

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF	:	
THE LICENSE OF	:	FINAL DECISION
	:	AND ORDER
MARK T. KNICKLEBINE, D.D.S.,	:	ADOPTING STIPULATION
RESPONDENT.	:	

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Mark T. Knicklebine
825 North 25th, Apt. 212
Milwaukee, WI 53233

Dentistry Examining Board
P.O. Box 8935
Madison, WI. 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the Final Decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Mark T. Knicklebine, D.D.S., Respondent herein, is duly licensed to practice dentistry in the State of Wisconsin. His license bears #2960 and was granted June 24, 1982.
2. On an unknown number of occasions, Respondent abused narcotic analgesics, including meperidine which is a Schedule II controlled substance pursuant to Wis. Stats sec. 161.16(3)(k).
3. Respondent obtained meperidine by ordering it directly from the supplier using DEA form 222 and by diverting meperidine which he obtained by writing prescriptions in the name of patients and other persons.
4. Respondent has completed inpatient treatment for chemical dependency at the McBride Center for the Impaired Professional, and is currently undergoing continuing treatment with that program.
5. Respondent has been diagnosed as having Multiple Sclerosis (MS). However, his neurologist recently advised him that the diagnosis of MS may be incorrect. Respondent has been advised to be retested for MS.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction of this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stats. sec. 447.07(3)(f) and (1).
2. The Dentistry Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).
3. Meperidine is a Schedule II controlled substance as defined in Wis. Stats. sec. 161.01(4) and 161.016(3)(k).
4. By diverting meperidine, which was obtained by use of a prescription written to patients or others. Respondent violated Wis. Stats. sec. 161.43(1)(a).
5. By violating Wis. Stats. sec. 161.43(1)(a), Respondent engaged in unprofessional conduct as defined by Wis. Adm. Code sec. DE 5.02(6).
6. By violating Wis. Stats. sec. 161.43(1)(a), Respondent is subject to discipline pursuant to Wis. Stats. sec. 447.07(3)(f) and (1).
7. By abusing narcotic analgesics including meperidine, Respondent engaged in unprofessional conduct as defined by Wis. Adm. Code sec. DE 5.02(6).
8. By engaging in unprofessional conduct, as defined by Wis. Adm. Code DE 5.02(6), Respondent is subject to discipline pursuant to Wis. Stats. sec. 447.07(3)(f).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that the voluntary surrender by Mark T. Knicklebine, D.D.S., of his unlimited license to practice dentistry in the State of Wisconsin is accepted and a limited license to practice dentistry is granted with the following terms and conditions.

a. The limitations set forth herein shall remain in full force and effect for a period of five (5) years from the date the Dentistry Examining Board issues this Final Decision and Order, or until the Dentistry Examining Board issues an order modifying this Final Decision and Order.

b. Roland E. Herrington, M.D., Medical Director at the McBride Center for the Impaired Professional in Milwaukee, Wisconsin shall be Dr. Knicklebine's supervising physician throughout the full term of this limited license. In the event that Dr. Herrington is unable or unwilling to serve as supervising physician, the Dentistry Examining Board shall, in its sole discretion, select a successor supervising physician.

c. Dr. Knicklebine shall participate in all components of the Impaired Professional's Program at the McBride Center in Milwaukee, Wisconsin or at such other facilities which are under the direction and control of the McBride Center and which are located within the State of Wisconsin as his

supervising physician shall determine to be appropriate for his rehabilitation. Dr. Knicklebine shall comply with all recommendations of his supervising physician for inpatient or outpatient treatment or both and shall comply with all aspects of the treatment program as recommended by his supervising physician.

d. Dr. Knicklebine shall abstain from any and all personal use of controlled substances as defined in Wis. Stats. sec. 161.01(4) except when necessitated by a legitimate medical condition, and then only with the prior approval of the supervising physician.

e. Dr. Knicklebine shall abstain from any and all personal use of alcohol.

f. Dr. Knicklebine shall report all medications and drugs, over-the-counter or prescription, taken by him to his supervising physician within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs for him. The terms of this subparagraph shall not be deemed to modify or negate Dr. Knicklebine's obligations as set forth in subparagraph (d) of this Proposed Decision.

g. Dr. Knicklebine shall supply, on at least a weekly basis, random monitored urine or blood specimens within 24 hours of a request for said specimen made by the supervising physician or his designee. The supervising physician or his designee shall determine whether the specimen shall be a urine specimen or a blood specimen or both. Collection of these specimens shall be observed and verified by persons designated by the supervising physician. If the supervising physician or his designee deems that additional blood or urine screens are warranted, Respondent shall submit to such additional screens as requested or recommended.

h. If any urine or blood specimen is positive or suspected positive for any controlled substances or alcohol, Dr. Knicklebine shall promptly submit to additional tests and examinations as the supervising physician or his designee shall determine to be appropriate to clarify or confirm the positive or suspected positive urine or blood test results.

i. Dr. Knicklebine shall not prescribe, dispense, administer or order any controlled substances for any person. Dr. Knicklebine shall voluntarily surrender his DEA registration to prescribe, dispense, administer and order controlled substances to the Drug Enforcement Administration within ten (10) days of the date the Dentistry Examining Board issues this Final Decision and Order. Dr. Knicklebine shall not make reapplication for a DEA registration until the terms of the limited license have been satisfied or until the Dentistry Examining Board modifies the terms of the limited license to permit the prescribing, dispensing, administering or ordering of controlled substances.

