

IN THE MATTER OF
DIANA JEAN COLELLA
(AKA DIANA J. STOUT)

Respondent

LICENSE NUMBERS: 6480, 2127

* BEFORE THE
* MARYLAND STATE
* BOARD OF
* DENTAL EXAMINERS
* CASE NUMBER: 2011-066

* * * * *

FINAL ORDER

On or about May 7, 2014, the Maryland State Board of Dental Examiners (the "Board") charged **Diana Jean Colella (AKA Diana J. Stout) (the "Respondent")**, License Number 6480, with violating her May 15, 2012 Consent Order with the Board, as well as the Maryland Dentistry Act ("the Act"), codified at Md. Health Occ. Code Ann. ("H.O.") §§ 4-101, *et seq.* (2014).

The pertinent provisions of the Act provide:

H.O. § 4-315. License denial, suspension, or revocation.

Grounds for denial, suspension, or revocation of dental hygiene licenses

(b) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dental hygiene, a teacher's license to practice dental hygiene, or a temporary license to practice dental hygiene to any applicant, reprimand any licensed dental hygienist, place any licensed dental hygienist on probation, or suspend or revoke the license of any licensed dental hygienist, if the applicant or licensee:

- (3) Behaves unprofessionally or in a grossly immoral way, or violates a professional code of ethics pertaining to the dental hygiene profession;
- (13) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (16) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report; [and]

(19) Fails to comply with any Board order[.]

FINDINGS OF FACT

The Board finds the following facts.

1. At all times relevant hereto, the Respondent was licensed to practice dental hygiene in the State of Maryland.
2. The Respondent was originally licensed to practice dental hygiene in the State of Maryland on February 21, 1980, under License Number 2127. The Respondent failed to renew that license, which expired June 30, 2005. The Respondent was issued a second license, License Number 6480, on November 03, 2010. That license is currently voluntarily non-renewed as of its expiration on June 30, 2014.

Original Case

3. On October 7, 2010, the Board received a complaint from the Respondent's co-worker alleging that the Respondent was practicing dental hygiene with an expired license.
4. The Board subsequently initiated an investigation.
5. A search of the Respondent's social security number in the Board's licensing database revealed two license numbers—2127 (expired) and 6480 (active).
6. The active license number was under the name Diana Jean Colella.
7. In furtherance of the Board's investigation, the Board reviewed the Respondent's Application for Dental Hygiene Licensure by Examination, dated October 20, 2010.

8. The Respondent listed her name as "Diana Jean Colella" and did not indicate that she had previously held a dental hygiene license in the State of Maryland under the name "Diana J. Stout".

9. The Respondent included a Judgment of Absolute Divorce indicating that her marriage ended in divorce, but did not disclose that she previously held a license under her married name.

10. In addition, the Respondent answered, "no" to all of the Character and Fitness questions on the application, including:

f. Have any investigations or charges been brought against you or are any currently pending in any jurisdiction by any licensing or disciplinary board or any federal or state entity?"

...

h. Are there any criminal charges against you in any court of law, excluding minor traffic violations?

11. The Board's investigation revealed that on August 17, 2010, in the District Court for Montgomery County, Maryland, the Respondent was charged with Theft: \$500 Plus Value for events that took place on August 05, 2009. The Respondent prayed a jury trial and on July 19, 2011, the case was placed on the stet docket.¹

12. In addition, a fugitive warrant was issue for the Respondent on February 28, 2010 in the District Court for Montgomery County.

13. The Respondent failed to disclose on her application that she had pending criminal charges.

¹ A stet is an order staying legal proceedings, as when a prosecutor determines not to proceed on an indictment and places the case on a stet docket.

14. In furtherance of the Board's investigation, it obtained a wage history inquiry for the Respondent. The wage history inquiry revealed that in the fourth quarter of 2009, the Respondent was employed by a dental practice in the State of Maryland.

