

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF : Administrative Action
 :
MICHAEL F. MONICA, D.M.D. : FINAL ORDER OF DISCIPLINE
License No. 22DI00962900 :
 :
TO PRACTICE DENTISTRY IN THE :
STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Dentistry upon receipt of information concerning Michael F. Monica, D.M.D. ("respondent"), which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent was initially licensed as a dentist in the State of New Jersey on or about December 23, 1973. For the biennial renewal period 2009-2011, respondent placed his license on inactive status.

2. On June 13, 2008, in the County of Middlesex, State of New Jersey, respondent plead guilty to an accusation of theft by deception related to obtaining disability benefits while maintaining his dental practice.

3. On October 17, 2008, respondent was sentenced to three years imprisonment and ordered to pay restitution totaling \$460,532, which amount reflects \$144,000 to Cigna Insurance Company, \$83,500 to Jefferson Pilot Insurance Co. (now doing business as Lincoln Financial Group) and

\$235,032 to the Social Security Administration. He also agreed to pay a civil penalty of \$20,000.

CONCLUSIONS OF LAW

Respondent's conviction provide grounds for disciplinary action in this State pursuant to N.J.S.A. 45:1-21(f) as respondent has been convicted of a crime of moral turpitude and relating adversely to the activity regulated by the board.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was filed on April 23, 2009. The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

The POD was served upon respondent on April 23, 2009 by regular and certified mail with return receipt requested to two different addresses the Board has on file for respondent. The certified mail, with return receipt requested and regular mail sent to Respondent's address of record: 35-37 Progress Street, Suite A-

6, Edison, NJ 08820-1179 were returned to the Board office as "not deliverable as addressed, unable to forward". The certified and regular mailings of the POD sent to respondent's mailing: 21 Buena Vista Drive, Freehold, NJ 07728 were all not returned to the Board office. The USPS Track and Confirm Search Results for the certified mail sent to the Freehold address indicate "Your item was delivered at 12:58 P.M. on April 25, 2009 in Freehold, NJ 07728" and the green card was signed for.

Because the regular mailing of the Provisional Order was sent to respondent's address of record and mailing address, the Board deems service to have been effected. Accordingly, it determined that further proceedings were not necessary and that the Provisional Order should be made final. Respondent can not evade process by failure to respond to the Provisional order. On February 2, 2009, respondent was released from prison.

ACCORDINGLY, IT IS on this 2nd day of December, 2009,

ORDERED that:

1. The license of Michael F. Monica, D.M.D., to practice dentistry in this State is suspended for a period of five years, which suspension shall be served as an active suspension.

2. Prior to the Board's consideration of any application for reinstatement of his license in this State, respondent shall:

a. Request an appearance before the Board or a committee of the Board to discuss his readiness to reenter the practice of dentistry.

At that time, respondent shall be prepared to propose his plans for future practice in New Jersey;

b. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare and that he is not then suffering from any impairment or limitation resulting from any physical or psychological condition that could affect his practice;

c. Affirmatively establish his fitness, competence, and capacity to reenter the active practice of dentistry in New Jersey;

d. Provide the Board with a full account of his conduct during the intervening period of time from his entry into this order until his appearance pursuant to this order;

e. Present proof of resolution of all criminal sentencing requirements;

f. Affirmatively demonstrate by clear and convincing evidence that he has been rehabilitated. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. the nature and responsibility of the position which the convicted person would hold, has held or currently holds, as the case may be;

ii. the nature and seriousness of the offense;

iii. the circumstances under which the offense occurred;

iv. the date of the offense;

v. the age of the person when the offense was committed;

vi. whether the offense was an isolated or repeated incident;
vii. any social conditions which may have contributed to the offense; and

viii. any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in corrections work-release programs, or the recommendation of those who have had the person in their supervision.

g. Demonstrate that he has completed the necessary continuing education and all other requirements for reinstatement

3. The Board reserves the right to impose any conditions on respondent's return to practice that the Board believes are necessary to protect the public health, safety, and welfare.

NEW JERSEY STATE BOARD OF DENTISTRY

By


Emil G. Cappetta, D.D.S.
Board President