all times relevant, the Respondent was the owner of a private dentistry practice located in Gaithersburg, Maryland (the "Office").

II. COMPLAINT

3. On or about July 8, 2020, the Board received a complaint alleging, among other things, that there were substandard infection control practices at the Office. Based on the complaint, the Board initiated an investigation of the Office's compliance with CDC guidelines.¹

¹ The Centers for Disease Control and Prevention ("CDC") is a federal agency dedicated to designing protocols to prevent the spread of disease. The CDC has issued guidelines (the "CDC Guidelines") for dental offices which detail the procedures deemed necessary to minimize the chance of transmitting infection both from one patient to another and from the dentist, dental hygienist and dental staff to and from the patients. These guidelines include some very basic precautions, such as washing one's hands prior to and after treating a patient, and also sets forth more involved standards for infection control. Under the Act, all dentists are required to comply with the CDC guidelines, which incorporate by reference Occupational Safety and Health Administration's ("OSHA") final rule on Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030). The only exception to this rule arises in an emergency which is life-threatening *and* where it is not feasible or practicable to comply with the guidelines.

III. INFECTION CONTROL INSPECTION

4. Due to allegations of potential infection control issues at the Office, on or about December 8, 2020, a Board-assigned infection control inspector (the "Board Inspector"), along with a Board investigator, visited the Office and conducted an infection control inspection.

5. The Respondent was present during the inspection, as were office staff, and several clinical staff members.

6. As part of the inspection, the Board Inspector utilized the publicly available Centers for Disease Control and Prevention ("CDC") Infection Prevention Checklist for Dental Settings. Based on the inspection, the Board Inspector made the following findings regarding the Office's compliance with the CDC Guidelines:

Section I: Policies and Practices

I.1 Administrative Measures – The Office's Infection Control Manual (the "Manual") did not include Practice Specific Infection Prevention Policies or Procedure. The Manual did not identify a specific individual who is trained for infection prevention. Hand Hygiene Protocol requirements are not posted in any of the patient treatment or instrument processing areas.

I.2 Infection Prevention Education and Training – The Manual contained Infection Prevention Training for 2018 and 2019, but not 2020. There was no documentation that Dental Healthcare Personnel ("DHCP") received any job or task-specific training on infection prevention policies and procedures and the OSHA Bloodborne Pathogens Standard, either upon hire.

I.3 Dental Health Care Personnel Safety - The Manual did not identify specific staff whose assigned duties could pose a risk of exposure. Covid screening protocol for staff is not outlined in the Manual. Documentation of symptoms or daily temperature log was not available for review.

1.4 Program Evaluation - There were no written policies and procedures for routine monitoring and evaluation of the infection prevention and control program.

1.5 Hand Hygiene - There was no documentation that DHCP are trained regarding appropriate indications for hand hygiene.

1.6 Personal Protective Equipment ("PPE") - There was no documentation that DHCP receive training on proper selection and use of PPE.

1.7 Respiratory Hygiene/Cough Etiquette - There was no documentation of policies and procedures in regard to respiratory infections.

1.8 Sharps Safety - There was no documentation of training, written policies, procedures, or guidelines for sharps exposure prevention or post-exposure management.

1.9 Safe Injection Practices - There was no documentation of training, written policies, procedures, or guidelines for safe injection practices.

1.10 Sterilization and Disinfection of Patient Care Items and Devices - There was no documentation of written policies, or procedures to ensure that reusable patient care instruments and devices are cleaned and reprocessed appropriately before use. There was no documentation regarding the required PPE to be worn when DHCP process dental devices. There was no documentation of protocols related to monitoring and testing sterilization equipment.

1.11 Environmental Infection Prevention and Control - There was no documentation of training, written policies, or procedures for routine cleaning and disinfection of environmental surfaces.

1.12 Dental Unit Water Quality - There was no documentation that policies and procedures are in place for maintaining dental unit water quality that meets EPA regulatory standards for drinking water.

