

IN THE MATTER OF	*	BEFORE THE MARYLAND
CHARLES MICHELSON, D.D.S.	*	STATE BOARD OF
Respondent	*	DENTAL EXAMINERS
License Number: 10197	*	Case Number: 2019-018

* * * * *

CONSENT ORDER

On or about August 15, 2018, the Maryland State Board of Dental Examiners (the “Board”) charged **CHARLES MICHELSON, D.D.S.** (the “Respondent”), License Number 10197, under the Maryland Dentistry Act, codified at Md. Code Ann., Health Occ. (“Health Occ.”) §§ 4-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.) (the “Act”) and the regulations adopted by the Board at Md. Code Regs. (“COMAR”) 10.44.01 *et seq.* On the same day, the Board summarily suspended the Respondent’s license.

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

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

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for Disease Control's ["CDC"] guidelines on universal precautions...;

On September 19, 2018, a Case Resolution Conference was held before a committee of the Board. As a resolution of this matter, the Respondent agreed to enter this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent has been licensed to practice dentistry in Maryland. The Respondent was initially licensed on or about January 19, 1989, under license number 10197. The Respondent's license is current through June 30, 2019.
2. At all times relevant hereto, the Respondent, practiced dentistry at a practice called Loch Ridge Dental Care, located at 1708 Joan Avenue, Parkville, Maryland 21234 (the "Practice"). The Practice is owned by a Professional Corporation called Dental Professionals of Maryland, Gerald Awadzi, P.C.¹
3. On or about June 21, 2018, the Board received a complaint (the "Complaint") forwarded by the State Department of Labor, Licensing, and Regulation (DLLR). DLLR stated it had received the Complaint on June 14, 2018, but determined the Board had jurisdiction to investigate.

¹ Dr. Michelson is an employee of Dental Professionals of Maryland, Gerald Awadzi, P.C. Dr. Michelson is not an owner, associate partner, or independent contractor of Dental Professionals of Maryland, Gerald Awadzi, P.C. or of any practices owned by Dental Professionals of Maryland, Gerald Awadzi, P.C.

4. Based on the Complaint, the Board initiated an investigation regarding the Respondent's compliance with CDC guidelines.¹

5. In furtherance of the investigation, the Board assigned an expert in infection control protocols (the "CDC Expert") to conduct an inspection of the Practice.

Investigation

6. On or about July 9, 2018, the CDC Expert, accompanied by a Board staff member, conducted an inspection of the Practice where the Respondent was employed to determine if the Practice was complying with the CDC guidelines.

7. Following the inspection, the CDC Expert completed a report (the "Expert Report") regarding the Practice's compliance with CDC Guidelines. Based on the inspection, the CDC Expert opined that the Practice posed a risk to patient and staff safety and noted numerous violations of the CDC Guidelines.

8. Specific deficiencies noted include the following:

- a. Instrument processing and sterilization area does not follow "single loop" concept, creating the risk of cross contamination;
- b. Weekly spore testing log indicated that some dates had been missed, and in at least one case, an expired test strip was used. Nevertheless, there was no documentation of any remedial action taken to correct or retest.

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.

- c. Unverifiable sterilization of dental instruments, with an inconsistent or compromised seal on putatively sterilized pouches;
- d. Disinfectant containers were not labeled to indicate their contents or their activation/expiration dates;
- e. No documentation of dental unit waterline testing. No documentation of protocols used for equipment maintenance for autoclave, emergency eyewash station, dental equipment, or dental unit waterlines;
- f. No emergency eyewash station;
- g. Inconsistent barrier protection as evident in dental treatment and devices;
- h. Hepatitis B Vaccination documentation proof not available. Baseline tuberculosis testing not available;
- i. No posting of "Hand Hygiene" protocol, and hand hygiene was inconsistent; and
- j. No posting of "Cover your Cough" or "We take precautions for You" posters.

9. As a result of the Board Inspector's findings, the Respondent retained an infection control consultant to assist him with CDC policies and procedures. The Respondent's consultant conducted a thorough consultation and training session on August 27, 2018 to assist the Practice and the Respondent in correcting the deficiencies the Board Inspector found. The Respondent's consultant has provided the Board with a favorable report of the Respondent's compliance with CDC Guidelines.

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, including failing to comply with the CDC Guidelines, as described above, constitutes: behaving unprofessionally pursuant Health Occ. § 4-315(a)(16); and failing to comply with the CDC Guidelines, in violation of Health Occ. § 4-315(a)(28).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the Board considering this case:

ORDERED that the Board's *Order for Summary Suspension* of the Respondent's license to practice dentistry in the State of Maryland, issued on August 15, 2018, is hereby **TERMINATED**; and it is further

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

ORDERED that the Respondent is placed on **PROBATION** for a period of **TWO (2) YEARS**, subject to the following terms and conditions:

1. A Board-assigned inspector shall conduct an unannounced inspection within ten (10) business days of the date of this Consent Order in order to evaluate the Respondent and his staff regarding compliance with the Act and infection control guidelines. The Board-assigned inspector shall be provided with copies of the Board's file, the Consent Order, and any other documentation deemed relevant by the Board.
2. The Respondent shall provide to the Board-assigned inspector a schedule of his office's regular weekly hours of practice and promptly apprise the inspector 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 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.
6. On or before the fifth day of each month, the Respondent shall provide to the Board a copy of his current patient appointment book or his work schedule for that month and shall, except in extenuating circumstances, apprise the Board if there are unexpected changes to his schedule.
7. Within ninety (90) days, the Respondent shall pay a fine in the amount of **TWO THOUSAND FIVE-HUNDRED DOLLARS** (\$2,500) by bank certified check or money order made payable to the Maryland Board of Dental Examiners.
8. Within three (3) months of the date of this Consent Order, the Respondent shall successfully complete a Board-approved in-person four (4) credit hour course(s) in infection control protocols, which may not be applied toward his license renewal.
9. Within three (3) months of the date of this Consent Order, the Respondent shall successfully complete a Board-approved in-person two (2) credit hour course(s) in professional ethics, 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, there shall be an automatic 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, may grant or deny such petition at its sole discretion.

AND IT IS FURTHER ORDERED that after the conclusion of the **TWO (2)** **YEAR** 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 Board committee, shall grant the termination if the Respondent has fully and 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 if the Board has reason to believe that the Respondent has failed 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 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

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

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

10/2/19
Date


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

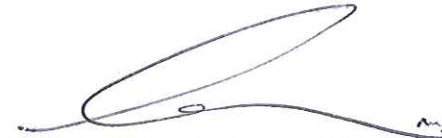
CONSENT

I, Charles Michelson, D.D.S., 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.

9/20/18
Date

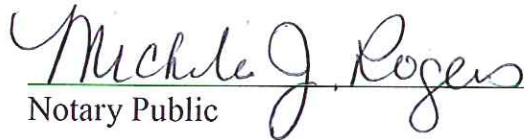

Charles Michelson, D.D.S., *the Respondent*

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 20th day of September, 2018, before me, a Notary Public of the foregoing State and City/County personally appear Charles Michelson, D.D.S., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.


Notary Public

My commission expires:



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