FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JAMES A MORRONE, RESPONDENT	:	93 DEN 033

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

James A. Morrone
120 Oakbrook Center, Suite 700
Oak Brook, IL 60521

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. James A. Morrone (D.O.B. 01-10-54), is duly licensed as a dentist in the state of Wisconsin (license # 3365). This license was first granted on July 31, 1984.

2. Dr. Morrone's most recent address on file with the Wisconsin Dentistry Examining Board is 120 Oakbrook Center, Suite 700, Oak Brook, Illinois 60521.

3. Dr. Morrone holds the following licenses in the state of Illinois: Dentist, license # 019-107336; Dental Specialist, license # 021-001259; and Controlled Substance Prescriber/Dispense, # 003-019-017336-01.

4. On November 3, 1993, all three of Dr. Morrone's Illinois licenses were indefinitely suspended by the Illinois Department of Professional Regulation. A true and correct copy of the

Order indefinitely suspending respondent's Illinois licenses is attached to this Order as Exhibit A. Exhibit A is incorporated by reference into this document.

5. The circumstances behind Illinois' indefinite suspension of Dr. Morrone's Illinois licenses are set out in a Report and Recommendation by Thomas R. Chiola, Administrative Law Judge, dated January 15, 1991. A true and correct copy of said Report and Recommendation is attached to this Order as Exhibit B. Exhibit B is incorporated by reference into this document.

6. Dr. Morrone's Illinois licenses were restored to a probationary status, effective February 22, 1995. Dr. Morrone's licenses were ordered to a probationary status on March 8, 1995 for 18 months, or until September 8,. 1996. A true and correct copy of the Order for Restoration and the Stipulation and Recommendation for Settlement are attached to this Order as Exhibit C. Exhibit C is incorporated by reference into this document.

7. In resolution of this matter, Dr. Morrone consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction over this matter pursuant to chapter 447.07 of the Wisconsin statutes.

2. The Wisconsin Dentistry Examining Board is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

3. The conduct described above constitutes a basis for discipline under secs. 447.07(3) (a), (f) and (h), Stats. and Wisconsin Administrative Code §DE 5.02(1) and (14).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of James A. Morrone to practice dentistry in the state of Wisconsin (license #3365) shall be LIMITED as follows:

1. Prior to his use in Wisconsin of general anesthesia, deep sedation or parenteral sedation (as those terms are defined in Wisconsin Administrative Code §DE11.02), Dr. Morrone shall appear before the Board to answer any questions that the Board may have concerning Dr. Morrone's ability to safely and competently respond to potential complications or emergencies relating to the use of sedation or anesthesia.

2. If the Board is satisfied following an appearance by Dr. Morrone that he can safely and competently practice, this limitation shall be removed, and Dr. Morrone shall be restored to full and unrestricted license status.

3. If as a result of an appearance the Board concludes that it is necessary to impose conditions or limitations upon Dr. Morrone's Wisconsin practice of dentistry, the Board may in the exercise of its discretion impose such terms and conditions as it deems appropriate to protect the public health, welfare and safety. The imposition of conditions or limitations under this paragraph shall not give rise to a contested case within the meaning of secs. 227.01(3) and 227.42, Stats.

4. Dr. Morrone may petition the Board at any time to revise or eliminate any conditions or limitations imposed pursuant to ¶3, above. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of secs. 227.01(3) and 227.42, Stats.

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

WISCONSIN DENTISTRY EXAMINING BOARD

BY: _____ 7-10-96
On behalf of the Board Date

STATE OF ILLINOIS
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, Complainant	)	
v.	)	No. 86-21
JAMES MORRONE	)	
License No. 019-017336	)	No. 89-1818-X
Specialty License No. 021-001259	)	
Controlled Substances	)	
License No. 003-019-017336-1	)	No. 89-1819-X

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION TO THE DIRECTOR

Now comes the State Board of Dentistry of the Department of Professional Regulation of the State of Illinois and, after conducting a hearing in this matter, and having reviewed the Report and Recommendation of the Hearing Officer, a majority of its members hereby makes the following Findings of Fact, Conclusions of Law and Recommendation to the Director:

FINDINGS OF FACT

1. THAT James Morrone, Respondent, is now a duly registered dentist and oral and maxillofacial surgeon in the State of Illinois, having been issued Certificates of Registration, License Nos. 019-017336 and 021-001259, by the Department of Professional Regulation. Respondent's licenses are in active status.

