

IN THE MATTER OF * BEFORE THE MARYLAND
 STUART GRAVES, D.D.S. * STATE BOARD OF DENTAL
 Respondent * EXAMINERS
 License Number: 14447 * Case Number: 2020-172

* * * * *

CONSENT ORDER

In or around June 2020, the Maryland State Board of Dental Examiners (the “Board”) opened an investigation of STUART GRAVES, D.D.S. (the “Respondent”), License Number 14447. 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 May 4, 2009, under License Number 14447. The Respondent's license is current through June 30, 2021.

2. At all times relevant, the Respondent was the owner of a private dentistry practice located at 11200 Rockville Pike, Suite 115, Rockville, Maryland (the "Office").

II. COMPLAINT

3. On or about June 29, 2020, the Board received a complaint from a patient 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

III. INFECTION CONTROL INSPECTION

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.

4. Due to allegations of potential infection control issues at the Office, on or about Thursday, September 3, 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 (deficiencies underlined):

Section I: Policies and Practices

I.1 Administrative Measures - Practice specific Infection Control Manual was presented for inspection. Policies and Procedures were specific to the practice. Documentation of Administrative requirements are kept as electronic records. Copies presented and are included with report.

I.2 Infection Prevention Education and Training - Policies and Procedures were specific to the practice. Documentation of Specific task and job requirements are kept as electronic records. Copies presented and are included with report.

I.3 Dental Health Care Personnel Safety - Policies and Procedures were specific to the practice. Documentation of the Exposure Control Plan was included in the manual. Copies of Hepatitis B vaccination proof and or declination form are included with report.

I.4 Program Evaluation - Policies and Procedures were specific to the practice.

I.5 Hand Hygiene - Policies and Procedures were specific to the practice. Documentation of Hand Hygiene Protocol are included in the manual. Hand Hygiene Protocol was not posted in any of the treatment operatories or instrument processing areas.

I.6 Personal Protective Equipment (PPE) - Policies and Procedures were specific to the practice. Practice provides scrubs to staff that are laundered by a service. Disposable jackets, masks, gloves safety glasses or shields are provided. Electronic copy of required training is included with report.

I.7 Respiratory Hygiene/Cough Etiquette - Policies and Procedures were specific to the practice. Posting of updated COVID Protocol was posted at entrance to practice and at reception desk.

I.8 Sharps Safety - Policies and Procedures were specific to the practice. Documentation of Sharp Safety and the need for a written exposure control protocol was contained in manual.

I.9 Safe Injection Practices - Policies and Procedures were specific to the practice. Documentation of requirements for safe injection practices are written in the manual.

I.10 Sterilization and Disinfection of Patient Care Items and Devices - Policies and Procedures were specific to the practice. Documentation of training requirements are kept as electronic records. Copies presented and are included with report.

I.11 Environmental Infection Prevention and Control - Documentation of training requirements are kept as electronic records. Copies presented and are included with report.

I.12 Dental Unit Water Quality - Policies and Procedures were specific to the practice. Documentation of requirement for Waterline Testing are included in the manual. Copies of Waterline testing were presented and are included with report.

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

II.1 Hand Hygiene is Performed Correctly - Hand Hygiene Protocol was not posted in any of the treatment operatories or instrument processing area. Supplies are available at sink, including soap, disposable paper towels, and hand sanitizer. Hand Hygiene performance was observed to be inconsistent. Observation in the restorative treatment area, DHCP was observed not performing correct Hand Hygiene during post treatment disinfection of restorative operator and during instrument processing. Multiple cycles of removing gloves and not performing hand hygiene when donning a new pair of exam

gloves was observed. Treatment gloves were also worn to remove contaminated instruments and wearing the same gloves to disinfect the treatment operatory.

II.2 Personal Protective Equipment (PPE) is Used Correctly - DHCP wears scrubs that are provided by practice and are laundered by a service. DHCP change at end of shift and place in receptacle for pickup by laundry service. Disposable jackets are provided and worn correctly. DHCP wears safety glasses or face shield. N95 masks are worn during aerosol procedures. Surgical gloves are available for procedures. It was observed that Utility gloves were not worn during instrument processing.

II.3 Respiratory Hygiene/Cough Etiquette - CDC "Cover Your Cough" was not posted at the practice entrance nor at the Reception Desk. A revised COVID caution was posted informing patients that they should report symptoms, wear a mask and that their temperature would be taken prior to being seen. A practice-specific "We Take Precautions for You" was also posted at the reception desk. Plexiglass separators were not installed at the reception desk. Hand sanitizer was available for use.

II.4 Sharps Safety - Observation of DHCP removing sharps in treatment operatory at point of use was observed. Sharps were disposed of in Sharps container.

