

IN THE MATTER OF
LINH HONG DUONG, D.M.D.

Respondent

License Number: 10972

* BEFORE THE MARYLAND
* STATE BOARD OF
* DENTAL EXAMINERS
* Case Numbers: 2015-139
2016-202

* * * * *

FINAL ORDER

On the 17th day of January, 2018, the Maryland State Board of Dental Examiners (the "Board") notified **LINH H. DUONG, D.M.D.** (the "Respondent"), License Number 10972, of its intent to revoke his license to practice dentistry in the State of Maryland based on his violation of the Consent Order, dated April 5, 2017, (the "2017 Consent Order"), the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occ. I ("Health Occ. I") §§ 4-101 *et seq.* (2014 Repl. Vol.) and Md. Code Regs. ("COMAR") 10.44.07.29.

Specifically, the Board based its action on the Respondent's violation of the following conditions of the 2017 Consent Order:

1. During the suspension of his license, the Respondent shall successfully complete the following Board-approved courses: a four (4) credit hour equivalent in-person course on professional ethics. The Respondent shall be responsible for submitting written documentation to the Board of his successful completion of these courses. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board with adequate written verification that he has completed the courses according to the terms set forth herein.
2. The Respondent shall submit documentation to the Board verifying his ownership interest in any dental practice(s) located in Maryland. The documentation must show that he either solely owns the dental practice(s), or that he co-owns the dental practice(s) with other

licensed dentists, irrespective of the types of business entity involved.

Additionally, the Board charged the Respondent with violating the following provisions of the Act under Health Occ. I § 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; [and]
 - (33) Fails to comply with any Board order[.]

In its Notice, the Board informed the Respondent that he had the opportunity to request a hearing before the Board by submitting a request in writing to the Board's Executive Director within thirty days of service of the Notice. More than thirty days have elapsed since the service of the Notice on the Respondent, and the Respondent has not requested a hearing.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. At all times relevant, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was originally licensed to practice dentistry in Maryland on May 21, 1992, under License Number 10972. The Respondent's license is currently suspended pursuant to the 2017 Consent Order.

2. The Respondent's address of record with the Board is 3804 Park Lake Drive, Rockville, Maryland 20853.

II. PRIOR DISCIPLINARY HISTORY

3. On June 20, 2001, the Respondent entered into a Consent Order with the Board in which the Board concluded as a matter of law that the Respondent was disciplined by a licensing authority of another state for an act that would be grounds for disciplinary action under then Md. Code Ann., Health Occ. ("Health Occ.") § 4-315(a)(19) (2000 Repl. Vol.). The actionable grounds under the Board's disciplinary statutes were that the Respondent: obtained a fee by fraud or attempted to obtain a fee by fraud, in violation of Health Occ. § 4-315(a)(3); was convicted of or pleaded guilty or *nolo contendere* to a felony or to a crime involving moral turpitude, in violation of Health Occ. § 4-315(a)(4); had had a license to practice dentistry revoked or suspended in any other state, in violation of Health Occ. § 4-315(a)(7); behaved dishonorably or unprofessionally, or violated a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); violated any rule or regulation adopted by the Board, in violation of Health Occ. § 4-315(a)(18); and willfully made or filed a false report or record in the practice of dentistry, in violation of Health Occ. § 4-315(a)(20).

4. The Respondent's 2001 Consent Order was based on a disciplinary action the Pennsylvania Board of Dentistry (the "PA Board") took against him in which the PA Board found that on March 16, 1999, he pleaded guilty in a Pennsylvania state court to two counts of state Medicaid Fraud, 62 P.S. § 1407(a)(1) [billing for services not provided, misrepresenting the complexity of services provided, and billing for services while excluded from Medicaid for default on student loan], and one count of Conspiracy to Commit Medicaid Fraud, 62 P.S. § 1407(a)(12). The Respondent was sentenced to:

criminal probation for one (1) year; a fine of \$1,500.00, and restitution in amount of \$6,024.00. The PA Board found that the Respondent violated the Dental Law, at 63 P.S. § 123.1(a)(4), in that he was convicted of three felonies that constituted crimes involving moral turpitude.