2. THAT the Department filed a Complaint against the Respondent and sent notice of said Complaint to the Respondent by certified and regular mail on August 16, 1989.

Exhibit A

3. THAT hearings on the Complaint were held on several dates (see Report of the Hearing Officer).

4. THAT the Board has reviewed the transcripts and exhibits admitted as part of the record of this proceeding and has also reviewed the Report of the Hearing Officer (attached). The Board accepts the Report of the Hearing Officer as its Findings of Fact.

CONCLUSIONS OF LAW

1. THAT the State Board of Dentistry of the Department of Professional Regulation of the State of Illinois has jurisdiction over the subject matter and of the parties in this case.

2. THAT the Board accepts the Report of the Hearing Officer as its Conclusions of Law.

RECOMMENDATION

The State Board of Dentistry of the Department of Professional Regulation of the State of Illinois, after making the above Findings of Fact and Conclusions of Law, recommends to Nikki M. Zollar, the Director of the Department of Professional Regulation, that the Certificates of Registration, License Nos. 019-017336 and 021-001259 of James Morrone be Indefinitely Suspended. This Recommendation is based upon review of the separate violations found by the Board, that is, this discipline is warranted for each of the separate reasons that Respondent exhibited professional incompetence and that Respondent engaged

(Morrone 86-21)

in gross malpractice. The Board further recommends that Respondent not be allowed to Petition for Restoration of his licenses until he:

1) Successfully completes a minimum of one hundred sixty (160) contact (classroom) hours of continuing education in the areas of a) anesthesia (including general anesthesia and conscious sedation), and b) emergency treatment and preparedness. All courses must be approved in advance by the Dental Coordinator for the hours to count toward fulfillment of this condition.

2) Successfully completes a course in Advanced Cardiac Life Support.

3) Pays a fine of $10,000.

DATED THIS 1 DAY OF APRIL, 1991.

John G. Schmeder DDS
CHAIRMAN

MEMBER

MEMBER

MEMBER

STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, Complainant v. JAMES A. MORRONE License No. 019-017336 License No. 021-001259 Controlled Substance License No. 003-019-017336-01, Respondent	)))))))))	No. 92-6148-LEG

ORDER

This matter having come before the Board of Dentistry of the Department of Professional Regulation of the State of Illinois, and the Board of Dentistry, having made certain Findings of Fact, Conclusions of Law and a Recommendation to the Director of the Department; and the Department having complied with all required notices; and the time allowed for filing of a Motion for Rehearing before the Director of the Department having now passed;

NOW, THEREFORE, I, NIKKI M. ZOLLAR, DIRECTOR OF THE DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendation of the Board of Dentistry in this matter.

IT IS THEREFORE ORDERED that the Certificate of Registration, License No. 019-017336, heretofore issued to James A. Morrone to practice as a Dentist in the State of Illinois is Indefinitely Suspended and Respondent's eligibility to Petition for Restoration shall be governed by the terms set forth in the Board of Dentistry's Recommendation to the Director.

IT IS FURTHER ORDERED that James A. Morrone immediately surrender said Certificate of Registration and all other indicia of licensure to the Department of Professional Regulation of the State of Illinois. Upon failure to do so, the Department shall seize said Certificate of Registration.

