



STATE OF MARYLAND

DHMH

Maryland State Board of Dental Examiners

Maryland Department of Health and Mental Hygiene
Spring Grove Hospital Center • Benjamin Rush Building
55 Wade Avenue/Tulip Drive • Catonsville, Maryland 21228

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

April 11, 2014

VIA REGULAR MAIL:

Hamid S. Tofigh, D.D.S.
C/O Barry Helfand, Esq.
110 N. Washington St., Ste. 502
Rockville, MD 20850

**RE: ORDER FOR SUMMARY SUSPENSION AND
NOTICE OF OPPORTUNITY FOR HEARING**
License Number: 11554
Case Number: 2014-134

Dear Dr. Tofigh:

On March 19, 2014 the Maryland Board of Dental Examiners (the "Board") issued an Order summarily suspending your license to practice dentistry in this State. A copy of this Order is attached. On that same date, you were served with the Order. A hearing was held on April 2, 2014 to allow you to show cause why this Order should be vacated. You and the Administrative Prosecutor both appeared and presented argument before the Board at that time. No good cause having been shown at the hearing, the Board voted to continue your summary suspension.

The summary suspension remains in effect, and you continue to have no authority to practice as a dentist in this state. You are entitled to request a full evidentiary hearing on these matters. You must request this hearing in writing within ten days of the date of this letter if you wish to proceed in this manner. If you request such a hearing within ten days, a hearing will be scheduled accordingly. This letter constitutes an Order of the Board resulting from formal disciplinary action and is therefore a public document.

Very truly yours,

Ngoc Quang Chu, D.D.S.
President

MD State Board of Dental Examiners

Hamid Tofigh, DDS

Re: License Number: 11554; Case Number: 2014-134

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Attachment

cc: John S. Nugent, Principal Counsel
Robert J. Gilbert, Deputy Counsel
Grant D. Gerber, Board Counsel
Desiree DeVoe, Paralegal II
Rosalind Spellman, Administrative Officer

IN THE MATTER OF	*	BEFORE THE MARYLAND
HAMID S. TOFIGH, D.D.S.	*	STATE BOARD OF
RESPONDENT	*	DENTAL EXAMINERS
License Number: 11554	*	Case Number: 2014-134

* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE DENTISTRY**

The Maryland State Board of Dental Examiners (the "Board") hereby **SUMMARILY SUSPENDS** the license of HAMID S. TOFIGH, D.D.S. (the "Respondent"), License Number 11554, to practice dentistry in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol.), concluding that the public health, safety and welfare imperatively require emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

I. Licensing Information

1. At all times relevant to this Order for Summary Suspension (the "Order"), the Respondent was and is licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed to practice dentistry in Maryland on or about

¹ The statements respecting the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

September 22, 1994, under License Number 11554. The Respondent's license is active through June 30, 2014.

2. At all times relevant to this Order, the Respondent operated a general dental practice at 5806 Hubbard Drive, Rockville, Maryland 20852.

II. Initial Complaint

3. The Board initiated an investigation of the Respondent after reviewing a complaint, dated December 27, 2013, from a former patient (the "Patient"). The Respondent also provided dental services to the Patient's spouse and her two minor children.

4. In her complaint, the Patient alleged that the Respondent provided incompetent dental treatment to her and her family, billed for services he did not provide, engaged in sexual misconduct with her during an examination, refused to provide her with her dental records, and harassed her and her family with rude and threatening telephone calls on numerous occasions.

5. With respect to allegations of incompetent and/or fraudulent dental treatment, the Patient stated that the Respondent treated her and her family in an incompetent manner resulting in failing root canal treatments and recurring infections. The Patient also alleged that the Respondent billed her insurance company on multiple occasions for procedures such as crowns, crown buildups, prophylaxis, composite fillings and root canal treatments that were never provided or were provided in an incompetent manner. The Patient provided evidence from other treating dentists that the Respondent did not perform dental procedures he represented he performed and/or performed procedures in an improper manner.

