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IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GARY R. COHN, D.D.S.,

DECISION
AND ORDERRespondent.

The complaint having been filed in this matter on November 7, 1980; the respondent, Gary R. Cohn, D.D.S., (Cohn), by his attorneys, Marvin Resnick, S.C., by Marvin Resnick, having filed an answer to the complaint on November 19, 1980;

This matter having come on for hearing on February 13, 1981, in Room 291, 1400 East Washington Avenue, Madison, Wisconsin; Cohn having appeared thereat in person and by his attorneys, Marvin Resnick, Sr., by Attorney Marvin Resnick; the complainant having appeared by Attorney Michael J. Buchanan; the hearing examiner, Attorney Donald R. Rittel, having filed his proposed decision and order in this matter on July 9, 1981; the respondent, Cohn, by his attorneys, Marvin Resnick, S.C., by Attorney Richard H. Hart, having filed objections to such proposed decision and order on July 22, 1981; the respondent, Cohn, his attorney, Marvin Resnick, and Attorney Michael J. Buchanan having made oral argument in this matter before the Dentistry Examining Board on August 12, 1981;

The Dentistry Examining Board, having considered the above entitled matter, having reviewed the record herein and the proposed decision, findings of fact, conclusions of law and proposed order of Hearing Examiner Donald R. Rittel, dated July 9, 1981, and having considered respondent's objections to said proposed decision and order, makes the following, constituting its decision in this matter:

FINDINGS OF FACT

1. Gary R. Cohn, D.D.S. (Cohn), 5542 West Fond du Lac Avenue, Milwaukee, Wisconsin, was at all times material to these proceedings licensed under the provisions of ch. 447, Stats., to practice as a dentist in the State of Wisconsin under license #50007566, which was granted on July 21, 1970.

2. On May 12, 1980 Cohn was convicted in the State of Wisconsin Circuit Court for Milwaukee County, upon a plea of no contest, on the following criminal charge:

From on or about September 17, 1979, through on or about November 30, 1979, at Milwaukee County, State of Wisconsin, GARY R. COHN, as a pattern of continuous conduct did obtain title to property of another, to wit: not more than Five Hundred Dollars (\$500) of the State of Wisconsin, by intentionally deceiving said State's fiscal agents, E.D.S.-Federal Corporation, 6406 Bridge Road, Madison, Dane County, Wisconsin, with false representations, to wit: claim reports prepared and submitted by Cohn to the State's fiscal agent requesting reimbursement for fluoride treatments and anesthetics provided to Medicaid patients which were not in fact provided, said representations known by Cohn to be false and made with an intent to defraud and which did defraud said fiscal agents of the State of Wisconsin contrary to sec. 943.20(1)(d) and (3)(a), Wis. Stats., (1977).

3. The amount involved in the above referred conviction was approximately \$111.00.

4. On May 12, 1980 the court entered a judgment of conviction, sentencing Cohn to serve a term of four (4) months in county jail, but stayed the execution of the sentence and placed Cohn on probation for two (2) years subject to the following conditions: 1) that Cohn voluntarily withdraw from the Medical Assistance Program during the probationary period, 2) that he make restitution of \$111.00, and 3) either pay a fine of \$2,000.00 or provide 60 hours of free dental services to the poor.

5. Cohn elected to provide 60 hours of free dental services, pursuant to the probationary conditions set forth above, and had completed almost 30 hours of such care at the time of the disciplinary hearing in this matter.

CONCLUSIONS OF LAW

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

2. Cohn, having been convicted of the crime set forth in paragraph 2 of the findings of fact, has been convicted of a crime involving moral turpitude within the meaning of sec. 447.07(2), Stats.

3. The crime described in paragraph 2 of the findings of fact, substantially relates to the practice of dentistry.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the license of GARY R. COHN to practice dentistry in the State of Wisconsin (#50007566) shall be, and hereby is, SUSPENDED for a period of ONE (1) MONTH, effective thirty days after the date of this decision and order;

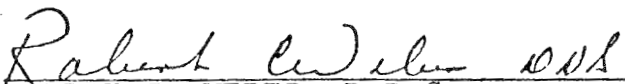
IT IS FURTHER ORDERED that the dentistry license of Gary R. Cohn, D.D.S., be and hereby is limited in the manner that Gary R. Cohn, D.D.S., shall perform, gratis, thirty (30) hours of dentistry service for dental patients at Guadelupe Children's Medical and Dental Clinic, Inc., 1112 South Third, Milwaukee, South Side Community Health Clinic, 1231 South Seventh, Milwaukee, or other charitable institution approved by the Dentistry Examining Board; provided, however, that such total hours of charitable dentistry services shall be completed within six months after the one month suspension of dentistry license has been served and completed by Cohn.

Let a copy of this decision and order be served upon Gary R. Cohn, D.D.S., and his counsel, by certified mail.

Dated this 2nd day of October, 1981.

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

BY:


ROBERT C. WEBER, D.D.S.

MEMO

The primary issue in this proceeding concerns the disciplinary action, if any, to be taken against the license to practice dentistry of Dr. Gary R. Cohn. Dr. Cohn was convicted of having filed false claim reports under the Wisconsin Medical Assistance Program, in which he sought reimbursement for dental services not actually performed.

The conviction of Dr. Cohn was based upon his plea of no contest to a violation of Wis. Stats. sec. 943.20 (1)(d). The statute provides that criminal penalties may be applied against anyone who,

"(o)btains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made."

Following the conviction of Dr. Cohn, this disciplinary proceeding was commenced under Wis. Stats. sec. 447.07 (2), which states:

"The examining board may reprimand or may limit, suspend or revoke the license of one convicted of a crime involving moral turpitude, of which the record of conviction, or a copy certified by the clerk or judge of the court, shall be conclusive evidence."

In determining what discipline should be imposed in this case, it must be recognized that the interrelated purposes for applying disciplinary measures are 1) to promote the rehabilitation of the licensee, 2) to protect the public and 3) to deter other licensees from engaging in similar conduct. State v. Aldrich, 71 Wis. 2d 206, 237 N.W.2d 689 (1976). Punishment of the licensee is not a proper consideration. State v. MacIntyre, 41 Wis. 2d 481, 164 N.W.2d 235 (1969).

The nature of the fraud involved in this case is extremely serious. Dr. Cohn's conviction was based upon misrepresentations on claims for reimbursement for dental services under the state's medical assistance program. The conviction concerned a pattern of continuous conduct entered into by Dr. Cohn between mid-September and the end of November of 1979. His actions were intentional.

The amount involved in this case, approximately \$111.00, is relatively small; yet, the conduct is such as to warrant significant discipline in order to deter other licensees from engaging in similar action. Those who engage in medical assistance fraud should anticipate that their misconduct will lead to the forfeiture of the right to practice their chosen profession for a significant period of time.

The limitation on the license of Dr. Gary R. Cohn and the one month suspension of his license to practice dentistry is ordered, based upon the following considerations:

1. The conviction of Dr. Cohn evinces conduct which is serious and continuous, and such misconduct was intentional, and is such as to bring disrepute upon the dentistry profession as a whole.

2. This board must emphasize to its licensees the serious nature of filing false claims for reimbursement from the state's Medical Assistance Program, and render disciplinary measures coextensive with an effective public disapproval of such conduct.

3. That by his public acknowledgment of wrongdoing in the prior criminal proceeding and his personal appearance before the Dentistry Examining Board on August 12, 1981, Dr. Gary R. Cohn has demonstrated significant rehabilitation. These factors, when considered with the protection of the public and extent of wrongful conduct, warrants the one month suspension and thirty hours of gratis professional services.