

**BEFORE THE DENTAL HEALTH CARE BOARD
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

Case Number: D-18-32-COM

**WILLIAM GARDNER DDS
License # DD**

Respondent.

DECISION AND DEFAULT ORDER

THIS MATTER came before the New Mexico Dental Health Care Board (“Board”) during its special meeting held on December 4, 2020, via WebEx due to Governor Lujan Grisham’s Covid-19 Emergency Health Order, for a decision in the above-referenced case. With a quorum present and with a unanimous vote in the affirmative, the Board voted to render this Decision and Order.

FINDINGS OF FACT

1. On or about July 8, 2020, the Board issued a Notice of Contemplated Action (“NCA”) to **WILLIAM GARDNER** (“Respondent”). The NCA informed Respondent that the Board could suspend or revoke his licensee pursuant to the Dental Health Care Act, NMSA 1978, Section 61-5A-1 through --30 and the Uniforms Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to 61-1-34.

2. The NCA further informed Respondent that, if he would like the opportunity for a formal hearing in this matter he must request a hearing in this matter **“within twenty (20) days after service of this Notice . . . Such written request should be submitted by certified mail (return receipt requested) to:”**

Sheila Harris, Compliance Liaison
New Mexico Board of Dental Health Care
New Mexico Regulation and Licensing Department
P O Box 25101
Santa Fe, New Mexico 87504

3. On or about July 9, 2020, the U. S. Postal Service (“USPS”) received an envelope containing the NCA that was sent to Respondent’s last known addresses, as shown in the Board’s records. The envelope was sent via certified mail, return receipt requested (No. 7013 0600 0001 8719 7217). The envelope containing the NCA was returned to the board on July 17, 2020 with a handwritten statement “REFUSED” and a USPS label “return to sender, refused, unable to forward.”

5. Respondent did not request a hearing within twenty (20) days of receipt of the NCA as contemplated by Sections 61-1-4(D)(3) (2003) and 61-1-5 (1957) of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34 (1957, as amended through 2013).

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Board reaches the following Conclusions of Law:

1. The Board has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the New Mexico Dental Health Care Board and ULA. NMSA 1978, §§ 61-5A-10 and 21 and 61-1-1 *et seq.*

2. When served by certified mail, the NCA is deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the NCA to the addressee or refusal of the addressee to accept delivery of the NCA. NMSA 1978, § 61-1-5.

3. Service of the NCA upon Respondent via certified mail was accomplished in accordance with Sections 61-1-4 and 61-1-5 of the ULA.

4. The Board may take the action contemplated in the NCA if the Respondent does not deposit in the mail a certified return receipt requested letter addressed to the Board containing a request for a hearing within twenty (20) days after service of the NCA. NMSA 1978, §§ 61-1-4(D)(3) and (E).

5. Twenty (20) days have passed since Respondent was served, or deemed to have been served, with the NCA and Respondent has failed to request a hearing within the twenty days. Thus, the Board is authorized to take the action contemplated in the NCA pursuant to Section 61-1-4(E) of the ULA.

6. The Board has complied with all notice and other procedural requirements of the ULA.

7. The Board may grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental assistances and, through the committee, dental hygienists in with the Uniform Licensing Act for any cause stated in the Dental Health Care Act for licensure. NMSA 1978, Section 61-5A-10(F).

8. The Board's Decision and Order in this matter is final and is not subject to judicial review. NMSA 1978, § 61-1-4(E).

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board renders this Order.

IT IS THEREFORE ORDERED that Respondent's license is REVOKED.

IT IS FUTHER ORDERED that this revocation of Respondent's license does not affect, modify or change the earlier revocation of Respondent's license on July 17, 2020.

FOR THE NEW MEXICO BOARD OF DENTAL
HEALTH CARE

Approved via email
12/12/2020 at 10:22 am
DATE

/s/ Dr. Charles Schumacher
Dr. Schumacher, Chairman