

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MICHAEL V. PILATE : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-214

At its meeting of October 28, 2021, the State Board of Examiners (Board) reviewed information the United States District Court, District of New Jersey and the Office of Student Protection (OSP) provided regarding Michael V. Pilate. On or about February 1, 2018, Pilate pled guilty to a federal charge of conspiracy to commit healthcare fraud after he caused the submission of false and fraudulent insurance claims for medically unnecessary compounded prescription medications and receiving a percentage of the money paid for those medications. OSP notified the Board that because of his conviction, Pilate is disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Pilate currently holds a School Counselor Certificate, issued August 2004, and a Director of School Counseling Services Certificate, issued July 2012.

Pilate did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of December 16, 2021 to issue Pilate an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Pilate the Order to Show Cause by regular and certified mail on December 17, 2021. The Order provided that Pilate had 30 days to respond. The online USPS tracking system indicates that the documents were left with an individual and delivered, and the regular mail copy was not returned. Pilate did not file a response.

Thereafter, on March 1, 2021, the Board sent Pilate another notice. This notice was returned as undeliverable. Accordingly, on April 1, 2022, after obtaining a new address for service, the Board again sent Pilate another notice by certified and regular mail providing him an additional 15 days to respond to

the Order to Show Cause. The certified mail receipt was signed and returned, and the regular mail copy was not returned. Pilate did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on May 19, 2022, the Board sent Pilate a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Pilate was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Pilate was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned, and the regular mail copy was not returned. Once again, Pilate did not file a response.

The threshold issue before the Board in this matter is whether Pilate's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Pilate failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of September 16, 2022, the Board considered only the allegations in the Order to Show Cause and the information received from the United States District Court and OSP. The Board concluded that no material facts related to Pilate's offense were in dispute since he never denied that he engaged in the conduct alleged and was convicted and therefore determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Pilate had engaged in unbecoming conduct.

The Board must now determine whether Pilate's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9B-4.4. The Board finds that they do.

In enacting the Criminal History Review statute, *N.J.S.A.* 18A:6-7.1 *et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger. Individuals convicted of crimes such as Conspiracy to Commit Health Care Fraud fall squarely within this category. The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this instance, Pilate's conviction for Conspiracy to Commit Health Care Fraud demonstrates behavior that falls far short of a role model.

The strong policy statement on the part of the Legislature set forth in *N.J.S.A.* 18A:6-7.1(b) also offers guidance to the Board as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, because the Legislature and the Commissioner consider Pilate's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on September 16, 2022, the Board voted to revoke Michael V. Pilate's School Counselor and Director of School Counseling Services certificates. On this 28th day of October 2022, the

Board voted to adopt its formal written decision and it is therefore ORDERED that Pilate's certificates are revoked, effective immediately. It is further ORDERED that Pilate return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Rani Singh, Secretary
State Board of Examiners

Date of Mailing:
Via Certified and Regular Mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.