6. With respect to allegations of sexual misconduct, the Patient stated that during an office visit in or around May 2013, the Respondent made inappropriate sexual contact with her during an examination.

7. With respect to allegations pertaining to harassment and unprofessional conduct, the Patient reported that subsequent treating dentists advised her that she and her family did not receive dental treatment the Respondent represented he provided. As a result, the Patient, on September 7, 2013, attempted to contact the Respondent by telephone to obtain her family's dental records from him. In response, the Respondent telephoned her seven times during a short period of time. In these telephone calls, the Respondent repeatedly threatened and cursed at the Patient and her husband, which placed the Patient, her husband and family members in extreme distress and fear. To date, the Respondent has not provided the Patient with her family's dental records.

III. Subsequent Incidents/Investigation

8. In or around December 2013, the Patient met with representatives of the Montgomery County State's Attorney's Office regarding the Respondent's alleged sexual advances towards her and telephone harassment.

9. On or about December 27, 2013, the Patient filed criminal charges against the Respondent in the District Court of Maryland for Montgomery County under Case Number OD 002299625. These charges included (a) assault, second degree; (b) sex offense, fourth degree (sexual contact); and (c) telephone misuse. The trial on these charges was initially set for February 7, 2014.

10. On or about January 7, 2014, the Board issued a *subpoena duces tecum* ("SDT") to the Respondent for all dental records pertaining to the Patient, her spouse and children, and directed the Respondent to provide a detailed narrative of his

evaluation, treatment and billing regarding these patients. The SDT required compliance on or before January 15, 2014.

11. The Respondent did not comply with the SDT and the directive for production of treatment narratives within the time period mandated under the January 7, 2014, SDT.

12. By letter, dated February 3, 2014, the Board notified the Respondent that he was in non-compliance with the above SDT as well as several other investigatory subpoenas and treatment narratives from other Board investigations, including the following:

(a) in Board Case Number 2014-005, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about September 30, 2013;

(b) in Board Case Number 2014-074, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about December 11, 2013; and

(c) in Board Case Number 2014-078, the Respondent failed to comply with an SDT for patient records and production of a treatment narrative, issued on or about December 11, 2013.

13. The Board informed the Respondent that if he did not comply with all outstanding SDTs and directives to provide treatment narratives by February 6, 2014, he would be subject to possible Board disciplinary action, including but not limited to the issuance of disciplinary charges and/or summary suspension of licensure.

14. The Respondent did not comply with any of the outstanding SDTs or directives for production of treatment narratives, as mandated in the Board's February 3, 2014, letter.

15. On or about February 7, 2014, the Respondent failed to appear for trial on the above criminal charges in the District Court of Maryland for Montgomery County. As a result, a bench warrant for the Respondent's arrest was issued.

16. On or about February 20, 2014, the Respondent was arrested for his failure to appear for his February 7, 2014, trial date. The Respondent was released on \$5,000.00 bail and was ordered not to have any contact with the Patient. The Respondent's trial was reset for April 8, 2014.

17. On or about February 21, 2014, the Respondent repeatedly attempted to telephone the Patient at her home and on her mobile telephone. As a result, the Patient sought a temporary Peace Order from the District Court of Maryland for Montgomery County, which was issued on or about February 28, 2014.

18. Board investigation has determined that the Respondent has multiple open cases against him as a result of complaints received regarding the incompetent practice of dentistry, rude behavior, failure to release dental records and fraudulently billing patients for services not provided. On a consistent basis, the Respondent has failed to comply with Board-issued subpoenas and directives to provide patient information and narratives of care, thus impeding the Board from completing these investigations. Moreover, the Board has obtained evidence that the Respondent has attempted to intimidate a patient who filed a complaint against him and has disobeyed court orders not to have contact with that individual, calling into question his judgment and stability.