Section II: Direct Observation of Personnel and Patient-Care Practices

II.1 Hand Hygiene is Performed Correctly - Inconsistent hand hygiene was performed by a dental assistant and dental hygienist. The dental hygienist did not perform hand hygiene after removing contaminated instruments and barriers and then proceeded to disinfect the treatment area wearing the same gloves.

II.2 Personal Protective Equipment ("PPE") is Used Correctly - PPE was observed to be inconsistently removed before leaving the work area. The dental assistant and dental hygienist walked up to the front desk without removing their PPE that had been just used

with the patient they were treating. The Respondent wore a white cloth jacket during patient treatment.

II.3 Respiratory Hygiene/Cough Etiquette - Signs (Cover Your Cough) were not posted at entrances with instructions to patients with symptoms of respiratory infection and other associated notifications. Supplies of tissues, hand sanitizer, and face masks are not placed at the reception counter.

II.4 Sharps Safety – The only visible sharps container was located in the instrument processing area. The sharps container is not labeled “Biohazard” and shows evidence of reuse.

II.5 Safe Injection Practices – The administration of local anesthetic to a patient was not observed.

II.6 Sterilization and Disinfection of Patient Care Items and Devices -The layout of the instrument processing area allows for a “single loop” sequencing to be utilized; however, the positioning of the equipment does not allow that procedure to be followed. No Hand Hygiene protocol is located in the instrument processing area. Sterile packs were not labeled with the date of sterilization. Low speed dental handpiece motors and nose cones were not removed from the air and water lines after use, the tips were reprocessed.

II.7 Environmental Infection Prevention and Control – HVE/SVE or air water syringe handpieces are not barrier-protected. Inspection occurred at the start of scheduled patient treatment; however, waste containers had not been emptied from the previous day’s activity. Trash containers do not have lids. The floor of the treatment area is tiled and showed evidence of dirt or debris. Cavicide wipes were used by the dental hygienist to disinfect the treatment operatory, but the canister was not agitated before use and had been left open, exposing the disinfectant to possible evaporation.

II.8 Dental Unit Water Quality - There was no evidence that waterline testing was ever performed and no reports were made available. The surgical drilling unit was observed to have the irrigation tubing and handpiece clip attached. The attached irrigation solution bag had expired.

Section III. – Direct Observation of COVID-specific infection prevention

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3. Staff Pre-Screening temperature check and symptom check performed. Staff self-check symptoms and temperature. A daily log or documentation was not kept.

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6. Wear eye protection ...during patient encounters. The Respondent inconsistently used eye protection.

7. Appropriate PPE is used, donned, doffed, changed between patients and disposed properly. Gowns and masks were not changed between patients.

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15. If aerosol generating procedures are necessary for dental care, use four-handed dentistry, high evacuation suction and dental dams to minimize droplet spatter and aerosols. Inconsistent use of extra/oral suction/evaporation unit was observed. Inconsistent use of rubber dam isolation was also observed.

16. All operatories are set up efficiently, supplies and patient treatment items are not exposed to aerosol and as few individuals in the treatment room as possible. Additional supplies and prepared instrument trays with patient napkins placed in the patient treatment area during patient treatment.

17. Post-operative instructions to patients should include follow-up if they test positive during dental visit. No such post-operative instructions were observed.

7. Based on the observations made by the Board Inspector, the Respondent as the owner of the Office failed to ensure compliance with CDC Guidelines at the Office.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct, as described above, constitutes violations of the Act as cited above, specifically: the Respondent's conduct as described above, including but not limited to failing to ensure compliance with the CDC Guidelines at the Office as described 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 failing to comply with Centers for Disease Control's guidelines on universal precautions in violation of Health Occ. § 4-315(a)(28).