DATED THIS 3rd DAY OF November, 1993.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

Nikki M. Zollar

NIKKI M. ZOLLAR
DIRECTOR

NMZ:lj

REF: License No. 019-017336
License No. 021-001259
C.S. License No. 003-019-017336-01
Case No. 92-6148-LEG

STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, Complainant	)	
v.	)	No. 86-21
JAMES MORRONE	)	
License No. 019-017336	)	No. 89-1818-X
Specialty License No. 021-001259	)	
Controlled Substances	)	No. 89-1819-X
License No. 003-019-017336-1, Respondent	)	

REPORT AND RECOMMENDATION

This Report and Recommendation is being submitted to the Board of Dentistry pursuant to Illinois Revised Statutes (1989) Chapter 111, Paragraph 2330 This Report and Recommendation is also being submitted to the Director of the Department of Professional Regulation pursuant to my role as Controlled Substances Hearing Officer.

BACKGROUND

The Department filed its original two-count Complaint against Respondent on August 16, 1989. Leave was granted for the Department to amend its Complaint and the Department amended in writing on three separate occasions. The Third Amended Complaint was orally amended on September 5, 1990.

Numerous pre-hearing pleadings were addressed by the parties and this Hearing Officer. Respondent changed attorneys during the course of pre-hearing matters.

Formal evidentiary proceedings commenced on September 5, 1990, continued on September 6, October 3, November 13 and concluded on November 15, 1990. Dr. Lewis Weil, a member of the Board of Dentistry, attended each day of testimony. Mary Anne Benden and Edward Williams represented the Department. Joseph Rossa and Mark Slavin represented the Respondent.

Exhibit B

DISCUSSION

The main thrust of the Department's Complaint against Respondent revolves around what occurred in his office on April 3, 1986. Respondent was extracting teeth of Renee Jarding while she was under 'conscious sedation'. Respondent used a combination of Valium and Talwin which were injected to relax the patient and also injected a local anaesthetic to numb the nerves of the teeth to be extracted.

Ms. Jarding became non-responsive during the course of the extractions. The Department has alleged that her condition resulted from improper actions on the part of Respondent. The Department has also alleged that Respondent's reaction to the patient's unconscious state, once it became apparent, was not appropriate, including his failure to be prepared for such an emergency situation.

The Complaint also covered other minor allegations concerning controlled substance prescribing and improper use of pre-printed prescription forms.

Dr. Morrone testified about the April 3, 1986 incident with Ms. Jarding and gave detailed descriptions of his actions under questioning by this Hearing Officer. Nancy Maka, Respondent's dental assistant at the time of the incident, also testified about what she could recall although her memory was cloudy on most details.

Officer Craig Rutz, John Schejbal and Michael Nummer, members of the emergency response team in River Forest who went to Respondent's office in response to a call on April 3, 1986, also testified. They gave detailed statements concerning the state of

Respondent's office, the activities occurring upon their arrival and Respondent's conversations with them about what had occurred.

Dr. T.L. An, Assistant Medical Examiner for Cook County, testified that Ms. Jarding's death was ruled to be accidental by the Medical Examiner's office. He noted that cardiac arrest may occur due to hypersensitivity to drugs without explanation.

Dr. Frederick Reiders, a forensics specialist in toxicology and detection and identification of foreign substances in human tissue, testified about what he found in tissue samples of Ms. Jarding. Blood and liver samples showed the presence of Talwin, Atropine, Lidocaine and Epinephrine. He did not find Valium or Narcan but could not say within a reasonable degree of certainty whether the absence of Narcan in the sample meant that it was never administered.

Dr. Robert Keen, an oral and maxillofacial surgeon in central Illinois and an expert in cardiac life support instruction, was the most telling witness for the Department. Dr. Keen noted that the standard for monitoring of a patient under conscious sedation in 1986 did not require use of continuous monitoring equipment. At a minimum in 1986, however, the dentist and at least one assistant should have had training in basic life support and recognition of the physiological parameters which need to be monitored during conscious sedation. Respondent's dental office in 1986 should have had a manual of procedures and protocols for emergency situations and at least one dental assistant should have been trained in those procedures.

