

IN THE MATTER OF
ORVILLE JOHN, D.D.S.
RESPONDENT

*
*
*
*

BEFORE THE MARYLAND
STATE BOARD OF
DENTAL EXAMINERS
Case Numbers: 2013-032 & 2015-025

License Number: 7066

* * * * *

CONSENT ORDER

On or about August 19, 2015, the Maryland State Board of Dental Examiners (the "Board") charged **ORVILLE JOHN, D.D.S.** (the "Respondent"), License Number 7066, under The Maryland Dentistry Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 4-101 et seq. (2014 Repl. Vol.). The pertinent provision of the Act, Health Occ. § 4-315(a), provides:

(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...reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the ... licensee:

(20) Violates any rule or regulation adopted by the Board.

Pursuant to Health Occ. § 4-315(a)(20) cited above, the pertinent regulations under Code Regs. Md. ("COMAR") include:

§ 10.44.30.02 General Provisions for Handwritten, Typed, and Electronic Health Records.

K. Dental records shall:

(1) Be accurate;

(2) Be detailed;

(5) Document all data in the dentist's possession pertaining to the patient's dental health status;

§ 10.44.30.03 Clinical Charts.

A. Each patient's clinical chart shall include at a minimum the following:

(3) Treatment plans that are signed and dated by both the treating dentist and the patient;

(12) Radiographs of diagnostic quality;

(13) Periodontal charting;

§ 10.44.30.05 Violations.

Failure to comply with this chapter constitutes unprofessional conduct and may constitute other violations of law.

On or about January 20, 2016, a Case Resolution Conference ("CRC") was held at the Board's offices. Following the CRC, the Respondent and the Board agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board finds the following facts.

1. At all times relevant to these Charges, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed to practice dentistry in Maryland on or about September 20, 1979, under license number 7066.

2. At all times relevant to these Charges, the Respondent operated a general dental practice in La Plata, Maryland.

Case No. 2013-032

3. On or about July 19, 2012, the Board received a Health Care Claim Form (the "First Complaint") from the Health Care Alternative Dispute Resolution Office regarding allegations of failure to diagnose advanced periodontal disease.

4. The First Complaint concerned a longstanding patient of the Respondent ("Patient A"). Patient A alleged that during the course of treatment over approximately

11 years, from 1999 until 2010, the Respondent failed to properly diagnose or treat Patient A for his advanced periodontal disease. As a result of the Respondent's improper treatment, Patient A alleged to have suffered irreversible bone loss and the loss of three of his teeth, #8, #9, and #10.¹ Based on the First Complaint, the Board began an investigation of the Respondent.

Investigation

5. According to a national Practitioner Databank (NPDB) report, Patient A "presented with advanced state of periodontal disease...which lead to inevitable multiple tooth loss." As the NPDB report explained, the Respondent "treated claimant [Patient A] over 11 yrs, with no referrals or regular testing for periodontal disease."

6. On or about November 13, 2012, the Board obtained Patient A's records and a written response to the allegations from the Respondent. Based on a review of these records and the First Complaint, the Board issued subpoenas to the Respondent for and obtained additional records, including those of other patients of the Respondent's.

7. On August 26, 2014, the Board assigned an Expert (the "Expert") to conduct a review of records obtained and offer opinions regarding the quality of the care provided by the Respondent and the adequacy of the Respondent's recordkeeping.

8. On October 3, 2014, the Expert submitted a written report to the Board. In his report, the Expert determined that the allegations in the First Complaint were substantiated, and indicated that the care the Respondent provided to Patient A was professionally incompetent.

¹ On or about September 25, 2013 a payment to Patient A in the amount of \$245,000 was made on behalf of the Respondent to settle the malpractice claims raised in the First Complaint.

9. Among other issues, the Expert found that the Respondent failed to treat Patient A's periodontal disease or refer him to a specialist.

10. The Expert also opined that the Respondent's recordkeeping was inadequate. Specifically, the Respondent's radiographs of Patient A were not of sufficient diagnostic quality or were missing, periodontal charting was inadequate or missing, and records were missing regarding bleeding on probing, osseous pathology, and rate of bone loss over time.

11. In addition, documentation was inadequate or missing regarding treatment planning, radiographic analysis, and Patient A's relevant history including tobacco use, home care status, oral cancer screening, occlusion, smile line, status of gums (receding, inflamed, swelling, etc.), and the status of Patient A's teeth (whether missing, broken overlapping, etc.).

Additional Patients

12. In addition to Patient A's chart, the Expert also reviewed the patient records of 21 (twenty-one) other patients of the Respondent. For at least twelve patients, the Expert found widespread and consistent inadequacies in the Respondent's patient records, including missing or inadequate radiographs, periodontal charting, problem lists, and treatment plans.²

Case No. 2015-025

13. On or about August 20, 2014, the Board received another Health Care Claim Form (the "Second Complaint") from the Health Care Alternative Dispute

² Patient names are confidential. However, a list of the twelve referenced patients is available to the Respondent from the administrative prosecutor upon request. These twelve patients are those to whom the Respondent was providing ongoing treatment after the Board's recordkeeping regulations took effect in June, 2012.

