

BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY

**IN THE MATTER OF:
THE REINSTATEMENT APPLICATION OF
ANTOINE E. SKAFF FOR DENTAL LICENSE**

ORDER DENYING APPLICATION

At its regularly scheduled meetings on January 13, 2023 and April 1, 2023, the West Virginia Board of Dentistry (“Board”) considered the reinstatement application of Antoine E. Skaff for a license to practice dentistry. After considering the application, supporting documents and the relevant law, the Board voted to deny the application. The Board finds and orders as follows:

1. Antoine E. Skaff submitted a reinstatement application for a license to practice dentistry to the Board on December 22, 2022.

2. Dr. Skaff was previously licensed as a dentist in West Virginia from March 6, 1990 through January 20, 2018. Dr. Skaff was also previously licensed as a dentist in Florida from August 9, 1989 through February 28, 2018, and in Ohio from October 7, 1998 through December 13, 2017.

3. On July 17, 2017, the United States Attorney for the Southern District of West Virginia filed a single-count Information against Dr. Skaff for health care fraud, in violation of 18 U.S.C. § 1347. *See* Memorandum Opinion and Order, dated December 14, 2017. On August 21, 2017, Dr. Skaff pleaded guilty to the Information. (*Id.*). Thereafter, on December 7, 2017, Dr. Skaff was sentenced to sixty (60) months’ imprisonment followed by three (3) years’ supervised release. (*Id.*). Significantly, in addition to the standard conditions of supervised release in the Southern District of West Virginia and the special conditions of supervised release recommended

by the probation officer, the Court also imposed an additional, special condition of supervised release that Dr. Skaff not be permitted to practice dentistry during his period of supervised release.

(*Id.*).

4. On January 20, 2018, Dr. Skaff entered into a Consent Decree and Order with the Board in which his license to practice dentistry was revoked and surrendered. *See* Consent Decree and Order. Based on Dr. Skaff's criminal conviction for health care fraud as noted above, the Board charged Dr. Skaff with engaging in certain practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code § 30-1-8(a); W. Va. Code § 30-4-1 *et seq.*; and W. Va. Code State R. § 5-5-4. (*Id.*).

5. Dr. Skaff surrendered to the custody of the Federal Bureau of Prisons to begin serving his sentence on January 10, 2018. *See* Judgment in a Criminal Case, return received January 22, 2018. Dr. Skaff was released from prison on January 13, 2022. *See* Federal Bureau of Prisons' Find an inmate document; *see also* Criminal Docket sheet. Thus, Dr. Skaff's term of supervised release will conclude on or about January 13, 2025.

6. The time frame for the offense for which Dr. Skaff was convicted spanned from approximately January 3, 2011 to August 31, 2016, and included actions such as upcoding (knowingly submitting false and inflated claims to West Virginia Medicaid and Medicaid Managed Care Organizations for the extraction of teeth) and double billing (knowingly submitting second false billings to Medicaid Managed Care Organizations when West Virginia Medicaid had previously paid him for extracting the same teeth). *See* Information. As the Court noted:

Describing Dr. Skaff's criminal behavior in this case as *the* offense is legally correct but misleading. In actuality, Dr. Skaff's habitual criminal behavior encompassed *at least* 7,836 individual and deliberate acts of fraudulent billing to Medicaid over the course of more than five and a half years. To put this number in perspective, consider that between January 1, 2011 and August 23, 2016, there

were a total of 2,068 days, including weekends and holidays. This means that on average, assuming Dr. Skaff worked every day of the year, he was billing Medicaid for nearly four fraudulent transactions *per day*, for at least five and a half years. Moreover, each of Dr. Skaff's individual criminal exploits were contrived — i.e., not the spontaneous or natural consequence of a prior misdeed.

See Memorandum Opinion and Order, dated December 14, 2017 at p. 7 (emphasis in original).

7. Pursuant to the *West Virginia Dental Practice Act*, West Virginia Code § 30-4-1 *et seq.*, “[i]t is unlawful for any person to practice or offer to practice dentistry or dental hygiene in this state without a license, issued under the provisions of this article ...” W. Va. Code § 30-4-1(a).

8. West Virginia Code § 30-4-19(g) provides, in pertinent part, that the Board “may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict, or revoke the license, certificate, or permit of, or impose probationary conditions upon, or take disciplinary action against, any licensee, certificate holder, or permittee for any of the following reasons: (2) Being convicted of a felony crime, or being convicted of a misdemeanor crime related to the practice of dentistry or dental hygiene.” W. Va. Code § 30-4-19(g)(2).

