

IN THE MATTER OF
PARTH D. SHAH, D.D.S.
RESPONDENT

* BEFORE THE MARYLAND
* STATE BOARD OF
* DENTAL EXAMINERS
* Case Number: 2013-119

License Number: 15225

* * * * *

ORDER

PROCEDURAL BACKGROUND

The Maryland State Board of Dental Examiners (the "Board") notified **PARTH D. SHAH, D.D.S., License Number 15225** (the "Respondent"), that he was being charged with violation of certain provisions of the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. I §§ 4-101 *et seq.* (2014 Repl. Vol.), and Md. Code Regs. ("COMAR") 10.44.30 *et seq.*

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

§ 4-315. Denials, reprimand, probations, suspension, 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:

(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]

(18) Violates any rule or regulation adopted by the Board[.].

The Principles of Ethics and Code of Professional Conduct of the American Dental Association (2012) states:

CODE OF PROFESSIONAL CONDUCT

1. A. PATIENT INVOLVEMENT

The dentist should inform the patient of the proposed treatment, and any reasonable alternatives, in a manner that allows the patient to become involved in treatment decisions.

1. B. PATIENT RECORDS

Dentists are obligated to safeguard the confidentiality of patient records. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of a patient or another dental practitioner, dentists shall provide any information in accordance with applicable law that will be beneficial for the future treatment of that patient.

In addition, the Board alleges that the Respondent violated the following provision of COMAR 10.44.30.03:

A. Each patient's clinical chart shall include at a minimum the following:

(15) Informed consent[.]

On February 7, 2018, a hearing on the merits was held. Present were the following Board members, which constituted a quorum: Ali Behnia, D.M.D., Board Vice President; Louis DePaola, D.D.S., M.S.; Barry Cohan, D.D.S.; Arpana Verma, D.D.S.; James Goldsmith, D.M.D.; Ronald Moser, D.D.S.; Roslyn Chester, R.D.H., M.A.; Cheryl Bruce, R.D.H.; David Williams, D.D.S.; Margaret Kern, R.D.H.; Allan Kroopnick, Ph.D.; and Stefan Miller, Consumer Member. Also present were the following individuals: Robert Gilbert, Esq., Assistant Attorney General, Administrative Prosecutor; Christopher Anderson, Esq., Assistant Attorney General, Administrative Prosecutor; K.F. Michael Kao, Esq., Assistant Attorney General, Administrative Prosecutor; Grant Gerber, Esq., Assistant Attorney General, Board Counsel; Tony Torain, Executive Director;

Maryam Stringer, Paralegal; Parth Shah, D.D.S., Respondent; and Michael Von Diezelski, Esq., Respondent's Counsel. The Respondent was present and represented by counsel throughout the hearing.

SUMMARY OF THE EVIDENCE

The following exhibits were admitted into evidence during the hearing:

STATE'S EXHIBITS

- | No. | |
|-----|---|
| 1 | Maryland State License Verification -
Parth D. Shah, DDS |
| 2 | New York Dental License Verification |
| 3 | Complaint, received December 28, 2012 |
| 4 | Complainant License Verification |
| 5 | Letter from Board to Complainant, dated
January 3, 2013 |
| 6 | <i>Subpoena duces tecum</i> from Board to
Complainant, dated February 1, 2013 |
| 7 | Subpoena from Board to Dr. Whang,
dated February 1, 2013 for Records of
Patient A |
| 8 | Facsimile Transmission from Kool
Smiles to Board, dated February 13,
2013 |
| 9 | Letter from Complainant to Board, dated
February 4, 2013 |

- 10 Narrative Response from Kool Smiles,
dated February 13, 2013
- 11 Amended Narrative Response from Kool
Smiles, dated February 14, 2013
- 12 Letter of Representation, David King,
Esq., dated February 25, 2013
- 13 Letter and *subpoena duces tecum* from
Board to Respondent for Appointment
logs, dated August 1, 2013
- 14 Email from Respondent's counsel to
Board, dated August 12, 2013,
requesting extension of time to provide
records
- 15 Letter of Representation, Michele Smith,
Esq., dated August 15, 2013
- 16 Letter providing Appointment Logs,
dated August 16, 2013
- 17 Letter and *subpoena duces tecum* from
Board to Respondent for 14 additional
patient records, dated October 28, 2013
- 18 Response to *subpoena duces tecum*
from Respondent to Board, dated
November 15, 2013
- 19a-l Records for Patients A-L