19. Based on the above investigative facts, the Board has a basis to charge the Respondent with violating one or more of the following subsections of H.O. § 4-315(a):

- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
- (18) Violates any rule or regulation of the Board; [and]
- (20) Willfully makes or files a false report or record in the practice of dentistry[.]

20. Based on the above investigative facts, the Board has a basis to charge the Respondent with violating the following provisions under Md. Regs. Code ("COMAR") 10.44.23:

01. Unprofessional or Dishonorable Conduct.

- A. A dentist ... may not engage in unprofessional or dishonorable conduct.
- B. The following shall constitute unprofessional or dishonorable conduct in the practice of dentistry ...:
 - (1) Misrepresenting the following to the patient or the public:
 - (a) The description, chemical composition, or quality of the materials the licensee uses or intends to use; or
 - (b) Methods and techniques the licensee uses or intends to use;
 - (2) Engaging in conduct which is unbecoming a member of the dental profession;
 - (3) Representing that a dental procedure has been completed when in fact the procedure has not been completed;
 - (5) Committing an act of sexual misconduct as described in §B of this regulation;

- (7) Willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the Board, which includes, but is not limited to:
 - (a) Furnishing information requested;
 - (b) Complying with a subpoena;
 - (c) Responding to a complaint at the request of the Board; and
 - (d) Providing meaningful and timely access to relevant patient records; or
 - (8) Committing any other unprofessional or dishonorable act or omission in the practice of dentistry
- C. Sexual misconduct of either a verbal or a physical nature shall include, but is not limited to:
- (1) Sexual behavior with a patient in the context of a professional evaluation, treatment, procedure, or other service to the client or patient, regardless of the setting in which professional service is provided;
 - (4) Touching a patient in a sexual manner;
 - (7) Sexual behavior that would be considered unethical or unprofessional[.]

21. Based on the above investigative facts, the Board concludes that there is a substantial likelihood that the Respondent poses a risk of harm to the public health, safety, or welfare, which imperatively requires the emergency suspension of his license.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the Respondent poses a risk of harm to the public health, safety or welfare, which imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol.).

ORDER

Based on the foregoing findings, it is this 19th day of March, 2014, by a majority of the State Board of Dental Examiners, by authority granted to the Board by Md. St. Govt. Code Ann. § 10-226(c)(2) (2009 Repl. Vol.):

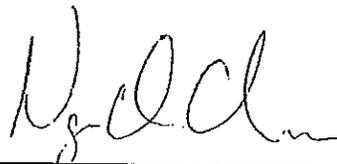
ORDERED that the Respondent's license to practice dentistry in the State of Maryland, under License Number 11554, is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that upon the Board's receipt of a written request from the Respondent, a Show Cause Hearing shall be scheduled at the Board's next regularly scheduled meeting, at which the Respondent will be given an opportunity to be heard as to why the Order the Summary Suspension should not continue; and it is further

ORDERED that if the Respondent fails to request a Show Cause Hearing or makes a request for a Show Cause Hearing and fails to appear for it, the Board shall continue the Summary Suspension; and it is further

ORDERED that the Respondent shall immediately turn over to the Board all licenses to practice dentistry issued by the Board that are in his possession; and it is further

ORDERED that this document constitutes an Order of the Board and is therefore a public document for purposes of public disclosure; as required by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol.).



Ngoc Quang Chu, D.D.S., President
Maryland State Board of Dental Examiners

NOTICE OF HEARING

A Show Cause Hearing to determine why the Order for Summary Suspension should not continue will be held before the Board at Spring Grove Hospital Center, Benjamin Rush Building, 55 Wade Avenue, Baltimore, Maryland 21228, at the Board's next regularly scheduled meeting, following a written request by the Respondent.

At the conclusion of the Show Cause hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may, within ten (10) days, request an evidentiary hearing. Unless otherwise agreed by the parties, the Board shall provide a hearing within forty-five (45) days after the Respondent's request. The Board shall conduct an evidentiary hearing under the contested case provisions of Md. State Gov't Code Ann. §§ 10-210 *et seq.*