Dr. Keen also noted that when an emergency arises such as with Ms. Jarding, the first thing which must be accomplished is

establishment of an airway. Administration of medications to counteract the effects of drugs previously given or to effect cardiac activity is secondary to establishing a way for oxygen to be introduced.

Dr. Stephen Marshall testified for Respondent. Dr. Marshall is an oral and maxillofacial surgeon in the Chicago area who has used conscious sedation in his practice. Dr. Marshall disagreed with Dr. Keen as to whether or not, in 1986, the standard for a dentist required that his assistant be trained in CPR.

To resolve this disagreement I refer to an exhibit offered by Respondent (No. 4) which shows that the consensus in 1985 was to require a minimum of two people (dentist and assistant) to be trained in CPR and identification of physiological parameters when utilizing the form of sedation in an office as we have in this case. Therefore, I must accept Dr. Keen's opinion as controlling on this point.

How then do we resolve the competing positions of the propriety of Respondent's actions by reference to the testimony? My starting point is the Complaint which alleges in Count I, Paragraph 6(a) that Respondent failed to properly administer anesthesia. Dr. Keen was not specifically clear on this point to allow a conclusion that it has been proved clearly and convincingly, which is the standard of proof which the Department must meet. Dr. Keen merely sees the result, a non-responsive patient, and believes that what Respondent did must have been improper. Valium was not even found in the tissue/blood of Ms. Jarding and the Medical Examiner could not conclusively explain the cause of death. Dosages of Valium and

Talwin administered by Respondent were not obviously inappropriate. I therefore find that the Department has not shown clearly and convincingly that Respondent failed to properly administer anaesthesia.

Paragraph 6(b) alleges a failure by Respondent to properly and adequately monitor Ms. Jarding and Paragraph 6(c) states that he failed to establish a constant intravenous infusion to facilitate administration of medications. Neither of these was found to be lacking by Dr. Keen. The monitoring being utilized by Respondent does not appear to violate the standard established by Dr. Keen for 1986 nor did Dr. Keen indicate that a constant intravenous line was necessary in 1986.

The other allegations of Paragraph 6(d), (e) and (f) have been shown, however. There is no doubt that Respondent's staff was not trained in emergency procedures and CPR on April 3, 1986 and that the lack of properly trained staff meant that sufficient staff was not utilized on April 3, 1986 during the operation involving conscious sedation.

The Department has not shown clearly and convincingly that Respondent lacked equipment and drugs necessary to competently respond to an emergency on April 3, 1986 as alleged in Paragraph 6(g).

The Department has shown by the testimony of Respondent and of the emergency response personnel that Respondent failed to properly administer CPR and establish an airway.

The issue of administration of drugs was not dealt with in detail by Dr. Keen. Since he made administration of drugs a secondary matter to establishment of an airway, he did not

specifically state what should have been administered at what point in this emergency and how Respondent s actions violated any standards for emergency administration of drugs. This issue is further complicated by the fact that Valium was never detected in the blood/tissue samples of Ms. Jarding either by the Medical Examiner or by Dr. Reiders. It is unclear how this might impact the appropriate administration of emergency drugs.

The Department tried to establish that Epinephrine was never administered by Respondent but the intent of this evidence was never made clear. If establishment of an airway was primary, then failure to give any emergency drugs before the airway was established would not be inappropriate. Given Dr. Keen s testimony, the problem did not appear to be with the administration of drugs, the problem revolved around a general lack of emergency preparedness. Without adequate assistance, Respondent was unable to quickly and efficiently perform the basic life support techniques, including administration of counter-active drugs at the appropriate time to stabilize the patient

This lack of preparedness calls into question the competency of Respondent. It is inconceivable to me that a practitioner in 1986 would place a patient under "conscious sedation" with a total absence of procedures, protocols and training of support staff in case an emergency developed while using the drugs involved. Respondent apparently thought he could handle everything on his own, which was a gross error in judgment as evidenced by his own Exhibit No. 4. The record indicates that for at least five months (December, 1985 - April, 1986) when Ms. Maka

worked for him. Respondent allowed this lack of emergency preparedness to exist while routinely performing surgeries using conscious sedation.