ORDER

It is, on the affirmative vote of a majority of the Board, hereby:

ORDERED that the Respondent shall ensure that the Office immediately ceases all dental treatment until the Board issues a separate Order terminating this provision (the "Order Lifting Voluntary Cessation"); and it is further

ORDERED that upon the Board's receipt of verified documentation that the Respondent has formally retained the services of a qualified Board-approved infection control consultant and that the consultant has issued a favorable report substantiating that the Respondent and her office staff are in substantial compliance with CDC Infection Control Guidelines, the Board shall issue an **Order Lifting Voluntary Cessation**, which shall allow the practice cited above to resume dental treatment; and it is further

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

ORDERED that from the date of the Board's the **Order Lifting Voluntary Cessation**, the Respondent shall be placed on **PROBATION** for a period of **TWO (2) YEARS** under the following terms and conditions:

1. A Board-assigned inspector shall conduct an unannounced inspection within ten (10) business days (or as soon as practicable) in order to evaluate the Respondent and staff regarding compliance with the Act and infection control guidelines. The Board-assigned inspector shall be provided with copies of the Board file, the Consent Order, and any other documentation deemed relevant by the Board;
2. On a continuing basis, the Respondent shall provide to the Board-assigned inspector a schedule of the Office's regular weekly hours of practice and promptly apprise the consultant of any changes;
3. During the probationary period, the Respondent shall be subject to quarterly unannounced onsite inspections by a Board-assigned

inspector;

4. The Board-assigned inspector shall provide inspection reports to the Board within ten (10) business days of the date of each inspection and may consult with the Board regarding the findings of the inspections;
5. The Respondent shall, at all times, practice dentistry in accordance with the Act, related regulations, and shall comply with CDC and Occupational Safety and Health Administration's ("OSHA") guidelines on infection control for dental healthcare settings, including enhanced COVID-19 related precautions; and
6. At any time during the period of probation, if the Board makes a finding that the Respondent is not in compliance with CDC and/or OSHA guidelines, the Respondent shall have the opportunity to correct the infractions within seven (7) days and shall be subject to a repeat inspection within seven (7) days to confirm that the violation has been remedied.
7. The Respondent is fined in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2500)**, due within sixty (60) days to the Board;
8. Within three (3) months of the date of the reinstatement of the Respondent's license, 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 infection control protocols, presented by a board-approved instructor, which may not be applied toward his license renewal.
9. Within three (3) months of the date of the reinstatement of the Respondent's license, 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) two (2) credit hour course(s) in ethics, presented by a board-approved instructor, which may not be applied toward his license renewal.
10. 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 he was unable to complete the courses despite a good-faith effort.

11. The Respondent may file a petition for early termination of his probation after one (1) year from the date of this Consent Order. After consideration of the petition, the Board, or a designated committee of the Board, shall grant the petition if the Respondent has satisfactorily complied with the terms and conditions of this Consent Order.

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 his 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 two (2) years from the effective date of the Order for Reinstatement, 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

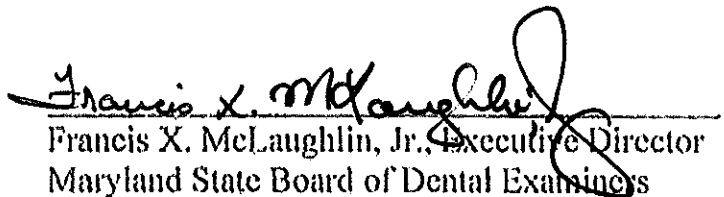
ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and an

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; and it is further

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

10/20/2021
Date


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


CONSENT

By this Consent, I, Chinh N. Le, D.D.S., 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 consult 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.

8/12/2021
Date


Chinh Le, D.D.S.
Respondent

NOTARY

STATE OF Maryland

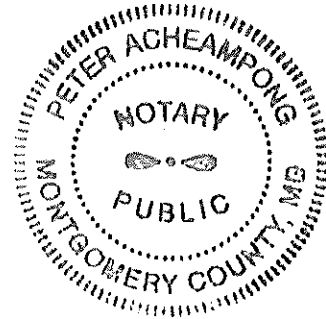
CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 12th day of August 2021, before me, a Notary Public of the State and County aforesaid, personally appeared² Chinh N. Le, D.D.S., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Notary Public

My commission expires: 10-07-2021



² During the current State of Emergency, and in compliance with the Governor's emergency orders, notarization may be accomplished remotely.