

IN THE MATTER OF	*	BEFORE THE MARYLAND
TAMARA J. LOWE, D.M.D.	*	STATE BOARD
Applicant	*	OF DENTAL EXAMINERS
LICENSE NUMBER: 10356 (Expired)	*	CASE NUMBER: 2017-001
* * * * *		* * * * *

CONSENT ORDER

On March 1, 2017, the Maryland State Board of Dental Examiners (the "Board") notified **TAMARA J. LOWE, D.M.D.** (the "Applicant") of the Board's initial denial of her Application for Dental Licensure by Examination (the "Application"), received on April 20, 2016, under the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. I ("Health Occ. I") §§ 4-101 *et seq.* (2014 Repl. Vol.).

The Board based its action on the Applicant's violation of the following provisions of the Act:

Health Occ. I § 4-302. Qualifications of applicants.

- (a) *In general.* -- Except as otherwise provided in this title, to qualify for a license, an applicant shall be an individual who meets the requirements of this section.
- (b) *Moral character.* -- The applicant shall be of good moral character.

Health Occ. I § 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... to any applicant... if the applicant... :
 - (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
 - (4) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any

- appeal or other proceeding is pending to have the conviction or plea set aside;
- (7) Has had a license to practice dentistry revoked or suspended in any other state;
 - (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
 - (21) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; [and]
 - (22) Willfully makes or files a false report or record in the practice of dentistry [.]

With respect to Health Occ. I § 4-315(a)(21), the underlying grounds for disciplinary action under Health Occ. I § 4-315(a) include:

- (4) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; [and]
- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession[.]

On June 7, 2017, a Case Resolution Conference ("CRC") was held before a committee of the Board. During the CRC, the committee considered several factors in fashioning an amicable resolution of this case, including the Applicant's voluntary disclosure and admission of her past history of drug addiction in her Application; her voluntary enrollment in and compliance with the Dental Well-Being Program in Maryland since 2010; and her having no prior disciplinary history with the Board. As a resolution

of this matter, the Applicant agreed to enter into 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. BACKGROUND

1. The Board initially issued the Applicant a license to practice dentistry in the State of Maryland on April 18, 1990, under License Number 10356. The Applicant allowed her license to expire on June 30, 1992, without filing for a renewal.

2. The Applicant was issued a dental license in New York on or about March 22, 1990, under License Number 042706. The Applicant voluntarily surrendered her New York dental license to the New York Office of the Professions (the "NY Board") on or about May 28, 2014, for professional misconduct.

3. The Applicant was issued a dental license in Ohio on or about January 15, 1987, under License Number 30.018407. The Applicant allowed her Ohio dental license to expire on December 31, 2003, without filing for a renewal.

4. The Applicant was issued a dental license in Pennsylvania on or about August 1, 1985, under License Number DS024792L. On or about July 30, 2008, the Pennsylvania State Board of Dentistry (the "PA Board") indefinitely suspended the Applicant's Pennsylvania dental license based on her felony conviction for violating the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §§ 780-101 - 780-144.

5. On or about April 20, 2016, the Board received the Application from the Applicant.

6. The Board initiated an investigation of the Applicant based on her disclosure in the Application of her criminal and disciplinary history.

II. BOARD INVESTIGATION

A. Application for Dental Licensure

7. In her Application under question H of "SECTION I - GENERAL INFORMATION," the Board directed the Applicant to "List other states or jurisdictions in which you hold or have held a dental license, include license number(s)."

8. In response to question H, the Applicant listed Pennsylvania, License Number DS024792L, as the only state or jurisdiction where she held or had held a dental license.

9. The Applicant willfully failed to disclose in her Application that she held and had held dental licenses in New York and Ohio.

