

IN THE MATTER OF	*	BEFORE THE
DIANA JEAN COLELLA	*	MARYLAND STATE
(AKA DIANA J. STOUT)	*	BOARD OF
Respondent	*	DENTAL EXAMINERS
LICENSE NUMBERS: 6480, 2127	*	CASE NUMBER: 2011-066

\* \* \* \* \*

CONSENT ORDER

On November 2, 2011, the Maryland State Board of Dental Examiners (the "Board") charged **DIANA JEAN COLELLA (AKA Diana J. Stout)** (the "Respondent") (D.O.B. 9/1/1956), license number 6480, under the Maryland Dentistry Act (the "Act"), Md. Code Ann., Health Occupations ("Health Occ.") §§ 4-101 *et seq.* (2009 Repl. Vol. and 2011 Supp.). The Board found that the Respondent violated the following provisions of the Act:

**H.O. § 4-315. Denials, reprimands, probations, suspensions, and revocations—Grounds.**

(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 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another[.]

**H.O. § 4-301. License required; exceptions.**

(a) *In general.*—(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dental hygiene before the individual may practice dental hygiene on a human being in this State.

**H.O. § 4-601. Practicing without license; aiding or abetting unauthorized practice.**

- (a) *Practicing without license.*—Except as otherwise provided in this title a person may not practice, attempt to practice, or offer to practice dentistry or dental hygiene on a human being in this State unless licensed by the Board.

**H.O. § 4-606. Penalties.**

- (b) *Unauthorized practice of dental hygiene.*—A person who practices or attempts to practice dental hygiene without a license in violation of § 4-601(a) of this subtitle . . . is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

On April 4, 2011, a Case Resolution Conference was convened in this matter. The Respondent agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

The Board finds the following:

1. At all times relevant hereto, the Respondent was and is 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 3, 2010. That license is currently active and will expire on June 30, 2012.
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.

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 Washington County, Maryland, the Respondent was charged with Theft: \$500 Plus Value for events that took place on August 5, 2009. The Respondent prayed a jury trial and on July 19, 2011, the case was placed on the stet docket.<sup>1</sup>

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<sup>1</sup> 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.

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

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

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.<sup>2</sup> The Respondent called the Board's investigator later that day.

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

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

21. Subsequently, the Respondent relocated back to Maryland and intends to seek employment as a dental hygienist.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the Maryland Dentistry Act, H.O. § 4-3159(a)(1); H.O. § 4-301(a)(2); and H.O. § 4-601(a).

### ORDER

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

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

**ORDERED** that the Respondent's license to practice dental hygiene in the State of Maryland is placed on **PROBATION** for a period of **TWO (2) YEARS** to commence from the date that this Order is executed by the Board, subject to the following terms and conditions:

1. The Respondent shall provide a copy of this Consent Order to her employer within **five (5) days** of commencing employment as a dental hygienist;

2. The Respondent shall notify the Board, in writing, of any changes in employment within **five (5) days**;

3. The Respondent shall cause her employer to provide written, bi-annual reports to the Board concerning the Respondent's job performance; and it is further

**ORDERED** that the Respondent shall comply with and practice within all statutes and regulations governing the practice of dental hygiene in the State of Maryland; and it is further

**ORDERED** that the Respondent may petition the Board, in writing, for termination of her probationary status without further restrictions only if the Respondent has satisfactorily complied with all conditions of this Consent Order, including the expiration of the two (2) year probationary period and the Respondent has no pending complaints before the Board and it is further

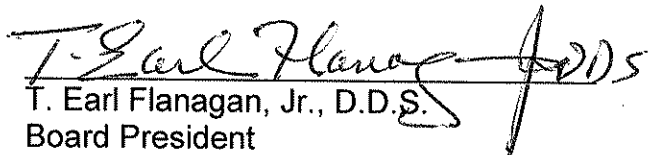
**ORDERED** that any violation of any of the terms of this Consent Order shall constitute unprofessional conduct in addition to any other applicable grounds under the Act; and it is further

**ORDERED** that the Respondent shall at all times cooperate with the Board in the monitoring, supervision, and investigation of her compliance with the terms and conditions of this Order; and it is further

**ORDERED** that the Respondent shall practice as a dental hygienist according to the Maryland Dentistry Act and in accordance with all applicable laws, statutes and regulations pertaining to the practice of dental hygiene; and it is further

**ORDERED** that this Order is a public document pursuant to Md. State Gov't Code Ann., §§ 10-611, *et seq.* (2009 Repl. Vol. and 2011 Supp.)

May 15, 2012  
Date

  
T. Earl Flanagan, Jr., D.D.S.  
Board President

**CONSENT OF DIANA JEAN COLELLA (AKA DIANA J. STOUT)**

I, DIANA JEAN COLLELA (AKA DIANA J. STOUT), LICENSE NUMBERS: 6480, 2127, by affixing my signature hereto, acknowledge that:

1. I have had the opportunity to consult with counsel, Robert Tully, Esq. before signing this document.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 4-318 (2009 Repl. Vol. and 2011 Supp.) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Repl. Vol. and 2011 Supp.).
3. I acknowledge the validity of this Consent Order as if entered into after 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 law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and consent to the foregoing Findings of Fact, Conclusions of Law and Order, and agree to abide by the terms and conditions set forth herein. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order as set forth in § 4-318 of the Act and Md. State Govt. Code Ann. §§10-201 *et seq.* (2009 Repl. Vol. and 2011 Supp.).
5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include reprimand, suspension or revocation of my license to practice as a dental hygienist in the State of Maryland.

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include reprimand, suspension or revocation of my license to practice dental hygiene in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

4-18-12  
Date

Diana Jean Stout  
Diana Jean Colella  
(AKA Diana J. Stout)

[Signature]  
Review and approved by:  
Robert Tully, Esq.

**NOTARY**

STATE OF MARYLAND  
CITY/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 18<sup>th</sup> day of April, 2012 before me a Notary Public of the foregoing State of Maryland and the City/County aforesaid, personally appeared Diana Jean Colella, License Numbers 6480 and 2127, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Sherry Doenges  
Notary Public

My Commission Expires: 10/9/14

