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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD
IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:

STEPHEN W RATER,
RESPONDENT

FINAL DECISION AND ORDER
LS0105021DEN

Division of Enforcement Case file No. 99 DEN 042

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Stephen W. Rater
801 South Gammon Road
Madison, WI 53719

Department of Regulation and Licensing
Division of Enforcement
Post Office 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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Stephen W. Rater (D.O.B. 01/05/1950) is duly licensed as a dentist in the state of Wisconsin (license # 2199). This license was first granted on January 18, 1979.
2. Dr. Rater's most recent address on file with the Wisconsin Dentistry Examining Board is 801 South Gammon Road, Madison, WI 53719.
3. On or about July 14, 2000, Dr. Rater was convicted of thirteen misdemeanor counts of violation of sec. 943.20(1)(d) Wis. Stats. [Theft - False Representation] for submission of false information in conjunction with Medicaid billings from 1994 to 1997. A true and correct copy of the Judgment of Conviction in this matter is attached to this Order as Exhibit A.
4. In satisfaction of his conviction, Dr. Rater has successfully completed an electronic monitoring program for a period of six [6] months. Dr. Rater has already paid a fine of \$55,000 plus fees and assessments (approximately \$94,000); he has paid restitution in the amount of \$68,276.63. In addition, Dr. Rater is required to do the following: serve a 4 year term of probation; pay the costs of the criminal investigation in the amount of \$20,000; refrain from participation in any state or federally funded health plan; and perform 200 hours of community service (which he is presently performing at the Harambee Clinic in Madison). In addition, Dr. Rater has reached a civil settlement with the United States Department of Health and Human Services, which relates to the misdemeanor convictions, by paying the United States Department of Justice \$50,000.00.
5. The Division of Enforcement has visited Dr. Rater's office to review his post conviction system of record keeping, billing and charting and is satisfied that Dr. Rater is maintaining such records, charts and billing system in accordance with professional standards of care.
6. In resolution of this matter, Dr. Rater consents to the entry of the following Conclusions of Law and Order.

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 disciplinary proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Rater's conduct as described in the Findings of Fact was conduct contrary to sec. 447.07(3)(a), Stats. and Wis. Admin. Code sec. DE 5.02(5).
4. The Wisconsin Dentistry Examining Board has the authority pursuant to sec. 440.22, Stats., to assess the costs of this proceeding against Dr. Rater.

ORDER

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

IT IS FURTHER ORDERED that Stephen W. Rater's license to practice dentistry in the State of Wisconsin is LIMITED as follows:

1. Dr. Rater shall fully and timely comply with all terms and conditions of probation imposed against him. Dr. Rater shall arrange for the submission on a quarterly basis of formal written reports to the Department Monitor from Dr. Rater's probation officer. These reports shall summarize the status of Dr. Rater's compliance with the terms of his probation. Dr. Rater shall arrange for his probation officer to report immediately to the Department Monitor [Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935, FAX (608) 266-2264, Tel. (608) 267-3817] any violation of Dr. Rater's probation.
2. Dr. Rater will arrange for and participate in an education program administered by the Marquette University School of Dentistry under the supervision of the Dean of the Marquette University School of Dentistry. This education program will be developed and structured as follows:
 - a. Within sixty [60] days of the date of this Final Decision and Order, Dr. Rater shall arrange for and complete an assessment conducted by the Marquette University School of Dentistry. The assessment shall evaluate Dr. Rater's skills and knowledge in the areas of dental record keeping, dental/medical history and clinical examination protocols, diagnostic oral pathology and restorative dentistry. The purpose of the assessment is to assist the Marquette University School of Dentistry in developing an education program for Dr. Rater, which addresses each of these aspects of dental practice. As a part of the assessment, the Marquette University School of Dentistry will require Dr. Rater to produce a minimum of 10 complete dental charts, including dental x-rays, of patients treated or examined by him. These complete dental charts will be selected by Marquette University School of Dentistry from a list compiled by Dr. Rater. The list will identify each patient he examined or treated in the 1 month preceding the date of the assessment with a brief statement of the reason for his contact with each patient and the length of time that the person has been his patient. The review of these selected dental charts will not be limited to examinations conducted or treatments administered within the preceding month, but will include a review of the complete dental record for each of the patient records selected, as deemed appropriate by the individual(s) responsible for the assessment. Dr. Rater and the Marquette University School of Dentistry will take adequate precautions to protect patient confidentiality. The Marquette University School of Dentistry may also utilize records and other documents from the investigative file compiled by the Department of Regulation and Licensing, Division of Enforcement, in support of this disciplinary action to assist with the assessment. Marquette University School of Dentistry may also conduct oral, written or practical examinations in addition to the dental records review to perform the assessment. The dates and times for conducting the assessment will be determined by the Marquette University School of Dentistry, if Dr. Rater and Marquette University are unable to reach mutually agreeable dates and times.
 - b. The Marquette University School of Dentistry will develop an education program that includes components in dental record keeping, dental/medical history and clinical examination protocols, diagnostic oral pathology and restorative dentistry within 30 days of completion of the assessment and will submit the proposed education program to the Dentistry Examining Board or its designee for approval prior to implementation of the education program. The education program may consist of academic instruction, clinical instruction or both. If after conducting the assessment, Marquette University School of Dentistry is of the opinion that any component of the education program is not necessary because Dr. Rater's skill, knowledge and technique are in conformity with the standard of care, Marquette University School of Dentistry may recommend to the Dentistry Examining Board that this component be excluded from the education program and supply documentation from the assessment in support of this recommendation. The Dentistry Examining Board shall approve the education program without this component. However, should the assessment of the Marquette University School of Dentistry reveal that Dr. Rater's knowledge, skills and abilities to practice dentistry are so substandard as to be incapable of remedial instruction, or if the Marquette University School of