10. In her Application under "SECTION IV - CHARACTER AND FITNESS," the Applicant checked "YES" to the following questions:

- a. Has any licensing or disciplinary board of any jurisdiction, including Maryland, or any federal entity denied your application for licensure, reinstatement, or renewal, or taken any action against your license, including but not limited to reprimand, suspension, revocation, a fine, or non-judicial punishment? If you are under a Board Order or were ever under a Board Order in a state other than Maryland you must enclose a certified legible copy of the entire Order with this application.
- b. Have any investigation or charges been brought against you or are any currently pending in any jurisdiction, including Maryland, by any licensing or disciplinary board or any federal or state entity?
- f. Have you pled guilty, nolo contendere, had a conviction or receipt of probation before judgment or other diversionary

disposition of any criminal act, excluding minor traffic violations?

11. In a written statement, dated November 23, 2015, attached to her Application, the Applicant stated that she pleaded guilty to felony fraud in Pennsylvania "as a result of using the prescription coverage of my employees and then fiance [sic] to procure Vicoprofen¹ instead of paying for it out of pocket." She stated that her felony conviction for fraud led to the PA Board suspending her Pennsylvania dental license in September 2008. The Applicant stated that she became addicted to narcotic pain medications after she was "prescribed a large dose of Vicoprofen" to treat her medical condition.

12. Also under "SECTION IV - CHARACTER AND FITNESS," the Applicant checked "NO" to the following questions:

- I. Have you illegally used drugs?
- m. Have you surrendered or allowed your license to lapse while under investigation by any licensing or disciplinary board of any jurisdiction, including Maryland, or any federal or state entity?

13. The Applicant stated to the Board that she misunderstood Question (l) asking if she "illegally" used drugs. The Applicant mistakenly believed that the Board was asking about the use of illegal drugs rather than the unauthorized use of prescription drugs. The Applicant admits that she did not correctly answer Question (l) when she failed to disclose that she "illegally" used the drug, Vicoprofen, which resulted

¹ Vicoprofen is a trade name for hydrocodone and ibuprofen, an opioid pain medication. At the time of the offense, Vicoprofen was classified as a Schedule III controlled substance. Effective August 22, 2014, Vicoprofen was reclassified a Schedule II controlled substance.

in her felony convictions for Insurance Fraud and for violating the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act.

14. The Applicant was issued a license in New York in 1990 but never practiced in New York. She stated to the Board that she considered her license inactive and for this reason, she voluntarily surrendered her New York dental license on or about May 28, 2014, for her professional misconduct in Pennsylvania. The Applicant advised the Board that her failure to disclose her voluntary surrender of her New York license was inadvertent.

B. Criminal Convictions

15. The Board obtained the Applicant's criminal court record from the Court of Common Pleas of Mercer County, Pennsylvania, which showed that on or about December 19, 2006, the Pennsylvania Office of Attorney General (the "PA-OAG"), Insurance Fraud Section, filed a criminal complaint against her alleging three counts of Insurance Fraud and two counts of Violation of the Controlled Substance, Drug, Device and Cosmetic Act, all of which were classified as felonies.

16. In an Affidavit of Probable Cause, a special agent ("Agent A") of PA-OAG stated that he began investigating the Applicant after receiving a referral from the United States Drug Enforcement Administration regarding her prescribing practices. In or around April 2006, Agent A met with a local pharmacist, who provided Agent A with pharmacy records of patients who received large amounts of controlled substances from the Applicant over the years.

17. Agent A interviewed many of the above patients, all of whom were current or former employees of the Applicant's dental practice. The interviews revealed that

between January 20, 2000, and May 31, 2005, the Applicant perpetrated a fraudulent scheme in which she issued prescriptions for controlled substances to her employees but kept the drugs for her own use after her employees filled the prescriptions using their insurance.

18. On or about April 21, 2008, the Applicant appeared in the Court of Common Pleas of Mercer County, Pennsylvania, and pleaded guilty to one count of Insurance Fraud, in violation of § 4117(a)(3) of the Pennsylvania Criminal Code, and one count of Violation of the Controlled Substance, Drug, Device and Cosmetic Act, in violation of § 13(a)(12) of the Controlled Substance, Drug, Device and Cosmetic Act.