j. The supervising physician shall submit formal written reports to the Dentistry Examining Board every ninety (90) days commencing ninety (90) days after the date the Dentistry Examining Board issues this Final Decision and Order. The report shall assess Dr. Knicklebine's progress in his rehabilitation program and set forth the results of the random urine and blood

screens. Dr. Knicklebine shall be responsible for the timely filing of these reports. The supervising physician and Dr. Knicklebine shall report immediately to the Dentistry Examining Board any suspected violations of this Final Decision and Order granting this limited license including, but not limited to any positive or suspected positive blood or urine screens.

k. Dr. Knicklebine shall provide and keep on file with his supervising physician and all treatment facilities and personnel current releases which comply with state and federal laws authorizing release of all his medical and treatment records and reports to the Dentistry Examining Board and permit his supervising physician and his treating physicians and therapists to disclose and discuss the progress his treatment and rehabilitation with the Dentistry Examining Board. Copies of such releases shall be filed simultaneously with the Dentistry Examining Board.

l. Within six (6) months of the date of this order, Dr. Knicklebine shall undergo whatever tests his neurologist recommends to determine whether he suffers from MS. Dr. Knicklebine shall arrange to have his neurologist report his diagnosis to the Board. If the diagnosis remains MS, Dr. Knicklebine shall cooperate in establishing a monitoring program to assure that the disease is not interfering with his ability to competently and safely practice dentistry.

m. Dr. Knicklebine shall appear before the Dentistry Examining Board at least annually to review the progress of his treatment and rehabilitation. Dr. Knicklebine may petition the Dentistry Examining Board for modification of the terms of his limited license, and the Dentistry Examining Board shall consider Dr. Knicklebine's petition at the time it meets with Dr. Knicklebine to review the progress of his rehabilitation. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a) and Dr. Knicklebine shall not have a right to any further hearings or proceedings on any denial in whole or in part of his petition for modification of his limited license.

n. Any violation of this Order shall be construed as conduct such that the public health, safety or welfare imperatively requires emergency suspension of the Respondent's license, and may form the basis of a summary suspension of Dr. Knicklebine's license to practice dentistry in the State of Wisconsin, or may form the basis for additional disciplinary action.

Dated at Madison, Wisconsin, this 13th of March, 1989.

DENTISTRY EXAMINING BOARD

by Kevin A. Key, DDS
A member of the Board

RH:eaj
DOEATTY-505

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF	:	
THE LICENSE OF	:	
	:	STIPULATION
MARK T. KNICKLEBINE, D.D.S.,	:	
RESPONDENT.	:	

It is hereby stipulated and agreed between Mark T. Knicklebine, D.D.S., Respondent and Ruth E. Heike, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of the pending investigation of Mark T. Knicklebine's Dentistry license by the Division of Enforcement (case file 88 DEN 20). Mark T. Knicklebine consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights in this matter, including the right to have a formal disciplinary complaint filed, the right to a hearing on the allegations against him at which the State has the burden of proving the allegations by a preponderance of the evidence, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify on his own behalf, the right to file objections to any Proposed Decision, and to present briefs or oral arguments to the officials who are to render the final decision, the right to petition for rehearing, and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. The Dentistry Examining Board has jurisdiction of this matter pursuant to Wis. Stats. sec. 447.07.

4. This Stipulation may be submitted directly to the Wisconsin Dentistry Examining Board without further notice to either party.

5. The attached Final Decision and Order may be made and entered without prior notice to any party.

6. In the event any portion of this Stipulation or the attached Final Decision and Order is not accepted by the Wisconsin Dentistry Examining Board, the entire Stipulation and Final Decision and Order shall be void and have no effect.

7. The Respondent and Ruth E. Heike, Attorney for the Department of Regulation and Licensing, Division of Enforcement, may appear before the Wisconsin Dentistry Examining Board and argue in favor of acceptance of this Stipulation and the entry and issuance of the attached Final Decision and Order.

8. Respondent admits he used meperidine, a Schedule II controlled substance, on a number of occasions for nonmedical purposes and without a prescription by a licensed physician.

9. Respondent admits he obtained meperidine by ordering directly from suppliers using DEA form 222 and by writing prescriptions for various persons and diverting the drug to himself.

10. Respondent has entered the McBride Center for the Impaired Professional, has completed the inpatient program, and is currently undergoing continuing treatment with that program.

11. Respondent has been diagnosed as having Multiple Sclerosis (MS). However, he has recently been advised by his neurologist that the test results may be incorrect, and he has been advised to be retested.

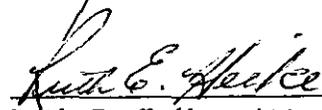
12. Respondent agrees to complete the testing recommended by his neurologist within 6 months of the date the Dentistry Examining Board issues the attached Final Decision and Order. He agrees to have his neurologist report the findings to the Dentistry Examining Board. He further agrees that if the diagnosis remains MS, he will cooperate with the Dentistry Examining Board to establish a monitoring program to assure that the Dentistry Examining Board will be alerted if the disease progresses to the point that it affects his ability to safely and competently practice dentistry.

13. In order to resolve this matter, Respondent agrees to the entry and issuance of the attached Final Decision and Order.

1/11/89
Date


Mark I. Knicklebine, D.D.S.

1/17/89
Date


Ruth E. Heike, Attorney
Department of Regulation and Licensing
Division of Enforcement

REH:eaj
DOEATTY-506

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Dentistry Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Dentistry Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Dentistry Examining Board.

The date of mailing of this decision is March 3, 1989.

WLD:dms
886-490

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly as possible to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.