

IN THE MATTER OF	*	BEFORE THE MARYLAND
RICHARD ENGLANDER, D.D.S.	*	STATE BOARD OF
Respondent	*	DENTAL EXAMINERS
License Number: 7482	*	Case Number: 2019-149

\* \* \* \* \*

CONSENT ORDER

On or about August 1, 2019, the Maryland State Board of Dental Examiners (the "Board") charged **RICHARD ENGLANDER, D.D.S.** (the "Respondent"), License Number 7482, with violating the Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.), specifically pursuant to the following provisions. On the same day, the Board summarily suspended the Respondent's license.

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;
  - (30) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's ["CDC"] guidelines on universal precautions[.]

On August 21, 2019, 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

The Board finds the following facts:

#### Background

1. The Respondent was initially licensed to practice dentistry in Maryland on or about May 21, 1981, under license number 7482. The Respondent's license is current through June 30, 2020.

2. At all times relevant, the Respondent practiced dentistry at a private dental practice which he owned. The practice had two locations, one in Timonium, Maryland and the other in in Baltimore, Maryland.

#### Complaint

3. On or about June 17, 2019, the Board received a complaint (the "Complaint") from an individual (the "Complainant") who identified herself as a former patient of the Respondent.

4. In the Complaint, the Complainant indicated that the Respondent's office located in Timonium, Maryland (the "Office") was "extremely [*sic*] unsanitary."

5. Based on the Complaint, the Board initiated an investigation regarding the Office's compliance with CDC guidelines.<sup>1</sup>

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<sup>1</sup> 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

6. In furtherance of the investigation, the Board assigned an inspector in infection control protocols (the "Board Inspector") to conduct an inspection of the Office.

#### Office Inspection

7. On or about July 2, 2019, the Board Inspector, accompanied by a Board investigator, conducted an inspection to determine whether the Office was complying with the CDC guidelines. The Respondent, the office manager who is a DRT and is also the Respondent's spouse ("Office Manager"), one dental radiation technologist ("DRT"), and the office receptionist, were present at the Office during the inspection.

8. During the inspection the Office Manager informed the Board's investigator and the Board Inspector: 1) that the Respondent owned the practice at the Timonium, Maryland location as well as at another location; 2) the Respondent was in the process of selling the Timonium, Maryland location to another dentist; and 3) that the final ownership transfer is scheduled to take place on July 31, 2019.

9. Moreover, during the inspection, when asked by the Board Inspector to provide infection control documents as well as other documents for the dental practice, the Office Manager was able to provide a few documents to the Board Inspector but advised that the rest of the documents were kept at the Respondent's house. During the inspection

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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.

the Board Inspector was able to make observations of the Respondent providing direct patient care.

### Inspection Report

10. Following the inspection, the Board Inspector completed a report (the "Inspection Report") regarding compliance with CDC Guidelines at the Office.

11. In the Inspection Report, the Board Inspector noted violations of the CDC Guidelines in a range of areas, specifically as outlined below.<sup>2</sup>

### Section I: Policies and Practices

- **I.1 Administrative Measures**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.2 Infection Prevention Education and Training**
  - No documentation of initial training at time of hire was available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.3 Dental Health Care Personnel Safety**
  - Post Exposure Adverse Event Form available (Office Manager reported no adverse events ever occurred)
  - Office Manager stated that the Respondent maintains documents at his private residence.
- **I.4 Program Evaluation**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.

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<sup>2</sup> The headings and numbering system used to outline the CDC-related issues herein are derived from the CDC's published "Infection Prevention Checklist," which the Board Inspector employed as a tool in completing her inspection.

- **I.5 Hand Hygiene**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.
  - No posting of Hand Hygiene protocol was placed within the practice.
- **I.6 Personal Protective Equipment (PPE)**
  - No documentation as to specific policy and procedure was available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.7 Respiratory Hygiene/Cough Etiquette**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.
  - No posting of "Cover Your Cough" or "We Take Precautions" was placed for patient review.
- **I.8 Sharps Safety**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.9 Safe Injection Practices**
  - No documentation available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.10 Sterilization and Disinfection of Patient Care Items and Devices**
  - No documentation as to specific policy and procedure was available for review. Office Manager stated that the Respondent maintains documents at his private residence.
- **I.11 Environmental Infection Prevention and Control**
  - No documentation as to specific policy and procedure was available for review. Office Manager stated that the Respondent maintains documents at his private residence.

- **I.12 Dental Unity Water Quality**

- No documentation was available for review. Office Manager stated that the Respondent maintains documents at his private residence.

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

- **II.1 Hand Hygiene is Performed Correctly**

- The Respondent failed to perform proper hand hygiene including handwashing or utilizing hand sanitizer each time he put on gloves or removed gloves. The DRT consistently failed to follow hand hygiene protocol by handwashing or utilizing hand sanitizer after removing gloves.

- **II.2 Personal Protective Equipment (PPE) is Used Correctly**

- Observations of DRT chairside assisting – no safety glasses, inconsistent wearing of mask. Jacket was not buttoned leaving shirt exposed. The DRT reported that they took their jacket outside of the work area in order to take the jacket home and launder it.
- Observations of Respondent and DRT - mask was worn for multiple patient treatment procedures and not changed.

- **II.3 Respiratory Hygiene/Cough Etiquette**

- No Posting of “Cover Your Cough” at reception desk or near waiting area. Tissues and hand sanitizer were placed on counter at reception desk.

