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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
STANLEY D. CARLSON, D.D.S.,	:	LS9106031DEN
RESPONDENT.	:	

The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 4 day of March, 1992.

Thomas G. Brant DDS

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	PROPOSED DECISION
STANLEY D. CARLSON, D.D.S.,	:	(Case No. LS9106031DEN)
RESPONDENT.	:	

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

Stanley D. Carlson, D.D.S.
1920 Oaklawn Drive
Eau Claire, WI 54703

Dentistry Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A hearing was held in the above-captioned matter on October 3, 1991, commencing at 9:30 a.m. in Room 133 at 1400 East Washington Avenue, Madison, Wisconsin. The respondent, Dr. Stanley D. Carlson, appeared without legal counsel. Appearing for the complainant was Attorney Richard Castelnuovo, Department of Regulation and Licensing, Division of Enforcement. The transcript of the hearing was received on November 4, 1991.

Based upon the record herein, the administrative law judge recommends that the Dentistry Examining Board adopt as its final decision in this case the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Stanley D. Carlson, D.D.S. ("Carlson"), 1920 Oaklawn Drive, Eau Claire, Wisconsin 54703, is and was at all times relevant to this proceeding licensed as a dentist in Wisconsin pursuant to license number 4000310, granted on May 2, 1946. Carlson was formerly licensed to practice medicine and surgery in Wisconsin pursuant to license number 13025-2, granted on July 31, 1958.

2. At various times, including those periods when he has been licensed to practice medicine and surgery, Carlson has engaged in the practice of dentistry in Wisconsin.

EVALUATION

3. Upon motion by complainant's attorney and as agreed to by Carlson, an Order Requiring Respondent to Submit to Examination was issued herein, pursuant to which Carlson was given a mental examination by Dr. Robert M. Factor, M.D., Ph.D. Dr. Factor subsequently issued a written report under date of September 10, 1991, in which he provided the results of the examination and stated in part:

"...I must conclude that Dr. Carlson suffers significant impairments in judgment, in insight about his present situation, and in the quality of his thinking secondary to thought disorganization and paranoia, especially when stressed by the need to make judgments and difficult qualitative choices. I believe these impairments are of such a magnitude that they adversely affect his ability to practice as a professional, to make the logical connections necessary to carry out health care tasks, and to appreciate the requirements of good practice and conform his conduct to those requirements. This impairment is especially significant, in that he could not organize his thoughts to demonstrate insight into the specific areas that had caused him substantial consequences in the past (loss of his medical license and DEA registration), much less into hypothetical areas of misconduct."

PRIOR CONDUCT

4. While employed in an institution for mentally disabled persons, Carlson performed a breast examination upon a severely retarded patient while the patient was masturbating.

5. By Complaint dated June 21, 1985 and issued by the Wisconsin Medical Examining Board, Carlson was charged in nineteen counts, involving fourteen patients, with violations of the medical licensing law relating to the improper practice of medicine.

6. During the pendency of the foregoing disciplinary action before the Wisconsin Medical Examining Board, Carlson completed an application for a license to practice medicine in Montana, which was signed on or about September 11, 1985 upon oath and affirmation that the statements contained in the application were true.

7. Carlson falsely answered "no" to question 25a. on the Montana application, which asked: "Have any legal or disciplinary actions been instituted against you which allege impropriety of your past practice or your unfitness to practice?"

8. By Final Decision and Order dated December 12, 1985, the Wisconsin Medical Examining Board accepted Carlson's surrender of his license to practice medicine and surgery in Wisconsin upon a determination that his treatment of a patient fell below minimal standards of acceptable medical practice, in violation of sec. 448.03(2), Wis. Stats., and sec. Med 10.02(2), Wis. Adm. Code.

9. The circumstances of the violation of law set forth in par. 8 above, substantially related to the practice of dentistry in that Carlson failed to adequately examine and evaluate a patient's condition, failed to inquire into the underlying causes of the symptoms presented by the patient and failed to adequately treat the patient's alleged chronic pain.

10. On or about May 21, 1986, Carlson was required to submit to an oral examination as a part of his application for licensure to practice medicine and surgery in Wisconsin. As a result of the oral examination the Wisconsin Medical Examining Board concluded:

"Dr. Carlson not only failed to answer any question satisfactorily, he also appeared to fail in many instances to comprehend the questions he was being asked. Accordingly, he has manifestly failed to demonstrate his fitness and competence to practice medicine and surgery."

11. On or about May 21, 1987, the Wisconsin Medical Examining Board ordered that Carlson provide an evaluation from the Impaired Physician's Program as condition for that board's consideration of Carlson's application for licensure.

12. Pursuant to Carlson's consent to release information, the Milwaukee Psychiatric Hospital Division of Chemical Dependency notified the Wisconsin Medical Examining Board on or about March 18, 1988 that Carlson (a) "is still in denial of his sedative drug dependence," (b) left treatment against medical advice, (c) has no insight into the nature of problems with chemical dependency and the very serious condition he was in when he started treatment, and (d) "has effectively turned down all recommendations we have made, except for random witnessed urine screens."

13. By an Order Denying Petition dated May 4, 1988, the Wisconsin Medical Examining Board denied Carlson the opportunity to appear for an oral examination until he demonstrated by an opinion from a therapist that he suffered from no impairment which would effect his ability to safely and competently practice as a physician or provided proof that he had successfully participated in the McBride Impaired Physician's Program.