15. The Board contacted Dentist A, who revealed that the Respondent worked for his practice as a dental hygienist for five days between October 12, 2009 and October 22, 2009.

16. Dentist A stated that the Respondent "did not produce a copy of her dental [hygienist] license, despite being asked for it a number of times." Dentist A further stated that the Respondent's behavior was "erratic" during her brief employment with his practice. The Respondent was observed leaving patients to accept personal telephone calls on her cell phone and was one-hour-and-fifteen-minutes late on her second day of employment.

17. Dentist A terminated the Respondent's employment on October 22, 2009.

18. According to the Board's license database, the Respondent was not licensed at the time she worked for Dentist A as a dental hygienist.

19. The Board's investigator contacted the Respondent by e-mail on July 14, 2011 and asked the Respondent to call him.² The Respondent called the Board's investigator later that day.

20. The Respondent provided an updated Maryland mailing address, but stated that she now lives with friends/family in Dallas, Texas and no longer wishes to practice as a dental hygienist in Maryland or elsewhere.

² The Board's investigator had previously mailed a subpoena to the Respondent's address of record and did not receive a response.

21. On November 2, 2011, the Board issued a Notice of Intent to Revoke the Respondent's dental hygiene license. The Respondent requested a hearing and a case resolution conference ("CRC") was scheduled for April 18, 2012.

22. At the CRC, the Respondent agreed to enter into a Consent Order ("2012 Consent Order"), which was executed by the Board on May 15, 2012.

23. Pursuant to the 2012 Consent Order, the Respondent was reprimanded and her license was placed on probation for a period of two years, with the following conditions: 1. the Respondent was required to "provide a copy of [the 2012 Consent Order] to her employer within five (5) days of commencing employment;" 2. the Respondent was responsible for notifying "the Board, in writing, of any changes in employment within five (5) days;" and 3. the Respondent was required to "cause her employer to provide written, bi-annual reports to the Board concerning the Respondent's job performance."

24. The 2012 Consent Order notified the Respondent that "any violation of the terms of this Consent Order shall constitute unprofessional conduct in addition to any applicable grounds under the Act."

25. The Respondent signed the consent statement at the conclusion of the 2012 Consent Order acknowledging that she would be subject to further disciplinary action if she failed to abide by the conditions of the 2012 Consent Order.

Current Case

26. On August 9, 2012, the Board received an email correspondence notifying the Board that the Respondent was federally indicted for bankruptcy fraud.

27. Thereafter, the Board initiated an investigation.

28. According to the Board's investigation, on March 12, 2012, the Respondent was indicted in the United States District Court for the District of Maryland on 16 counts, including bankruptcy fraud, false statement in bankruptcy, fraudulent conveyance, concealment of assets, and aiding and abetting.

29. The Respondent attended a CRC at the Board on April 18, 2012, but failed to notify the Board of the pending criminal matter.

30. On December 5, 2012, the Respondent entered into a plea agreement under which she plead guilty to counts 10 (false statement in bankruptcy) and 16 (concealment of assets) of the indictment. The remaining counts were dismissed.

31. On May 21, 2013, the Respondent was sentenced to 27 months of incarceration, three years of supervised release, and restitution in the amount of \$155,747.83.

32. The Respondent failed to notify the Board of her criminal conviction.

33. During the Board's investigation, it was revealed that the Respondent was employed as a dental hygienist for Dentist B at Practice B from July 16, 2012 until December 28, 2012.

34. The Respondent failed to provide Dentist B with a copy of the 2012 Consent Order, and the Board did not receive any reports from Dentist B.

35. The Respondent failed to notify the Board of her employment with Dentist B.

36. Dentist B terminated the Respondent when he learned that the Respondent was under a consent order with the Board.

37. On May 7, 2014 the Board issued its Notice of Intent to Revoke the Respondent's dental hygiene license ("2014 Notice of Intent").

