

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF :  
THE DENTISTRY LICENSE OF :  
JAN TARSIANO, D.D.S., : FINAL DECISION AND ORDER  
RESPONDENT :

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

Jan Tarsitano, D.D.S.  
1107 Anderson Dr. #27  
Green Bay, Wi. 54304

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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Jan Tarsitano, D.D.S., is duly licensed to practice dentistry in the State of Wisconsin. Her license bears # 3275; was granted February 23, 1984; and will expire September 30, 1991.

2. On an unknown number of occasions during 1985 through 1989, Jan Tarsitano, D.D.S., used excessive quantities of percodan or percocet, a narcotic analgesic which is a Schedule II controlled substance. She obtained the percodan or percocet by ordering it directly from the supplier using DEA form 222 and by diverting percodan or percocet which she obtained by writing a prescription in the name of a patient or other person.

3. On March 1, 1989, Jan Tarsitano, D.D.S., appeared in Brown County Court and pleaded guilty to a charge of obtaining prescription drugs by fraud in violation of Wis. Stats. sec 450.07 (9)(a). She was adjudged guilty and sentenced to two (2) years probation, continue under treatment with Dr. Gribbon and 100 hours community service.

4. In 1989, Automation of Reports and Consolidated Orders Systems (ARCOS) reported that Jan Tarsitano, D.D.S., had exceeded two (2) standard deviations in purchase of amphetamine and secobarbital. Dr. Tarsitano admitted that she had purchased the amphetamine and secobarbital for her own personal use, by ordering it from the supplier using DEA form 222.

5. On July 21, 1989, Jan Tarsitano, D.D.S., was admitted to Bellin Memorial Hospital in Green Bay, Wisconsin, specifically for treatment of Multiple drug abuse and cannabis abuse. She completed the inpatient phase of treatment on August 8, 1989, and was discharged after making arrangements for outpatient aftercare and follow-up treatment. She will be monitored at Bay Psychiatric Clinic.

6. Since August 8, 1989, Dr. Tarsitano has participated in a random drug screen program as requested by her probation officer. Her screens have been reported clean.

#### CONCLUSIONS OF LAW

1. By obtaining Percodan and Percocet, Schedule II controlled substances, other than in the course of legitimate practice, Dr. Tarsitano engaged in unprofessional conduct as defined by Wis. Admin. Code sec. DE 5.02 (6) and is subject to disciplinary action pursuant to Wis. Stats. sec. 447.07 (3)(a) and (f).

2. By being convicted of a violation of Wis. Stats. sec. 450.07 (9)(a), Dr. Tarsitano engaged in unprofessional conduct as defined by Wis. Admin. Code sec. DE 5.02 (20) and is subject to discipline pursuant to Wis. Stats. sec. 447.07 (3)(a) and (L).

3. By obtaining amphetamines and secobarbital from the supplier by using a DEA form 222 and by using the drugs herself, Dr. Tarsitano engaged in unprofessional conduct as defined by Wis. Admin. Code sec. DE 5.02 (6) and (23) and is subject to discipline pursuant to Wis. Stats. sec. 447.07 (3)(a) and (f).

#### ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Jan Tarsitano, D.D.S., immediately surrender her unlimited license to practice dentistry in the State

of Wisconsin, and that she be issued a limited license to practice dentistry in the State of Wisconsin.

\* IT IS FURTHER ORDERED that all limitations specified in this Order shall remain in effect for a period of five (5) years from the date of this Order unless they are modified by a written order of the Dentistry Examining Board.

IT IS FURTHER ORDERED that Jan Tarsitano shall surrender her DEA Privileges for a period of not less than five (5) years from the date of this order.

IT IS FURTHER ORDERED that Dr. Tarsitano participate in regular treatment with Bay Psychiatric Clinic on the frequency recommended by her psychiatrist, and that she shall arrange to have her psychiatrist file quarterly progress reports with the Dentistry Examining Board.

IT IS FURTHER ORDERED that Dr. Tarsitano participate in weekly random urine screens for a period of five (5) years. Dr. Tarsitano may seek a change in the frequency of the screens after one (1) year of clean screens after the date of this order. Dr. Tarsitano shall arrange to have the laboratory which is conducting the screens file quarterly reports, regarding clean screens, with the Dentistry Examining Board. Dr. Tarsitano shall arrange to have the laboratory file an immediate report regarding any unclean screen.

IT IS FURTHER ORDERED that Dr. Tarsitano shall participate in AA or NA meetings on a weekly basis for a period of five (5) years from the date of the order in this case.

IT IS FURTHER ORDERED that any expense incurred to comply with the terms of this Order shall be the responsibility of Dr. Tarsitano.

IT IS FURTHER ORDERED that Dr. Tarsitano may seek modification of the terms of the limited license after two (2) years of successful compliance with the terms of this Order, except that she may seek a change in frequency of the random urine screens after one (1) year of clean screens after the date of this Order.

IT IS FURTHER ORDERED that in consideration of Dr. Tarsitano's having successfully participated in the in-patient treatment at Bellin Hospital between July 21, 1989, and August 8, 1989, and in consideration of her clean urine screens as reported by her parole officer since August 8, 1989, Dr. Tarsitano is hereby granted credit for having completed 0 (zero) months of the required five (5) years of random urine screens, AA or NA meetings, and treatment with the psychiatrist. This credit may not be used to reduce the one (1) year requirement of clean screens before Dr. Tarsitano may seek reduction of the frequency of the urine screens. This credit may not be used to reduce the two (2) year requirement of compliance with all terms of the Order before Dr. Tarsitano may seek modification of any terms of the Order.