9. Furthermore, West Virginia Code § 30-4-8(a) provides that the Board shall issue a license to practice dentistry to an applicant who, among other criteria, “[d]oes not have any criminal convictions which would bar the applicant’s licensure pursuant to § 30-1-24 of this code.” W. Va. Code § 30-4-8(a)(2).

10. Pursuant to West Virginia Code § 30-1-24, the Board “may not disqualify an application from *initial* licensure [to practice dentistry] because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.” W. Va. Code § 30-1-24(b)(1) (emphasis added). “In determining whether a criminal conviction bears a rational nexus to a profession or occupation,

the board shall consider at a minimum: (A) The nature and seriousness of the crime for which the individual was convicted; (B) The passage of time since the commission of the crime; (C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and (D) Any evidence of rehabilitation or treatment undertaken by the individual.

11. Significantly, West Virginia Code § 30-1-24(b)(5) provides that “[t]he requirements of this section do not apply to the criteria that boards may consider when making determinations regarding relicensure or discipline of licensees.” As Dr. Skaff has submitted a reinstatement application for a license to practice dentistry, the Board is not obligated to apply the rational nexus standard.

12. However, in order to afford Dr. Skaff the most comprehensive review possible of his reinstatement application, the Board applied the rational nexus standard in rendering its decision and finds that Dr. Skaff’s conviction is for a crime that bears a rational nexus to the profession and practice of dentistry.

13. Regarding the nature and seriousness of the crime for which Dr. Skaff was convicted, Dr. Skaff engaged in habitual, criminal behavior over a five and a half year period of time in which he used his profession and his license to commit thousands of individual fraudulent acts as part of one fraudulent scheme. *See* Memorandum Opinion and Order, dated December 14, 2017. As a result of his actions, Dr. Skaff fraudulently billed Medicaid \$1,443,570 and was fraudulently paid \$1,391,207 by Medicaid, whereas he was legitimately entitled to \$656,130. (*Id.*). Thus, Dr. Skaff’s actions resulted in an intended loss of \$787,440 and an actual loss of \$735,077. (*Id.*). The Board finds Dr. Skaff’s conduct that led to his 2017 conviction to be of the utmost seriousness.

14. Regarding the passage of time since the commission of the crime, Dr. Skaff's fraudulent scheme concluded by August 31, 2016. Although Dr. Skaff's criminal activity concluded approximately six and a half years ago, the Board finds that Dr. Skaff is presently serving his criminal sentence, as he is currently serving his three-year term of supervised release and will do so until approximately January 13, 2025. The Board additionally finds that the Court also imposed an additional, special condition of supervised release that Dr. Skaff not be permitted to practice dentistry during his period of supervised release. The Board finds that insufficient time has passed between Dr. Skaff's commission of the crime and the present, as Dr. Skaff is still serving his sentence for the crime to which he pleaded guilty.

15. Regarding the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation, Dr. Skaff used the privilege of his dental license to commit the fraudulent scheme for which he was convicted and for which he is presently serving his sentence. The Board finds that Dr. Skaff's crime is directly related to his ability, capacity, and fitness to perform the duties and discharge the responsibilities of the profession of dentistry.

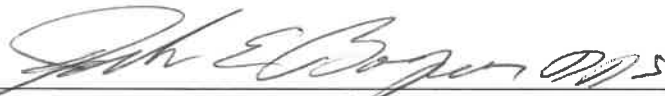
16. Regarding any evidence of rehabilitation or treatment undertaken by the individual, the Board is unaware of any evidence of rehabilitation or treatment undertaken by Dr. Skaff.

17. Based on the statutory grounds for license denial set forth in the *West Virginia Dental Practice Act* and after weighing the above factors, the Board, in its discretion, finds that there is reasonable cause to deny Dr. Skaff's reinstatement application for a license to practice dentistry.

Accordingly, it is hereby **ORDERED** that the reinstatement application of Antoine E. Skaff for a license to practice dentistry is **DENIED**.

Pursuant to West Virginia Code § 30-1-8(h), any person denied a license who believes the denial was in violation of this article or the article under which the license is authorized shall be entitled to a hearing on the action denying the license. Such request for a hearing must be in writing and directed to the West Virginia Board of Dentistry, PO Box 1447, 1319 Robert C. Byrd Drive, Crab Orchard, West Virginia 25827-1447.

ENTERED this 1st day of April, 2023.



John E. Bogers, DDS, President
West Virginia Board of Dentistry