5. Pursuant to the 2001 Consent Order, the Board suspended the Respondent's license to practice dentistry in Maryland for a period of three (3) years with all but six (6) months stayed, followed by thirty (30) months of probation with the probationary conditions that the Respondent make an anonymous donation of \$3,000.00 to the Maryland Foundation for Dentistry for the Handicapped; and successfully complete a Board-approved course in ethics.

6. The Respondent successfully completed the terms and conditions under the 2001 Consent Order, after which the Board terminated his probation on August 4, 2004.

7. On April 5, 2017, the Respondent entered into the 2017 Consent Order with the Board in which the Board concluded as a matter of law that the Respondent: permitted an unauthorized individual to practice dentistry under the supervision of the licensee, in violation of Health Occ. I § 4-315(a)(11); behaved dishonorably or unprofessionally, or violated a professional code of ethics pertaining to the dentistry profession, in violation of § 4-315(a)(16); was disciplined by a licensing or disciplinary authority of any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes, in violation of § 4-315(a)(21); and failed to comply with the Centers for Disease Control's guidelines ("CDC Guidelines") on universal precautions, in violation of § 4-315(a)(30).

8. Under the Board's 2017 Consent Order, the Board found as a matter of fact that the Respondent unlawfully co-owned a dental practice with a dental hygienist; permanently surrendered his license to practice dentistry in the Commonwealth of Pennsylvania pursuant to a final order, dated July 15, 2016; and failed to comply with CDC Guidelines in his practice of dentistry at a dental practice in Maryland.

9. Pursuant to the 2017 Consent Order, the Board suspended the Respondent's license to practice dentistry in Maryland for a minimum period of one (1) Year effective June 13, 2016, subject to conditions that he completes a four credit-hour in-person course(s) on infection control protocols and submits documentation to the Board with respect to his ownership of dental practice(s) in Maryland. Upon reinstatement, the Respondent shall be placed on probation for minimum period of three (3) years subject to additional terms and conditions.

III. CURRENT VIOLATIONS

10. On or about July 3, 2017, more than one year after the effective date of the Respondent's suspension, Board staff sent a letter to the Respondent, in the care of the Respondent's attorney, advising him of his failure to comply with Conditions 1 (CDC Guidelines coursework) and 2 (documentation regarding ownership interest of dental practice(s)) of his suspension under the 2017 Consent Order.

11. By letter, received by the Board on July 11, 2017, the Respondent's attorney advised that she no longer represented the Respondent. The attorney, however, stated that the Respondent advised her that he intended to surrender his Maryland dental license.

12. By certified letter, dated August 16, 2017, addressed to the Respondent's address of record with the Board, Board staff advised the Respondent that the Board was aware of his intention to surrender of his Maryland dental license. The letter advised the Respondent to sign an enclosed letter of surrender before a notary public and return the document to the Board by September 1, 2017.

13. On or about August 23, 2017, the United States Postal Services returned the Board's August 16, 2017, letter as undeliverable with the forwarding address having expired.

14. As of the date of this Notice, the Respondent has yet to provide the Board documentary verification that he has completed Conditions 1 and 2 of his suspension under the 2017 Consent Order.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's failure to successfully complete a Board-approved four credit-hour in-person course(s) on infection control protocols, and his failure to submit documentation verifying his ownership interest in any dental practice(s) located in Maryland, constitute: violating Conditions 1 and 2 of his suspension under the 2017 Consent Order; behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation Health Occ. I § 4-315(a)(16); and failing to comply with any Board order, in violation of § 4-315(a)(33).

ORDER

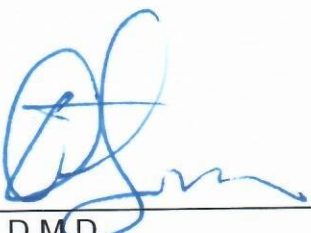
Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the affirmative vote of a majority of the Board considering this case:

ORDERED that the Respondent Linh H. Duong's license to practice dentistry in the State of Maryland under License Number 10972 be and hereby is **REVOKED**; and it is further

ORDERED that the Respondent is prohibited from practicing dentistry in the State of Maryland; and it is further

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

3/8/18
Date



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

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. I § 4-319(b) (2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of service of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't II §§ 10-201 *et seq.* (2014 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.