- **II.6 Sterilization and Disinfection of Patient Care Items and Devices**

- Instruments that were packaged in nylon “Nyclav” heat sealed tubes did not have any labels or indication of the date or cycle of processing.
- Some of the handpieces were packaged in nylon tubes that were not sealed and/or marked. Some of the other handpieces were not processed in any packaging.
- Slow Speed motors were not processed and were not removed from the dental unit after use.
- Instrument procedure “sets” were packaged in metal cassettes with visible rust present.

- Instruments were stored in a manner that risked cross-contamination by being stored after processing in open plastic bins in the instrument processing room next to contaminated items.
  - Dental rotary burs were placed openly on metal mobile carts during treatment.
  - Stainless steel perforated impression trays are not packaged and sterilized for reuse – trays are hung on hooks in a cabinet.
  - Sterile Gloves are not available and not used for surgical procedures.
  - “Cold Sterile” Glutaraldehyde solution is used, but date of activation was not indicated on gallon container.
- **II.7 Environmental Infection Prevention and Control**
    - Barriers were not placed on the A/W syringe, HVE and SVE Handpieces, light handle on dental treatment light, x-ray tube head or x-ray exposure button.
    - Disinfection solution was placed in a spray bottles that were not labeled as to solution or date of fill.
    - The DRT did not change gloves or perform hand hygiene after removing instruments from treatment operatory; same gloves worn to clean and disinfect operatory and set up for next procedure.
  - **II.8 Dental Unit Water Quality**
    - Dental unit water lines are connected to municipal water system. Water lines were not flushed after each treatment. HVE/SVE lines were not flushed after each patient as well as flushed at end of day with enzymatic solution.

12. The Board Inspector concluded that based on the violations of the CDC Guidelines found during the CDC Inspection, in particular those listed below, there exists a risk to patient and staff safety.

- (a) Lack of hand hygiene protocol and training.
- (b) Lack of Personal Protective Equipment (PPE) protocol.

- (c) Outdated, and/or missing contents of office manual.
- (d) Unable to verify sterilization of dental instruments. Inconsistent seals on packages.
- (e) Lack of, or inconsistency of, barrier protection in dental treatment and dental devices.
- (f) Lack of initial or annual staff training log.
- (g) Inconsistency of correct hand hygiene observed, and lack of posted "Hand Hygiene" protocol.
- (h) Infection control posters, "Cover Your Cough" or "We Take Precautions," not posted in patient waiting area.
- (i) Proof of Hepatitis B vaccination documentation, and baseline TB testing not available.
- (j) Sterile gloves not used for surgical procedures and not available for use.
- (k) Use of Glutaraldehyde as "Cold Sterile" missing required activation date.
- (l) Disinfectant solution used in unmarked container.
- (m) A/W syringe tips and slow speed motors placed on unit and reused – disinfected after treatment only.
- (n) No water line flush performed after patient treatment.

13. As a licensed dentist who practices at and owns the office located in Timonium, Maryland, the Respondent failed to ensure compliance with the CDC Guidelines at all times.



### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's failure to comply with CDC Guidelines in his practice of dentistry at his Office constitutes: behaving dishonorably or unprofessionally, 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)(30).

### 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 1, 2019, 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 the Board with his place of dental-employment and if he is not employed as a dental care provider advise

Board of that fact. The notification of the Respondent's place of dental employment or of the fact that he is not employed as a dental care provider shall be made in writing to the Board's Dental Compliance Manager. Furthermore, the Respondent shall notify the Board of any changes to his employment status as a dental care provider if and when they occur.

3. If the Respondent is employed as a dental care provider, he shall notify his employer about this order and the terms and conditions of his probation. Furthermore, if the Respondent is employed as a dental care provider, he shall provide to the Board-assigned inspector, at the email address provided to him by the Board, a schedule of his office's regular weekly hours of practice and promptly apprise the inspector of any changes to that schedule.
4. During the probationary period, the Respondent shall be subject to quarterly unannounced onsite inspections by a Board-assigned inspector.
5. 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.
6. 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.
7. Any non-compliance with the Maryland Dentistry Act, all related statutes and regulations, and CDC and OSHA guidelines shall constitute a violation of probation and of this Consent Order.
8. On or before the fifth day of each month, the Respondent shall provide to the Board a copy of his current patient appointment book for that month.
9. 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.
10. Within six (6) 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.

11. If the Respondent has been fully compliant with all of the probationary terms and conditions, 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 shall 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

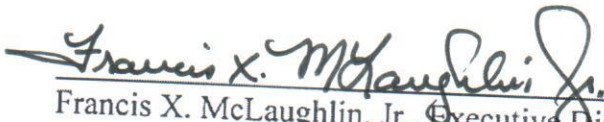
dentistry in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

**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).

August 22, 2019  
Date

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

**CONSENT**

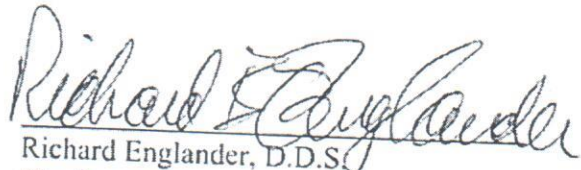
I, Richard Englander, D.D.S., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and

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.

Date 8/22/19

  
Richard Englander, D.D.S.  
The Respondent

NOTARY

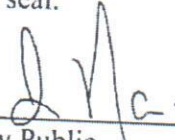
STATE OF MARYLAND  
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 22 day of August,  
2019, before me, a Notary Public of the foregoing State and City/County personally

appeared Richard Englander, 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.

IRVIN NAIMAN  
Notary Public-Maryland  
Baltimore County  
My Commission Expires  
September 12, 2022



Notary Public

My commission expires: 9/12/22