

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
 :
 JAMES M. D'AMICO, D.D.S., : FINAL DECISION AND ORDER
 : 95 DEN 095
 RESPONDENT. :
 :

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

James M. D'Amico
1227 Hopedale Drive
Fort Meyers, FL 33904

Wisconsin 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 in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. James M. D'Amico (D.O.B. 10/13/52) is duly licensed in the state of Wisconsin as a dentist (license # 5001683). This license was first granted on June 25, 1976.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 522 Wildwood Parkway, Cape Coral, FL 33904. Respondent's current address is 1227 Hopedale Drive, Fort Meyers, FL 33919.
3. Respondent enrolled in the Florida Physician's Recovery Network treatment and monitoring program on September 10, 1991. Respondent has been in continual compliance with the requirements of the program .

4. Respondent enrolled in the Wisconsin Impaired Professional Procedure on October 12, 1992, which required him to remain in compliance with the Florida treatment and monitoring program, and to submit quarterly reports to the Wisconsin IPP coordinator. Respondent ceased filing the required quarterly reports in September, 1994, and was thereafter discharged from the Wisconsin Impaired Professional Procedure.

CONCLUSIONS OF LAW

By the conduct described above, James M. D'Amico is subject to disciplinary action against his license to practice as a dentist in the state of Wisconsin, pursuant to Wis. Stats. sec. 447.07(3)(a), and Wis. Adm. Code sec. DE 5.02(14) and (16).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that James M. D'Amico is REPRIMANDED.

IT IS FURTHER ORDERED, that Respondent shall maintain compliance with all requirements of the Florida Physicians Recovery Network advocacy contract dated 9/10/91.

IT IS FURTHER ORDERED, that Respondent shall provide to the Board current releases complying with state and federal law, authorizing release of counseling, treatment, monitoring and employment records

IT IS FURTHER ORDERED, THAT Respondent shall arrange for quarterly reports to the Department Monitor, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935, evaluating Respondent's treatment progress and monitoring compliance. In addition, Respondent shall provide a comprehensive report documenting and confirming Respondent's compliance with the requirements of the Florida Physicians Recovery Network advocacy contract for the period September 1, 1994, to the date of this Order. Such report shall detail any monitoring of Respondent's blood/urine for the presence of drugs.

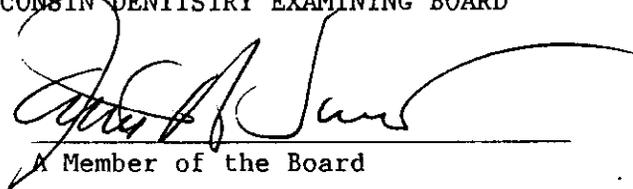
It IS FURTHER ORDERED, that Respondent shall pay to the Department of Regulation and Licensing, within sixty days of the date of this Order, the costs of the investigation and prosecution of this action in the sum of \$ 500.00.

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

This Order shall become effective upon the date of its signing.

WISCONSIN DENTISTRY EXAMINING BOARD

By:


A Member of the Board

Date

8/4/96

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JAMES M. D'AMICO, D.D.S.,	:	95 DEN 095
RESPONDENT	:	

It is hereby stipulated between James M. D'Amico, personally on his own behalf and Bruce D. Lamb, his attorney, and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those 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 behalf and to compel their attendance by subpoena; the right to testify himself; 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. Respondent is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Dentistry Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

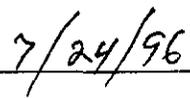
6. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Dentistry Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Respondent in recommending the Dentistry Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

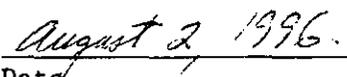

James M. D'Amico, D.D.S.


Date


Bruce D. Lamb, Attorney for Respondent


Date


James W. Harris, Attorney
Division of Enforcement


Date

jh

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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

September 5, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On September 4, 1996, the Dentistry Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$500.00 Case #: 95 DEN 095

The amount of the forfeiture is: _____ Case #: _____

Please submit a check or a money order in the amount of \$ 500.00

The costs and/or forfeitures are due: November 3, 1996

NAME: James M. D'Amico LICENSE NUMBER: 5001683

STREET ADDRESS: 1227 Hopedale Drive

CITY: Fort Meyers STATE: FL ZIP CODE: 33904 33919

Check whether the payment is for costs or for a forfeiture or both:

COSTS FORFEITURE

Check whether the payment is for an individual license or an establishment license:

INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935**

#2145 (4/95)
Ch. 440.22, Stats.

For Receiving Use Only