There is no evidence in the record after Ms. Maka left in April, 1986 that he allowed this condition to continue. Respondent's own statements indicate that he began to purchase/utilize monitoring equipment and emergency equipment as early as June, 1986. Respondent also noted that he now has two dental assistants certified in CPR, although it is not clear when they were employed or certified. Respondent also noted that he now puts his employees through simulated emergencies so that duties/procedures are clearly delineated

The Department has asked the Board to conclude that Respondent's actions constituted gross malpractice although Dr. Keen was never questioned by the Department about this issue Under questioning from this Hearing Officer, Dr. Keen indicated that he believed Respondent s lack of preparedness for an emergency was a glaringly obvious deviation from an acceptable standard of care. This is language which was approved by the Illinois Supreme Court in the Massa case (116 Ill. 2d 376, 507 N.E. 2d 814, 107 Ill. Dec. 661, 665 (1987)) for a finding of gross malpractice. But an essential element of malpractice is a finding of injury to the patient. Here it is virtually impossible to assign Respondent's failure to be prepared for this emergency as the sole cause of the patient's death. However, I believe that the lack of preparedness for this emergency contributed to reducing her chances of survival, which were injurious thereby.

My ultimate conclusion is that Respondent's handling of the surgery on Ms. Jarding, with special emphasis on the lack of emergency preparedness, constituted gross malpractice

In Count II the Department presents a theory that Respondent willfully made and/or filed a false report when he made the operative notes on Ms. Jarding's chart for April 3, 1986 (Department Exhibit 8). Those initial notes indicate that everything went well with the procedure, which we know is not the case. Respondent added to those initial chart entries that evening (Department Exhibit 9).

The Department has failed to show clearly and convincingly that the initial entries (Department Exhibit 8) were a willful attempt by Respondent to file a false report. What it does show is that Respondent uses "canned" comments made in advance to describe his procedures. While this is not desirable, it does not constitute a violation as alleged by the Department. And it is not rational to believe that a practitioner whose patient had died would attempt to cover up the matter with a chart entry as set forth in Department Exhibit 8.

Count III covers matters addressed above as to the dates when Respondent failed to have adequate trained staff. The Complaint intimates that this failure goes beyond Ms. Maka's employment (December, 1985 - April, 1986), but there is no proof in the record to establish dates other than those.

Count IV deals with minor controlled substances matters. The only violation shown as a result of Respondent's testimony is that he issued a handful of prescriptions which had been printed in

advance including his signature. However, the main thrust of the Department's other proof as to Count IV is found to be insufficient to establish a violation since Respondent dated and signed the prescriptions at the time they were issued.

Based on the evidence related above, the Board of Dentistry may find a violation of Illinois Revised Statutes (1985) Chapter 111, Paragraphs 2323(23) (professional incompetence as manifested by poor standards of care), 2323(20) (gross malpractice resulting in injury), and 2323(11) (unprofessional conduct). There is no basis for a finding of a violation of Paragraph 2323(22) (willfully making or filing false reports).

As to the controlled substances issues, I conclude that Respondent has violated Chapter 56 1/2, Paragraphs 1304(a)(5) and 1312(i) due to his admission that he used pre-printed prescription forms for a short period in the mid-1980's.

I leave the recommendation as to discipline of Respondent's Dental and Specialty Licenses to the sound discretion of the Board. The Board must take into account the corrective actions taken by Respondent as early as June, 1986 as a result the April 3, 1986 incident.

As to the Controlled Substances License, I recommend to the Director of the Department of Professional Regulation that the license be placed on probation for one (1) year. Conditions on probation should include the submission of all prescription forms utilized by Respondent to the Department.

