

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
MICHAEL J. DONAHUE, D.D.S., : FINAL DECISION
RESPONDENT. : AND ORDER
 : LS9807081DEN

Division of Enforcement
96 DEN 111

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

Michael J. Donahue, D.D.S.
407 Sunset Dr.
Cuba City, WI 53807-0818

Wisconsin Dentistry Examining Board
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation And Licensing
Division of Enforcement
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Dentistry Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Michael J. Donahue, D.D.S., personally, and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Dentistry Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Michael J. Donahue, D.D.S., 407 Sunset Drive, Cuba City, Wisconsin, 53807, was born on 5/30/29 and has been licensed to practice dentistry in the state of Wisconsin since 8/25/54, license #1046.

2. Dr. Donahue renewed his license to practice dentistry when it expired on 9/30/97 and he is currently licensed to practice dentistry in Wisconsin through 9/30/99.

3. An investigation, 96 DEN 111, is pending before the Wisconsin Dentistry Examining Board. The allegations which are the bases for the investigation are that Dr. Donahue failed to diagnose and treat periodontal disease in a patient for whom he had been providing dental services from 4/5/76 through 10/29/93.

4. Dr. Donahue will be retiring from the practice of dentistry in the state of Wisconsin on 8/15/98. Dr. Donahue will provide timely notice to his patients of his intention to retire from the practice of dentistry and will make arrangements for the orderly transfer of patient care and patient records to the dentists who will be providing continuing dental care for Dr. Donahue's patients.

5. Dr. Donahue, in consideration of his retirement from the practice of dentistry, has agreed to surrender all of the rights and privileges to practice dentistry in Wisconsin which accrued to him as a result of the renewal of his license on 9/30/97 effective 8/15/98 and has further agreed that he will not renew his license when it expires on 9/30/99 or at any time thereafter.

CONCLUSIONS OF LAW

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

2. The Wisconsin Dentistry Examining Board has the authority to resolve this proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

ORDER

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

IT IS FURTHER ORDERED that Michael J. Donahue, D.D.S. will not practice or attempt to practice dentistry in the state of Wisconsin after 8/15/98.

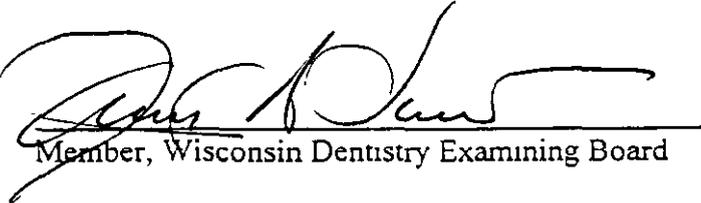
IT IS FURTHER ORDERED that Michael J. Donahue, D.D.S. will not renew his license to practice dentistry in the state of Wisconsin when it expires on 9/30/99 or at any time thereafter.

IT IS FURTHER ORDERED that the pending investigation, 96 DEN 111, shall be and hereby is closed without further proceedings.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Dentistry Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information"

Dated at Madison, Wisconsin, this 8th day of July, 1998.

WISCONSIN DENTISTRY EXAMINING BOARD


Member, Wisconsin Dentistry Examining Board

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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
MICHAEL J. DONAHUE, D.D.S., : STIPULATION
RESPONDENT. :

Division of Enforcement
96 DEN 111

It is hereby stipulated between Michael J. Donahue, D.D.S., personally, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Michael J. Donahue, D.D.S., 407 Sunset Drive, Cuba City, Wisconsin 53807, was born on 5/30/29 and has been licensed to practice dentistry since 8/25/54, license #1046.
2. Dr. Donahue will be retiring from the practice of dentistry in Wisconsin on 8/15/98.
3. An investigation of Dr. Donahue is pending before the Wisconsin Dentistry Examining Board, investigative file 96 DEN 111. This Stipulation fully resolves all of the allegations arising out of investigative file 96 DEN 111.
4. The parties to this Stipulation agree that the Dentistry Examining Board may render the Final Decision And Order attached hereto, the terms of which have been agreed upon by the parties.
5. The parties waive all costs of this proceeding.
6. Dr. Donahue understands that by signing this Stipulation, he freely, voluntarily and knowingly waives his rights, including the right to be represented by an attorney, the right to a hearing on the allegations against him, the right to confront and cross-examine witnesses against him, the right to call witnesses on his 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 and Order, the right to petition for rehearing, the right to judicial review, and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
7. The parties to this Stipulation and the Case Advisor, James A. Sievert, D.D.S., may appear before the Dentistry Examining Board in support of this Stipulation. Any appearance by either party pursuant to this paragraph will be preceded by proper and timely notice to all parties to this proceeding.

8. If any term of this Stipulation or the incorporated Final Decision And Order is not accepted by the Dentistry Examining Board, then no term of this Stipulation or the Final Decision And Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: May 22, 1998

Michael J. Donahue D.D.S.
Michael J. Donahue, D.D.S.

Dated: 5/27/98

Gilbert C. Lubcke
Gilbert C. Lubcke, Attorney for the
Department of Regulation and Licensing
Division of Enforcement

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE DENTISTRY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Michael J. Donahue, D.D.S.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

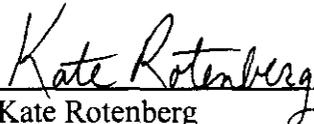
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On July 10, 1998, I served the Final Decision and Order dated July 8, 1998, LS9807081DEN, upon the Respondent Michael J. Donahue, D.D.S. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 543.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

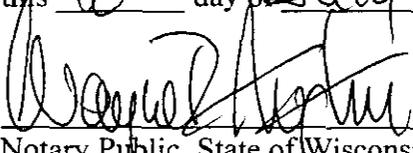
Michael J. Donahue, D.D.S.
407 Sunset Drive
Cuba City WI 53807-0818



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 10th day of July, 1998



Notary Public, State of Wisconsin
My commission is permanent

NOTICE OF RIGHTS OF APPEAL

TO: MICHAEL J DONAHUE DDS

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 7/10/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935