Resolution Office regarding allegations that the Respondent failed to properly treat a patient ("Patient B") following complications from an extracted tooth.

14. According to the Second Complaint, on or about January 10, 2013, the Respondent extracted tooth #2 from Patient B. Subsequently, an oral-antral fistula³ developed. The Respondent attempted unsuccessfully to perform repair procedures without first treating the infection. In addition, the Respondent failed to refer Patient B to a specialist in a timely fashion.

15. On or about October 24, 2014, the Board obtained Patient B's records from the Respondent and Patient B's subsequent provider, and a written response to the allegations from the Respondent.

16. On or about December 19, 2014, based on a review of the records, the Board referred the case to the Expert for review.

17. On or about January 12, 2015, the Expert submitted his report to the Board. In his report, the Expert did not find that the improper treatment provided by the Respondent to Patient B rose to the level of professional incompetence.

18. However, the Expert determined that over the course of the Respondent's treatment of patient B, the Respondent's recordkeeping of the Respondent was inadequate.

19. In particular, the Respondent's radiographs of Patient B were not of sufficient diagnostic quality or were missing, periodontal charting was inadequate or missing, and records were missing regarding bleeding on probing were missing.

20. In addition, documentation was inadequate regarding treatment planning and radiographic analysis, and Patient B's relevant history including tobacco use, home

³ An oral-antral fistula is a pathological opening between the oral cavity and the maxillary sinus, or antrum.

care status, oral cancer screening, occlusion, smile line, Patient A's oral health, status of gums (whether receding, inflamed, swelling, etc.), and the status of Patient B's teeth (whether missing, broken overlapping, etc.).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that:

The Respondent's failure to maintain adequate records for Patient B and for the additional 12 (twelve) patients referenced above in paragraph 13 constitutes: violating a rule or regulation adopted by the Board, in violation of Health Occ. §4-315(a)(20), in particular the COMAR provisions cited above.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the Board, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a minimum period of **12 (TWELVE) MONTHS**, commencing on the effective date of this Consent Order, and continuing until the Respondent successfully completes the following conditions:

1. Within 12 (twelve) months of the effective date of the consent order, the Respondent shall, at his own expense, successfully complete **TWO** separate Board-approved courses, equivalent to two continuing education (C.E.) credits **EACH**, focusing on dental recordkeeping, and shall submit written verification that satisfies the Board of the successful completion of the course within 30 days of completion of the course;

2. Within 12 (twelve) months of the effective date of the consent order, the Respondent shall, at his own expense, successfully complete a hands-on/didactic Board-approved course, equivalent to six C.E. credits, focusing on the treatment of periodontal disease, and shall submit written verification that satisfies the Board of the successful completion of the course within 30 days of completion of the course;
3. The Board may at its discretion conduct a record review of the Respondent's records. The record review is a review of a random selection of patients whom the Respondent treated *after* completing the two courses mentioned above; and
4. The Respondent shall comply with the Maryland Dentistry Act.

And it is further

ORDERED that no part of the training or education that the Respondent receives in connection 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, and any of its agents or employees, 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

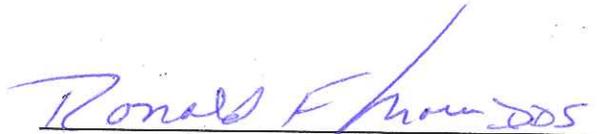
ORDERED that after a minimum of 12 (twelve) months from the effective date of this Consent Order, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board. The Board 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, outstanding complaints related to the charges, or violations of this Consent Order; and it is further

ORDERED that if the Respondent violates any of the terms or conditions of the Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose an additional probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said violation of probation being proved by a preponderance of the evidence; and it is further

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

03/03/2016
Date


Ronald F. Moser, D.D.S.
Ronald F. Moser, D.D.S., President
Maryland State Board of Dental Examiners

CONSENT

By this Consent, I, Orville John, D.D.S., acknowledge that I have consulted with legal counsel at all stages of this matter. I understand that this Consent Order will resolve the Charges against me and forfeit my right to a formal evidentiary hearing on the Charges. By this Consent, I agree to be bound by the terms of this Consent Order. I acknowledge under oath the accuracy of the Findings of Fact and the validity of the Conclusions of Law contained in this Consent Order. I acknowledge that for all purposes, the Findings of Fact and Conclusions of Law will be treated as if proven in 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 Findings of Fact and Conclusions of Law. 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 waive my right to any appeal in this matter. I affirm that I have asked and received satisfactory answers to all my questions regarding the language, meaning, and terms of this Consent Order. I sign this Consent Order voluntarily and without reservation, and I fully understand and comprehend the language, meaning, and terms of this Consent Order.

2/17/16
Date


Orville John, D.D.S.
Respondent

NOTARY

STATE OF MD

CITY/COUNTY OF: PG

I HEREBY CERTIFY that on this 17 day of Feb, 2016, before me, a Notary Public of the State and County aforesaid, personally appeared Orville John, 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.



Notary Public

GODWILL MUDO NGOH
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires December 28, 2018

My commission expires: _____