DATED: January 15, 1991

Thomas R. Chiola
THOMAS R. CHIOLA
ADMINISTRATIVE LAW JUDGE

TRC:vat

STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

IN RE: The Petition For Restoration of JAMES A. MORRONE License No. 019-017336 License No. 021-001259 License No. 003-019-017336, Petitioner	))))))	No. 92-6148-LEG

ORDER

This matter having come before the Board of Dentistry of the Department of Professional Regulation of the State of Illinois, and the Board of Dentistry having approved a Stipulation and Recommendation for Settlement submitted by the parties;

NOW, THEREFORE, I, NIKKI M. ZOLLAR, DIRECTOR OF THE DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, do hereby adopt the Stipulation and Recommendation of the Board of Dentistry in this matter.

IT IS THEREFORE ORDERED that the Petition for Restoration is granted, and that the Certificates of Registration, License Nos. 019-017336, 021-001259 and 003-019-017336 heretofore issued to James A. Morrone to practice as a Dentist, as an Oral and Maxillofacial Surgeon and as a Controlled Substance Prescriber/Dispenser in the State of Illinois are restored to probationary status in accordance with the Stipulation and Recommendation for Settlement, which is incorporated by reference.

Exhibit C

IT IS FURTHER ORDERED that the Petitioner, upon payment of the proper renewal fee(s), be issued active Certificates of Registration from the Department of Professional Regulation of the State of Illinois.

DATED THIS 22nd DAY OF February, 1995.

DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois

Nikki M. Zollar

NIKKI M. ZOLLAR
DIRECTOR

NMZ:js

REF: License No. 019-017336
License No. 021-001259
License No. 003-019-017336
Case No. 92-6148-LEG

STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

IN RE: The Petition For Restoration of	)	
	)	No. 92-6148-LEG
JAMES A. MORRONE	)	
License No. 019-017336	)	
License No. 021-001259	)	
License No. 003-019-017336, Petitioner	)	

STIPULATION AND RECOMMENDATION FOR SETTLEMENT

The Department by Mary Anne Benden, its attorney, and James A. Morrone, Petitioner, by Leslie P. Poole of Palivos Law Firm LTD., his attorney, submit the following Stipulation and Recommendation for Settlement to the Board of Dentistry for its approval and favorable recommendation to the Director.

STIPULATION OF FACTS

1. THAT on November 28, 1994, the Petitioner filed a Petition for Restoration of his license to practice as Dentist, Dental Specialist as an Oral and Maxillofacial Surgeon and as a Controlled Substance Prescriber/Dispenser.

2. Petitioner has been advised that he has the right to be represented by counsel and has retained Palivos Law Firm LTD., as his attorney. Petitioner has been advised that he has a right to a formal evidentiary hearing and waives such right to a hearing if this Recommendation is approved.

3. Petitioner has completed continuing education required by Director Zollar's November 3, 1993 Order, having attended courses at Loma Linda University, School of Dentistry February 14, 1994, thru March 2, 1994. Petitioner paid

the Ten Thousand ($10,000.00) Dollars fine on December 28, 1994. Additionally, Petitioner demonstrated at an Informal Conference on December 20, 1994, that he is knowledgeable in all facets of the delivery of IV Sedation.

4. The Department agrees that the Petitioner has demonstrated sufficient rehabilitation to warrant the public trust, and the Department has no objection to the restoration of Petitioner's license as a Dentist, Dental Specialist as an Oral and Maxillofacial Surgeon and as a Controlled Substance Prescriber/Dispenser.

5. Petitioner is fully aware that this Recommendation must be approved by the Board of Dentistry. By submission of this Recommendation for approval, Petitioner expressly waives any objection based upon prejudice should the Board of Dentistry refuse to accept this Recommendation.

6. For purposes of settlement only, the parties acknowledge that restoration pursuant to the Dental Practice Act may be found by the Board of Dentistry following review of the Stipulation and Recommendation for Settlement.