20	Attorney Letters, re: Insurance Claims
21	Curriculum Vitae, Edwin Zaghi, DMD
22	Board Expert Witness Report
23	Subpoena and Testificandum from Board to Respondent, dated May 8, 2015
24	Transcript Interview of Respondent, conducted on May 15, 2015
25	Letter and Email from Board to Respondent, dated July 16, 2015, attaching copy of Board Expert Witness Report
26	Letter from Respondent to Board, dated July 30, 2015, re: Board Expert Report
27	Investigative Report, dated August 14, 2015
28a-l	Reports for Patients A-L
29	Charges under Maryland Dentistry Act, dated May 18, 2016
30	Statement from Dr. Zaghi, dated August 29, 2017

RESPONDENT'S EXHIBITS

No.

1

CV of Parth Shah, D.D.S.

- 2 Dr. Shah's July 30, 2015 Response to
the Board's Expert Witness Report
- 3 2008 American Academy of Pediatric
Dentistry Guidelines on Pediatric
Restorative Dentistry
- 4 2012 American Academy of Pediatric
Dentistry Guidelines on Pediatric
Restorative Dentistry
- 5 2014 American Academy of Pediatric
Dentistry Guidelines on Pediatric
Restorative Dentistry
- 6 Position Paper by Seale, NS. The Use
of Stainless Steel Crowns. Pediatric
Dentistry, 2002
- 7 2011 American Academy of Pediatric
Dentistry Policy on Early Childhood
Caries (ECC): Classifications,
Consequences and Preventative
Strategies
- 8 White, Stuart C. Oral Radiology, 6th
Edition, Mosby, 2009, Chapter 17, page
273
- 9 CV of Barry Lyon, D.D.S.
- 10 Report of Barry Lyon, D.D.S.

11

Index Patient Charts A - N

12

CD of Digital Images for Patients A - N

ARGUMENT

I. State's Argument

Mr. Robert Gilbert, Assistant Attorney General, Administrative Prosecutor, made the following arguments on behalf of the State. This case came about through information provided in a written complaint from a pediatric dentist (the "Complainant") that the Respondent had recommended excessive treatment for one of the Complainant's patients ("Patient A"). This information caused the Board to conduct an investigation and obtain the dental records of Patient A and 14 additional patients (Patients B-L) treated by the Respondent. The Board subsequently referred the dental records to Edwin Zaghi, D.M.D., a pediatric dentist, for review. Dr. Zaghi reported and subsequently testified that the Respondent: (1) overly used aggressive treatments (i.e. stainless steel crowns) and did not document in the patient record the rationale for not using more conservative treatments; (2) failed to obtain informed consent for the aggressive treatments (i.e. stainless steel crowns); (3) failed to treat a lesion in one instance and did not document lesions in the patient record in other instances; and (4) excessively used radiographs on pediatric patients (T., p. 76-77, 92, 96, 100-01, 112). The State argued that the Respondent's practice deficits "[rose] to the level of professional incompetence, dishonorable or unprofessional conduct, and other violations of the Dentistry Act" (T., p. 38).

II. Respondent's Argument

Mr. Michael Von Diezelski made the following arguments on behalf of the Respondent. Dr. Barry Lyon, a pediatric dentist, reviewed the dental records of

Patients A-L and Dr. Zaghi's expert report (T., p. 153-54). Dr. Lyon reported and subsequently testified that he found several instances where the Respondent (1) used a conservative treatment instead of an aggressive treatment; (2) was justified in his treatment choice (i.e. appropriately used stainless steel crowns); or (3) was not the treating dentist. Also, Dr. Lyon testified to two instances where the Practice software prevented the Respondent from making proper notations in the patient record (T., p. 156-57). The Respondent testified in support of his use of stainless steel crowns on patients "with poor oral hygiene" and "coming from [a] low socioeconomic status" (T., p. 221). The Respondent also explained the particulars of the Practice software system (T., p. 227-28).