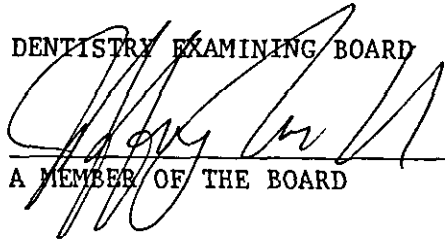
IT IS FURTHER ORDERED that any quarterly report required to be filed shall be due August 1st, November 1st, February 1st and May 1st of each year of the life of this Order.

IT IS FURTHER ORDERED that any violation of the terms of this Order, including any unclean urine screens may form the basis for an immediate summary suspension of Dr. Tarsitano's license to practice dentistry in the State of Wisconsin.

Dated at Madison, Wisconsin this 27<sup>th</sup> day of June, 1990.

DENTISTRY EXAMINING BOARD

BY:

  
A MEMBER OF THE BOARD

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF :  
THE DENTISTRY LICENSE OF :  
JAN TARSIANO, D.D.S., : STIPULATION  
RESPONDENT :

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It is hereby agreed by and between Jan Tarsitano, D.D.S. and Ruth E. Heike, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of the pending investigation of Dr. Tarsitano's dentistry license by the Division of Enforcement (case file number 88 Den 054). Dr. Tarsitano consents to the resolution of this investigation by Stipulation, without issuance of a formal disciplinary complaint and hearing.

2. Dr. Tarsitano understands that by signing this Stipulation she voluntarily and knowingly waives her rights in this matter including: the right to have a formal disciplinary complaint issued; the right to a hearing on the allegations against her, at which time the state has the burden of proving these allegations by clear, satisfactory, and convincing evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to officials who are to render the final decision; the right to petition for a rehearing; the right to appeal the final decision to the Circuit Court and through the court system; and to all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. The Wisconsin Dentistry Examining Board has jurisdiction of this matter pursuant to Wis. Stats. sec. 447.03.

4. The attached Findings of Fact, Conclusions of Law, Final Decision and Order may be made and entered in this matter by the Dentistry Examining Board without prior notice to any party.

5. In the event any portion of this Stipulation or proposed Findings of Fact, Conclusions of Law, Final Decision and Order is not accepted by the

Dentistry Examining Board or not entered as written, then the entire Stipulation and Finding of Fact, Conclusions of Law, Final Decision and Order shall be Void and have no effect.

6. The parties agree that Dr. Tarsitano or counsel for the Division of Enforcement may appear before the Dentistry Examining Board to argue in favor of acceptance of this Stipulation and issuance of the attached Final Decision and Order.

7. Based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Tarsitano agrees to surrender her DEA privileges for a period of not less than five (5) years from the date of the order in this case.

8. Based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Tarsitano agrees to participate in regular treatment with her psychiatrist, at the frequency recommended by the psychiatrist, for a period of five (5) years. Dr. Tarsitano agrees to have her psychiatrist send quarterly progress reports to the Dentistry Examining Board.

9. Based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Tarsitano agrees to participate in weekly random urine screens for a period of five (5) years from the date of the order. After one (1) year of clean screens, Dr. Tarsitano may seek modification of the frequency of the required screens. Modification will be in the sole discretion of the Board. Dr. Tarsitano agrees to arrange for the laboratory responsible for the screens to file quarterly reports of the results of the screens with the Board. In addition, Dr. Tarsitano will arrange to have an immediate report filed with the Board if the screen is not clean.

10. Based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Tarsitano agrees to participate in AA or NA meetings on a weekly basis for a period of five (5) years from the date of the order in this case.

11. Dr. Tarsitano understands that any violation of the terms of the order in this case, including any unclean urine screens, may form the basis for an immediate summary suspension of her license to practice dentistry.

12. Dr. Tarsitano agrees to voluntarily surrender her unlimited dentistry license and accept a limited license to practice dentistry. All limitations shall remain in full force and effect for a period of five (5) years from the date the Dentistry Examining Board issues this Final Decision and Order, or until the Dentistry Examining Board issues an order modifying this Final Decision and Order. Dr. Tarsitano may seek modification of the frequency of the random urine screens after 1 year of clean screens after

issuance of the Final Decision and Order. Dr. Tarsitano may seek modification of any term or condition of the limited license after 2 years successful compliance with the terms of the limited license. Any change shall remain the sole discretion of the Dentistry Examining Board.

Dated this 25 day of April, 1990.

Jan Tarsitano DDS  
Jan Tarsitano, D.D.S.

Dated this 3<sup>rd</sup> day of May, 1990.

Ruth E. Heike  
Ruth E. Heike, Attorney  
Department of Regulation and Licensing  
Division of Enforcement



## 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)

The following notice is served on you as part of the final decision:

### 1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Dentistry Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

### 2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Dentistry Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Dentistry Examining Board.

The date of mailing of this decision is June 28, 1990.

WLD:dms  
886-490

**227.49 Petitions for rehearing in contested cases.** (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (c). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

**227.52 Judicial review; decisions reviewable.** Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

**227.53 Parties and proceedings for review.** (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.