38. The Respondent was incarcerated at the time the Board issued the 2014 Notice of Intent. Despite being incarcerated the Respondent sent a correspondence dated May 26, 2014, requesting a postponement of the hearing scheduled for the 2014 Notice of Intent, until a time after she would be released from federal prison.

39. The Board granted the Respondent's request to postpone the hearing.

40. In or about September of 2014 the Respondent sent a correspondence to the Licensing Unit requesting that her license be put on inactive status and to have her address of record changed to an address in Texas.

41. The Licensing Unit and the Board did not respond to the Respondent's September 2014 correspondence and the status of the Respondent's license was not changed to inactive.

42. The Respondent was released from federal prison on July 15, 2015.

43. A hearing in the above-captioned case numbers took place on January 06, 2016, which the Respondent did not attend.

44. The Board file and the exhibit binder were mailed to the Respondent's address of record in Texas as well as her previous address of record in Maryland, prior to the January 06, 2016 hearing. The items sent to the Respondent's Texas address were returned.

45. The Administrative Prosecutor and the Respondent's Compliance Manager attempted to contact the Respondent by telephone at two telephone numbers provided by the Respondent, prior to and on the day of the January 06, 2016 hearing.

46. The last contact the Respondent made with the Board, the State or her Compliance Manager was the Respondent's correspondence from September of 2014.

CONCLUSIONS OF LAW

Based on the Findings of Facts, the Board concludes that the Respondent's conduct, as described above, constitutes violations of the Act adopted by the Board as cited above. Specifically:

- A. The Respondent's failing to disclose pending criminal charges on multiple occasions, her failure to disclose her guilty plea to false statement in bankruptcy and concealment of assets, her violations of the Board's 2012 Consent Order, her misrepresentations on licensing applications, her failure to disclose a previous license, and her practice as a dental hygienist on multiple occasions without a valid license constitutes: engaging in unprofessional behavior, in violation of Health Occ. § 4-315(b)(3).
- B. The Respondent's December 05, 2012 guilty plea to false statement in bankruptcy and concealment of assets constitutes: pleading guilty to a felony or to a crime involving moral turpitude, in violation of Health Occ. § 4-315(b)(13).
- C. The Respondent's failure to report to the Board the criminal charges brought against her in 2010 and 2012, her failure to report to the Board her guilty plea in 2012, her failure to report to the Board her employment with Dentist B as required by the 2012 Consent Order, and the Respondent's failure to cause Dentist B to file bi-annual reports to the Board on her job performance as required by the 2012 Consent Order constitutes: willfully failing to file or record any report as required by law and willfully impeding or

obstructing the filing or recording of a report, in violation of Health Occ. § 4-315(b)(16).

D. The Respondent's violation of the 2012 Consent Order by failing to report to the Board her employment with Dentist B within five (5) days of the change in her employment, failing to provide Dentist B with a copy of the 2012 Consent Order within five (5) days of commencing employment, and failing to cause Dentist B to file bi-annual reports to the Board on her job performance constitutes: failing to comply with any Board order, in violation of Health Occ. § 4-315(b)(19).

ORDER

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

ORDERED that the Respondent's license to practice dental hygiene in the State of Maryland, license numbers 6480 and 2127, are hereby **REVOKED**; and it is further

ORDERED that this Final Order shall be a **Public Document** pursuant to Md. Code Ann., General Provisions, §§ 4-101 *et seq.* (2014).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 4-319, the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed with thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final

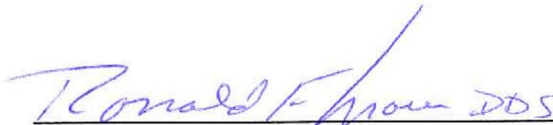
decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't. § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Tony W. Torain, Executive Director
Maryland State Board of Dental Examiners
Benjamin Rush Building
55 Wade Avenue
Baltimore, Maryland 21228

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

03/16/2016
Date



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