II.5 Safe Injection Practices - No observation of administration of anesthetic being administered during this inspection. No observation of any "recapping" device was noted.

II.6 Sterilization and Disinfection of Patient Care Items and Devices - Design of Instrument Processing area allows for a "Single Loop" flow. Observation of DHCP and layout of equipment requires a "back and forth" pattern after instruments are placed in ultrasonic cleaner. DHCP was observed not wearing utility gloves during instrument processing. Processed packages did have the date of sterilization placed on pouch. Placement of date on package is questionable as to compromising the integrity of the package. Hinged surgical instruments were packaged with hinge closed in package. Evidence of "bleeding" was visible on a pouch containing a surgical forceps. Spore Test/Biologic Testing is performed and test results were presented and are included with this report. An unidentifiable log of testing was kept in the instrument processing room. Log did not indicate or identify if tests were completed on one or both processors. No log available of cycle load or maintenance of processors, ultrasonic equipment or instrument washer.

II.7 Environmental Infection Prevention and Control - Procedure for post-treatment breakdown of Restorative Treatment Operatory was observed to be inconsistent in regard to protocol. Hand Hygiene Protocol was not followed when removing contaminated instruments and barriers that were placed on the dental chair. Gloves were not removed and Hand Hygiene performed and donning new gloves before disinfecting the Treatment Operatory. Same gloves worn to remove items and then disinfect treatment operatory.

Canisters of Disinfectant Wipes were left open and were not “agitated” prior to dispensing a wipe to disinfect. Barriers were placed to cover the head rest and back of the dental treatment chair. Barriers were not observed to be placed on the A/W syringe in the restorative treatment operatories. Regulated Medical Waste was contracted to be pick up by Stericycle; manifest of pick-up content was kept electronically.

II.8 Dental Unit Water Quality - Water testing of the operatories results were produced. ProEdge Water test was performed in June of 2020. Flushing in the dental water lines was not observed in the restorative Treatment operatories. Use of water line handpieces was not observed.

Additional observations pursuant to CDC Infection Prevention and Control Guidance for Dental Settings During the Coronavirus Disease 2019 (COVID-19) Pandemic

Department Of Health MSBDE Governors Certificate Filing –filed by Dentist A.

Patient Pre-Screening Protocol – Patient screening log utilized, provided.

Staff Daily Pre-Screening Protocol – Employee screening, Front desk verbally asks COVID screening questions. Employee screening log provided.

Inventory of required PPE for Elective procedures – Clinical area adequately stocked. Additional PPE stocked.

Use of N95 or equivalent for use with aerosol procedures - N95 masks are used for aerosol procedures. Fit testing not performed. “Self” fit test performed by staff. Seal check performed by staff when “donning” N95.

Use of eye protection in addition to facemask/respirator – inconsistent use of face shield and or safety glasses with side shield used by clinical staff.

PPE Protocol in regard to use, donning and doffing – Training for staff included in Infection Control Manual.

Barriers used at Reception area and in between treatment rooms if no walls separate - Reception area does not have barriers in place as “separators.” No Posting of “6ft Distancing.” Treatment Operatories are separated; surgical rooms have closed access.

Treatment room operatories have minimum items exposed to aerosol and none if porous surface - Treatment operatories have additional seating utilizing cloth (i.e. porous) upholstered chairs. Treatment operatories contain tissue boxes, papers, boxes of supplies, exam glove boxes.

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 Respondent's dental practice, located at 11200 Rockville Pike, Ste. 115, Rockville, Maryland 20852 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 his 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

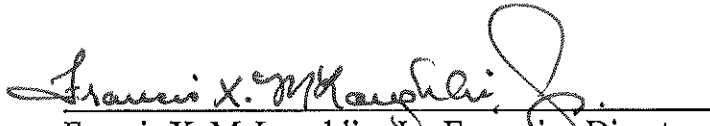
ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be an evidentiary hearing before the Board. 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).

December 4, 2020
Date


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

CONSENT

By this Consent, I, Stuart Graves, 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.

12/1/20
Date

Stuart Graves
Stuart Graves, D.D.S.
Respondent

NOTARY

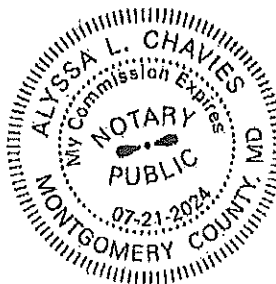
STATE OF Maryland

CITY/COUNTY OF: Montgomery County

I HEREBY CERTIFY that on this 1st day of December 2020, before me, a Notary Public of the State and County aforesaid, personally appeared² Stuart Graves, 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.

Alyssa L. Chavies
Notary Public



My commission expires: July 21, 2024

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