19. On or about June 6, 2008, the court sentenced the Applicant to imprisonment of not less than three months nor more than one year for the Insurance Fraud conviction, and not less than three months nor more than one year for violation of the Controlled Substance, Drug, Device and Cosmetic Act, to run consecutively. The court further ordered the Applicant to pay restitution in the amount of \$3,387.19. On or about July 3, 2008, on a motion to modify sentence, the court struck the incarceration and placed the Applicant on two years of supervised probation.

C. PA Board Final Order

1. As a result of the Applicant's criminal convictions, the PA Board issued a *Final Order of Automatic Suspension*, effective July 30, 2008, in which it indefinitely suspended the Applicant's license to practice dentistry in Pennsylvania.²

² The PA Board issued a Notice and Order of Automatic Suspension to the Applicant on June 26, 2008, which the Applicant did not contest.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that it has the authority and justification to deny the Applicant's Application for Dental Licensure by Examination, received by the Board on April 20, 2016, under the following provisions of the Act: Health Occ. I § 4-302(b) - The applicant shall be of good moral character; § 4-315(a)(1) - Fraudulently or deceptively attempts to obtain a license for the applicant; § 4-315(a)(4) - Is convicted of or pleads guilty to a felony or a crime involving moral turpitude; § 4-315(a)(7) - Has had a license to practice dentistry suspended in any other state; § 4-315(a)(16) - Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession; § 4-315(a)(21) - Is disciplined by a licensing authority of any other state for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and § 4-315(a)(22) - Willfully makes or files a false report or record in the practice of dentistry.

However, in light of the Applicant's consent to comply with the terms and conditions set forth below, the Board agrees to grant the Applicant a license, subject to those terms and conditions.

ORDER

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

ORDERED the Applicant's *Application for Dental Licensure by Examination*, which the Board received on April 20, 2016, shall be **GRANTED** upon the Board's receipt of the Applicant's submission of written verification that she has passed the American Board of Dental Examiners (ADEX) Dental Examination administered by the

Commission on Dental Competency Assessment (CDCA), including both the Diagnostic Skills Examination and Clinic-Based Examinations; and it is further

ORDERED that upon the Board's issuance of a license to the Applicant to practice dentistry in the State of Maryland, she is immediately placed on **PROBATION** for a minimum of **THREE (3) YEARS**. During the probationary period, the Applicant shall comply with all of the following probationary terms and conditions:

- (a) Within **six (6) months**, the Applicant shall successfully complete, at her own expense, a Board-approved course in professional ethics. The Applicant shall submit to the Board written documentation regarding the particular course she proposes to fulfill this condition. The Board reserves the right to require the Applicant to provide further information regarding the course she proposes, and further reserves the right to reject her proposed course and require submission of an alternative proposal. The Board will approve a course only if it deems the curriculum and the duration of the course adequate to fulfill the need. The Applicant understands and agrees that she may not use this coursework to fulfill any requirements mandated for licensure renewal. The Applicant shall be solely responsible for furnishing the Board with adequate written verification that she has successfully completed the course according to the terms set forth herein.
- (b) The Applicant shall enroll in or, if she is already enrolled, continue to participate in the Dental Well-Being Program administered by the Dentist Well-Being Committee ("WBC") of the Maryland State Dental Association. The Applicant shall enter into a new five-year term Board-Monitored Agreement (the "Monitoring Agreement") with WBC. For the entire duration of the probationary period, the Applicant shall fully, timely and satisfactorily cooperate and comply with all WBC recommendations and requirements, including but not limited to, the terms and conditions of any Monitoring Agreement, complete abstinence, random monitored toxicology screens as required by WBC, self-help fellowship meetings and in-patient substance abuse treatment, if recommended by WBC.
- (c) The Applicant shall sign any written release/consent forms, and update them, as required by the Board or WBC. Specifically, the Applicant shall sign any written release/consent form as required by the Board to authorize WBC to make verbal and written disclosures to the Board, including disclosure of any and WBC records and files

and confidential drug and alcohol abuse information about the Applicant. The Applicant shall also sign any written release/consent forms required by WBC to authorize WBC to exchange with (*i.e.* disclose to and receive from) outside entities' (including all of the Applicant's current therapists and treatment providers) verbal and written information about her, including confidential drug and alcohol abuse information.