FINDINGS OF FACT

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

1. At all times relevant hereto, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed to practice dentistry in Maryland on or about December 15, 2011, under License Number 15225. The Respondent remained licensed to practice dentistry in Maryland until August 1, 2015, when he elected not to renew his Maryland dental license. As of the date of this order, the Respondent does not possess an active dental license in the State of Maryland.
2. At all times relevant hereto, the Respondent practiced at a dental office (the "Practice") located at 406 Fruitland Boulevard, Salisbury, Maryland, 20801.
3. On or about December 28, 2012, the Board received a written complaint from a pediatric dentist (the "Complainant") regarding an evaluation of one of his patients ("Patient A") received at the Practice.

4. The Complainant alleged that the Respondent recommended excessive treatment for Patient A, and that the Complainant had seen other similar examples of excessive treatment or treatment recommendations provided by the Respondent and other dentists in the Practice.

5. Based on the written complaint, the Board initiated an investigation of the Practice under Board Case Number 2013-119.

6. In furtherance of its investigation, the Board issued a *subpoena duces tecum* to the Respondent for Patient A's dental records and the dental records of an additional 14 patients (12 of whom were pediatric or pre-adolescent patients) who received treatment from the Respondent at the Practice.

7. The Board referred the dental records of Patients A through L to an expert in pediatric dentistry (the "Expert") for a review of the Respondent's care.

8. On or about September 29, 2014, the Expert issued a report (the "Expert Report") of his findings. To summarize, the Expert Report identified the following deficiencies:

(a) Multiple instances of lesions evident on radiographs that were either not noted in the patient record or not treatment planned;

(b) Several instances of small lesions treated with stainless steel crowns and no notation in the patient record explaining why a more conservative treatment was not used;

(c) Several instances of lack of informed consent;

(d) A pattern of performing additional treatments without a reason noted in the patient record; and

(e) Multiple instances of utilizing radiographs excessively.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent violated the following laws and regulations. The Board found Dr. Zaghi's expert testimony regarding the Respondent's excessive use of aggressive treatments, lack of informed consent, recordkeeping deficiencies, and other findings to be credible. As a licensed dentist in Maryland, the Respondent must comply with the Act and regulations adopted by the Board. Accordingly, the Board finds that the Respondent violated, in whole or in part, H.O. § 4-315 and COMAR § 10.44.30.03 when he overly used aggressive treatments, did not obtain informed consent, and improperly documented patient records. The Board found that the evidence and testimony (particularly Dr. Zaghi) supported the conclusion that Dr. Shah practiced dentistry in a professionally incompetent manner or in a grossly incompetent manner in violation of H.O. § 4-315(a)(6). Accordingly, Dr. Shah's treatment was found to be unprofessional in violation of H.O. § 4-315(a)(16). Based on these findings, the Board concludes that the Respondent's conduct was professionally incompetent and dishonorable or unprofessional, and the Board issues the following order in accordance with its sanctioning guidelines under COMAR § 10.44.30.05.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15TH day of JANUARY, 2020, by the majority of the Board, hereby:

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

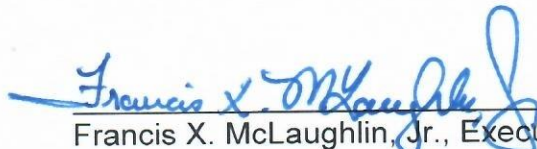
ORDERED that the Respondent is placed on **PROBATION** for a period of **ONE (1) YEAR**, with all but 6 months suspended; and be it further

ORDERED that the Respondent must complete: (1) four hours of Board-approved continuing education in pediatrics; (2) four hours of Board-approved continuing education in dental radiology; and (3) two hours of Board-approved continuing education in recordkeeping, which may not be applied toward his license renewal; and it is further

ORDERED that the foregoing document constitutes an Order of the Board and is therefore a **PUBLIC** document for purposes of public disclosure, as required by Md. State Govt. Code Ann. §10-617(h) (2009 Repl. Vol.).

AND IT IS FURTHER ORDERED that after the conclusion of the **SIX (6) MONTH** probationary period, 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 committee, shall grant the termination if the Respondent has satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints of similar nature; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Order.


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

NOTICE OF THE RIGHT TO APPEAL

Pursuant to Maryland Health Occ. Code Ann. § 3-316, 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, Maryland State Gov't Code Ann. §§10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.