14. In a 1989 proceeding before the United States Department of Justice, Drug Enforcement Administration, Docket No. 88-74, it was found that Carlson's continued DEA registration was inconsistent with the public interest. In making this determination, Carlson's abuse of controlled substances was considered, which included testimony from Carlson that he had taken medications for sleep over a long period of time, prescribed these medications including sodium busitol (a schedule III controlled substance) for himself, become addicted, and rejected treatment offered by McBride. He further testified that he might even be "classified as a real hard addict."

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 447.07.

2. Respondent Stanley D. Carlson has engaged in unprofessional conduct within the meaning of Wis. Stats. sec. 447.07(3)(a), and Wis. Adm. Code sec. 5.02 by:

(a) violating Wis. Adm. Code sec. DE 5.02(4), through practicing or attempting to practice while the ability to perform services is impaired by mental disorder, emotional disorder or drugs, and

(b) violating Wis. Adm. Code sec. DE 5.02(15), through violating laws the circumstances of which substantially relate to the practice of a dentist, including Wis. Stats. sec. 448.03(2), and Wis. Adm. Code sec. Med 10.02(2).

3. Respondent has violated Wis. Stats. sec. 447.07(3)(L), through prescribing and self-administering a schedule III controlled substance contrary to Wis. Stats. sec. 161.38.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Stanley D. Carlson to practice dentistry in the State of Wisconsin is suspended, effective 20 days following the date of the Final Decision and Order of the Dentistry Examining Board.

FURTHERMORE, IT IS ORDERED that the suspension ordered herein shall continue until such time as respondent submits evidence satisfactory to the board from a psychiatrist, psychologist or other health care professional satisfactory to the board that respondent suffers from no impairment which would affect his ability to safely and competently practice as a dentist.

FURTHERMORE, IT IS ORDERED that the costs of this proceeding shall not be assessed against the respondent.

OPINION

The record in this case indicates that Dr. Stanley D. Carlson suffers, and has in the past suffered from an impairment which adversely affects his ability to practice as a professional. The evidence also establishes that Dr. Carlson has engaged in unprofessional conduct through violating several laws which are substantially related to the practice of dentistry. Although his condition assists in explaining the reason for his past misconduct, unfortunately Dr. Carlson has refused to confront his problem by seeking and obtaining treatment.

The primary concern in this case is the current psychological condition of Dr. Carlson and what, if any, impact that condition has upon his ability to render dental care to his patients. Upon motion by complainant's attorney and as agreed to by Dr. Carlson, an Order Requiring Respondent to Submit to Examination was issued prior to the hearing in which Carlson was given a mental examination by Dr. Robert M. Factor, M.D., Ph.D. Dr. Factor subsequently issued a written report under date of September 10, 1991, in which he provided the results of the examination. The heart of Dr. Factor's findings merit repeating:

"...I must conclude that Dr. Carlson suffers significant impairments in judgment, in insight about his present situation, and in the quality of his thinking secondary to thought disorganization and paranoia, especially when stressed by the need to make judgments and difficult qualitative choices. I believe these impairments are of such a magnitude that they adversely affect his ability to practice as a professional, to make the logical connections necessary to carry out health care tasks, and to appreciate the requirements of good practice and conform his conduct to those requirements. This impairment is especially significant, in that he could not organize his thoughts to demonstrate insight into the specific areas that had caused him substantial consequences in the past (loss of his medical license and DEA registration), much less into hypothetical areas of misconduct." (See, Exhibit #10).

Although Dr. Carlson vigorously disputes the above findings, he offered no countering psychological evaluation of his condition. In fact, the recent findings by Dr. Factor are consistent with the results of a proceeding before the Wisconsin Medical Examining Board, in which it refused to reinstate his license to practice medicine and surgery. In that case, Dr. Carlson voluntarily surrendered his medical license in 1985 due to improper patient evaluation and care. After Dr. Carlson failed to pass an oral examination for reinstatement, the medical board required that he undergo an evaluation prior to reconsidering another application. Dr. Carlson did enter a treatment facility, however, in March 1988 it reported that Dr. Carlson had left the facility against medical advice, did not comprehend the nature of his serious chemical dependency problem and continued in denial of his sedative drug dependence. (See, Exhibit #5)

Furthermore, at a subsequent proceeding in 1989 before the Drug Enforcement Administration in which his registration to prescribe controlled substances was rejected, Dr. Carlson admitted to prescribing and ingesting sleep inducing medications which were controlled substances, that he rejected treatment for his problem and that he might be "classified as a real hard addict."

Various conduct by Dr. Carlson over the past years also serves to substantiate the opinion rendered by Dr. Factor and to demonstrate instances of respondent's impaired judgment. These would include the falsification of his application for a license to practice medicine in Montana by falsely indicating that he was not the subject of disciplinary action by the medical board in this state, and the extremely questionable conduct of performing a breast examination upon a retarded patient who was masturbating at the time.

In my opinion, the record is clear that Dr. Carlson is in need of professional help. The recommended order, which accepts that proposed by complainant and is consistent with that issued by the Medical Examining Board, is intended to encourage Dr. Carlson to seek that help and to insure that his patients suffer no adverse effects from possible professional misjudgments until he does so. The evidence establishes that Dr. Carlson's denial of chemical dependency is strong and that he is not likely to obtain necessary treatment unless he is essentially forced to do so through the removal of his right to practice dentistry.

Finally, it is recommended that costs not be imposed in this proceeding. This case primarily arises from a personal problem suffered by Dr. Carlson, and not through intentional or negligent misconduct in the practice of dentistry. The emphasis should be placed upon effectuating Dr. Carlson's recovery and rehabilitation, which I do not believe would be enhanced through the imposition of costs.

Dated: February 11, 1992.

Respectfully submitted,



Donald R. Rittel
Administrative Law Judge

BDLS2-1212

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 4, 1992~~ March 4, 1992.