- (d) For the entire duration of the probationary period, the Applicant shall abstain from using alcohol, unprescribed Controlled Dangerous Substances ("CDS"), narcotics, illegal drugs and other mood-altering substances. The Applicant may take CDS, but only if prescribed by a licensed health care provider for a legitimate medical purpose and only as prescribed. Prior to accepting any CDS prescription from a licensed health care provider, the Applicant shall provide the prescribing licensed health care provider with a copy of this Consent Order. The Applicant shall immediately notify WBC and the Board of any CDS prescription she obtains and the justification for the prescription.
- (e) The Applicant's dental practice may be subject to review by the Board, *i.e.* random review of patient records.
- (f) The Applicant shall comply with the Maryland Dentistry Act and all laws, statutes and regulations pertaining thereto.

AND IT IS FURTHER ORDERED that, after the conclusion of the entire **THREE (3) YEAR PROBATIONARY PERIOD**, the Applicant 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 Applicant may be required to appear before the Board or a committee of the Board to discuss her petition for termination. The Board may grant the petition to terminate the probation if the Applicant has complied with all of the probationary terms and conditions and there are no pending complaints similar to violations cited in this Consent Order; and it is further

ORDERED that if the Board determines, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to a material fact or a show cause

hearing if there is no genuine dispute as to a material fact, that the Applicant has failed to comply with any terms or condition of probation or this Consent Order, the Board may reprimand the Applicant, extend the Applicant's probation with appropriate terms and conditions, impose a civil monetary fine upon the Applicant, or suspend or revoke the Applicant's license to practice dentistry in Maryland; and it is further

ORDERED that while licensed by the Board, the Applicant agrees not to apply for a Drug Enforcement Administration (DEA) certificate and a Maryland CDS certificate; and it is further

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

ORDERED that, unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board President; and is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT**.

9/6/2017
Date



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

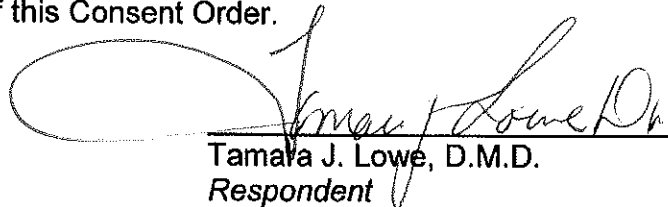
CONSENT

I, Tamara J. Lowe, D.M.D., acknowledge that I am represented by counsel and have consulted 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.

8/28/2017
Date

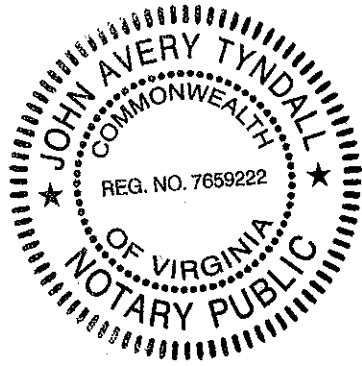

Tamara J. Lowe, D.M.D.
Respondent

NOTARY

VIRGINIA
STATE OF ~~MARYLAND~~
CITY/COUNTY OF HANOVER

I HEREBY CERTIFY that on this 28TH day of AUGUST,
2017, before me, a Notary Public of the foregoing State and City/County personally appear Tamara J. Lowe, D.M.D, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.



John Avery Tyndall #7659222
Notary Public

My commission expires: Exp: 1/31/2019