

IN THE MATTER OF	*	BEFORE THE MARYLAND
YELENA SHIRKIN, D.D.S.	*	STATE BOARD OF DENTAL
Respondent	*	EXAMINERS
License Number: 13770	*	Case Number: 2020-158
* * * * *		

CONSENT ORDER

In or around May 2020, the Maryland State Board of Dental Examiners (the “Board”) opened an investigation of **YELENA SHIRKIN, D.D.S.** (the “Respondent”), License Number 13770. 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.).

The pertinent provisions of the Act provide:

Health Occ. § 4-315

- (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 July 3, 2006, under License Number 13770. 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 at 4000 Old Court Road, Suite 302, Baltimore, Maryland 21209 (the "Office").

II. COMPLAINT

3. On or about May 20, 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

III. INFECTION CONTROL INSPECTION

4. Due to allegations of potential infection control issues at the Office, on or about September 14, 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 was another dentist employed at the Office ("Dentist A"). Also present 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 – Some parts of the practice-specific Infection Control Manual was present or available at the Office, but was disorganized. There were some records of training on infection prevention policies and procedures upon hire, reassessed at least annually, or according to state and federal requirements. There was some disorganized record of Infection Prevention/OSHA Bloodborne Pathogens Training according to federal and state requirements or based on evidenced based guidelines.

I.2 Infection Prevention Education and Training – There was some disorganized documentation that DHCP received any job- or task-specific training on infection prevention policies and procedures and the OSHA Bloodborne Pathogens Standard, either upon hire, annually, or when new tasks or procedures could affect occupational exposure. Training records are not maintained in accordance with state and federal requirements.

emergency which is life-threatening *and* where it is not feasible or practicable to comply with the guidelines.

I.3 Dental Health Care Personnel Safety - The Office has no exposure control plan that is tailored to the specific requirements of the facility and meets the requirements of the OSHA Bloodborne Pathogens Standard. There was no documentation that the current CDC recommendations for immunizations, evaluation, and follow-up are available. This information was provided following the inspection.

I.4 Program Evaluation - There was some disorganized documentation that written policies and procedures for routine monitoring and evaluation of the infection prevention and control program exist. This information was provided following the inspection.

I.5 Hand Hygiene - There are supplies necessary for adherence to hand hygiene for routine dental procedures. However, there is no documentation that DHCP are trained regarding appropriate indications for hand hygiene.

I.6 Personal Protective Equipment (PPE) - There were no utility gloves. A washing machine/dryer was available for the re-usable jackets on hand. KN95 masks, face-shields, and ample examination gloves were present. There was no documentation that DHCP receive training on proper selection and use of PPE.

I.8 Sharps Safety - There was some disorganized documentation of written policies, procedures, and guidelines for exposure prevention and post-exposure management that are available. No training manual was available.

I.9 Safe Injection Practices - There was some disorganized documentation of written policies, procedures, and guidelines for safe injection practices that are available. No training manual was available.

I.10 Sterilization and Disinfection of Patient Care Items and Devices - There was some disorganized documentation of written policies and procedures that are available to ensure that reusable patient care instruments and devices are cleaned and reprocessed appropriately before use on another patient. No training manual was provided.

I.11 Environmental Infection Prevention and Control - There was some disorganized documentation of written policies and procedures that are available for routine cleaning and disinfection of environmental surfaces.

I.12 Dental Unit Water Quality - There is 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 - Hands were washed when visibly soiled. Barehanded touching of instruments wasn't observed. There was washing of hands after treating the patients, but not always immediately prior to putting gloves on before treating the patient. There was an inconsistency by two dental assistants with hand-washing immediately before putting on gloves. There was hand-washing immediately after removing gloves.

II.2 Personal Protective Equipment (PPE) is Used Correctly - The PPE is inconsistently removed before leaving the work area. The Respondent and Dentist A walked up to the front desk as well as the sterilization area without removing their PPE that had been just used with the patient they were treating. Masks were worn for every patient encounter. One dental assistant did not have glasses with side-shields.