Dentistry deems Dr. Rater to be uncooperative during the assessment to a degree which makes accurate assessment impossible, this disciplinary proceeding will be remanded to the Division of Enforcement for further proceedings. If the Marquette University School of Dentistry is unable to develop an education program, or component thereof, for Dr. Rater, the Marquette University School of Dentistry will so notify the Wisconsin Dentistry Examining Board, which may arrange for Dr. Rater to attend a continuing education program to address the issues identified in the assessment which could not be addressed by the Marquette University School of Dentistry.

c. Dr. Rater will commence the education program within 45 days of the date on which the Dentistry Examining Board or its designee approves the education program. Prior to commencing the education program, the Marquette University School of Dentistry will establish a timetable for the implementation, progression and completion of each component of the education program and submit this timetable to the Dentistry Examining Board. Dr. Rater will comply with this timetable.

d. Dr. Rater will take and pass evaluations, which may include oral and/or written components administered by the Marquette University School of Dentistry in each of the components of the approved education program.

e. Dr. Rater will arrange for the Marquette University School of Dentistry to submit a quarterly report to the Dentistry Examining Board, advising the Dentistry Examining Board of Dr. Rater's progress and whether he is in compliance with the timetable established by the Marquette University School of Dentistry for implementation, progression and completion of each component of the education program.

f. Dr. Rater will satisfactorily complete all components of the education program including all evaluations administered by the Marquette University School of Dentistry within 18 months of the date of this Final Decision and Order.

g. Upon satisfactory completion of all components of the education program and of the oral and written evaluations related to these components, the Marquette University School of Dentistry will certify satisfactory completion of the education program to the Dentistry Examining Board.

h. Dr. Rater will be responsible for the full costs of the assessment, the education program and the evaluations and will make payment to the Marquette University School of Dentistry in accordance with a payment schedule established by the Marquette University School of Dentistry.

3. Until otherwise ordered by the Board, Dr. Rater shall refer all patients presenting with a diagnosis of Acute Necrotizing Ulcerative Gingivitis [ANUG] to an independent practitioner for confirmatory diagnosis and treatment.

4. Beginning thirty [30] days following the effective date of this Order and for a period of not less than twelve (12) months, Dr. Rater's practice will be monitored.

a. The purpose for the monitor shall be to assure Dr. Rater's compliance with generally accepted standards of practice as well as to assure accuracy in billing for services performed. The monitor shall in addition assist Dr. Rater with the incorporation of the information he acquired through the consultation and education programs [Ref. ¶ 2, above] into his practice of general dentistry.

b. The Dentistry Examining Board will select the person to perform the monitor function; however that person shall not be someone who participated in the State's prosecution of Dr. Rater.

c. The monitor function and record review will be conducted every 3 months. The monitoring will be accomplished by review of Dr. Rater's dental records including, but not limited to, treatment records, dental x-rays and consultation reports for patients examined or treated by Dr. Rater within the 3 months preceding the date of the review.

d. Dr. Rater will maintain a list of all patients examined or treated by him in the 3 months preceding each review and brief descriptions of the presenting dental problems and the treatments administered to each patient. Dr. Rater will provide this list to the person performing the monitor function within a reasonable period of time prior to the record review to permit him or her to select from the list the patient records to review.

e. The review will also include a discussion between the person reviewing the records and Dr. Rater regarding the diagnoses, treatments and record keeping practices in each of the cases reviewed.

f. The monitor will file a report with the Dentistry Examining Board following each review of the records describing the results of the review. The monitor shall immediately notify the Board of any problems in Respondent's practice that may reasonably be construed to be a deviation from the accepted standard of care or a violation of state statutes or administrative rules.

g. Failure by Dr. Rater to comply with the procedures for implementing and performing the monitor

function as set forth in this Order shall constitute a basis for an action alleging that Dr. Rater has violated Wis. Admin. Code sec. DE 5.02(17) by failing to comply with the Final Decision and Order of the Dentistry Examining Board.

h. If the conduct or practices described in the monitor report constitute a potential violation of statutes or administrative code provisions regarding the practice of dentistry, the report may serve as the basis for initiating a subsequent investigation of Dr. Rater's conduct or practices.

i. Dr. Rater will pay the full costs of the monitor function including the professional fees of the person selected by the Dentistry Examining Board to perform the monitor function. Dr. Rater will make payment in full of the fees associated with the monitor function within 30 days of the date on which the person performing the monitor function submits a statement for professional services and expenses.

5. All certifications, reports or other documents required to be filed under the terms of this limited license will be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
1400 East Washington Ave.
Madison, WI 53708-8935
FAX (608) 266-2264, Tel. (608) 267-3817

6. Dr. Rater shall pay partial costs of this proceeding in the amount of FIVE HUNDRED DOLLARS [\$500.00] to the Department of Regulation and Licensing within 90 days of the date of this Final Decision And Order.

7. Upon submission of acceptable documentation of completion of the evaluation and education components of this Order, together with acceptable documentation of full, complete and successful compliance with the terms of this Order the Board shall grant a petition by Dr. Rater for full and unrestricted licensure, thereby extinguishing all terms, conditions and limitations set forth in this Order. Dr. Rater may submit a petition under this paragraph at any time after the later of: (1) 12 months from the approval of the education program referred to above or (2) Dr. Rater's discharge from probation.

8. If Dr. Rater fails to comply with any of the provisions of this Final Decision And Order or fails to comply with the timetable established by the Marquette University School of Dentistry for implementation, progression and completion of each component of the education program, his license to practice dentistry in the State of Wisconsin may be summarily suspended.

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

WISCONSIN DENTISTRY EXAMINING BOARD

Bruce Barrette

5-2-01

On Behalf of the Board

Date