7. The parties stipulate that these admissions are made for purposes of this Recommendation only. In the event that this Recommendation is not approved by the Board of Dentistry, these admissions shall not be admissible in any proceeding and the matter will be set for an evidentiary hearing on the merits as if this Recommendation had not been submitted. In addition, upon

approval of this Recommendation, these admissions may not be utilized in any other proceeding except one to enforce this agreement.

RECOMMENDATION FOR SETTLEMENT

8. In the interest of a prompt and just settlement in this matter in a manner consistent with the public interest and in light of the responsibilities of the Board of Dentistry, the Department and the Petitioner offer the following program for approval by the Board of Dentistry. This Recommendation shall be considered to be an integrated package such that approval of this Recommendation without change is necessary.

9. Upon notification that the Recommendation has been approved and that the Director has entered an Order adopting the Recommendation of the Board of Dentistry, Petitioner agrees:

   A. Upon proof of compliance with statutory continuing education requirements and upon payment of all applicable fees Petitioner's Certificate of Registration as a Dentist, Dental Specialist as an Oral and Maxillofacial Surgeon and as a Controlled Substance Prescriber/Dispenser, shall be issued on Probation for a period of eighteen (18) months. Petitioner shall be subject to following conditions while on Probation:

      1. All surgical assistants to IV Sedation patients shall maintain current certification for Advance Cardiac Life Support (ACLS).

Petitioner shall submit proof of the certification to the Probation Compliance Unit within ten (10) days of the approval of this stipulation.

2. Petitioner shall allow Department personnel to review photocopy and/or remove from the Petitioner's office ten (10) IV Sedation patient charts so as to accomplish an inspection of the administration of IV Sedation within Petitioner's practice. Department staff shall be allowed access to Petitioner's office for three (3) said inspections during the probationary period, which shall be scheduled at the discretion of the Department's Probation Compliance Unit.

B. Upon receipt by the Department of a completed application conforming with all statutory requirements and payment of all applicable fees, Petitioner shall be issued a Sedation Permit B.

I have read this Stipulation and Recommendation for Settlement I agree to be bound by its terms.

January 6, 1995 DATE	James A. Morrone James A. Morrone Petitioner
1/6/95 DATE	PALIVOS LAW GROUP LTD. by Leslie P. Poole Petitioner's Attorney
1/11/95 DATE	Mary Anne Benden Mary Anne Benden Attorney for the Department

The foregoing Stipulation and Recommendation for Settlement is approved by the Board of Dentistry as its decision this 11th day of January, 1995. The Board of Dentistry concludes that Petitioner is rehabilitated and hereby recommends that the Director approve the Recommendation set forth herein by issuing an appropriate Order.

1-11-95	
DATE	CHAIRMAN, BOARD OF DENTISTRY
1/11/95	
DATE	MEMBER
1/11/95	
DATE	MEMBER
1/11/95	
DATE	MEMBER
1-11-95	
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1-11-95	
DATE	MEMBER
DATE	MEMBER

/js

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST JAMES A. MORRONE, D.D.S., RESPONDENT	: : : :	STIPULATION 93 DEN 033

It is hereby stipulated between James A. Morrone, personally on his own behalf and Steven M. Gloe, 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 Dr. Morrone's licensure by the Division of Enforcement (93 DEN 033). Dr. Morrone consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Morrone 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. Dr. Morrone is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Dr. Morrone 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. Attached to this Stipulation is the current licensure card of James A. Morrone. If the Board accepts the Stipulation, Dr. Morrone's license shall be reissued only in accordance with the

terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Dr. Morrone shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Dentistry Examining Board assigned as an advisor in this investigation 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.

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

James A. Morrone

James A. Morrone, D.D.S.

June 14, 1996

Date

Steven M. Gloe

Steven M. Gloe, Attorney
Division of Enforcement

June 18 1996

Date

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:

July 11, 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.)