II.4 Sharps Safety - Engineering controls are not used to prevent injuries. Work practice controls are used to prevent injuries. DHCP appear to use a one-handed scoop technique most of the time to recap needles. The biohazard waste box was located in a utility closet on top of various boxes, a situation which may cause an accident.

II.5 Safe Injection Practices - Injections are prepared using an aseptic technique in a clean area. However, they were prepared in advance of the patient coming to the operatory.

II.6 Sterilization and Disinfection of Patient Care Items and Devices - Reusable critical dental items are cleaned and heat sterilized according to the manufacturer instructions between use. Items are thoroughly cleaned and visually inspected before sterilization. FDA cleared ultrasonic cleaners are properly used. There were no puncture resistant gloves being used. After cleaning and drying, the instruments were packed appropriately. Sterile packs had external chemical indicators only. Sterile packs were not consistently labeled with which of the two sterilizers had been used, the cycle or load number, and the date of sterilization was not always clear. FDA-cleared medical devices for sterilization are used according to manufacturer instructions. Because there were poor logs for the sterilizers, it is possible to be certain if the spore test is used at least weekly and with every load containing implantable items. Separate identifiable logs for each sterilizer cycle are non-existent. It appears that after sterilization the packets are stored so sterility is not compromised.

II.7 Environmental Infection Prevention and Control - Clinical contact surfaces, specifically countertops, are inconsistently barrier protected. Other surfaces are cleaned with appropriate disinfectants. Barriers were inconsistently used on A/W syringes, HVE, and SVE. Surface barriers on the computer mice are inconsistently used on equipment. Barriers are consistently changed between patients. Cleaners and disinfectants appeared to be used in accordance with manufacturer instructions. Regulated medical waste is disposed of according to local, state, and federal regulations, but there were poorly

organized records of the dates of the pick-ups, and those dates were inconsistent. The main medical waste box was poorly placed in a very difficult to access area in a utility room. This could potentially cause accidental contact with OPIM. The eye-wash station in the office was in the laboratory. The emergency medical kit was in the Doctors private office and was up-to-date. They are on an automatic refill for the kit. The Doctors private office was a storage area as well. It was crammed and disorganized. So, in an emergency, the emergency kit may be hard to access. Radiograph rings and sensors were placed on trays where the outside of unopened sterile packets were placed earlier, making the rings potentially unsterile as the outside of the packets could have been compromised. The rings were placed on the bare counters as well. DHCP did not wear radiation badges during the inspection. There were no records on site (they are kept with the monitoring company offsite) that could be provided showing results received from a company that processes those badges.

II.8 Dental Unit Water Quality - There was no evidence that waterline testing was ever performed. No employee was aware of any maintenance logs or waterline treatment products. No one could verify that daily or weekly flushing of the dental unit water lines was being performed.

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. However, three days after the inspection occurred Respondents contacted a Board-approved infection control specialist to come to the office and ensure the office was up to compliance. This information was provided to the Board in September 2020.

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 Respondent's dental practice, located at 4000 Old Court Road, Suite 302, Baltimore, Maryland 21209 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

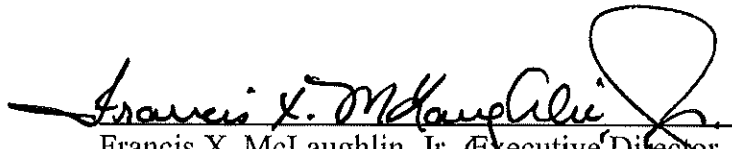
may be terminated through an order of the Board. The Board shall grant termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending investigations or outstanding complaints related to the findings of fact in this Consent 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).

1/29/2021
Date


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


CONSENT

By this Consent, I, Yelena Shirkin, 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.

1/27/2021
Date



Yelena Shirkin, D.D.S.
Respondent

NOTARY

STATE OF Maryland
CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 27th day of January
2021, before me, a Notary Public of the State and County aforesaid, personally appeared²
Yelena Shirkin, D.D.S., 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.

Notary Public 

My commission expires: 11/14/22

TONJA D JACKSON
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires 11-14-2022

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