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FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF :
THE DENTISTRY LICENSE OF
: FINAL DECISION AND ORDER
MARK L. MEHLOS, D.D.S.,,
RESPONDENT :

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

Mark L. Mehlos, D.D.S.
520 Hill Street
Wisconsin Rapids, Wi. 54494

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 disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Mark L. Mehlos, D.D.S., Respondent herein, holds a valid dentistry license, #2552, which was granted on July 1, 1980, and will expire on September 30, 1991.

2. The Department of Regulation and Licensing, Division of Enforcement is conducting an investigation (89 Den 003) of Dr. Mehlos' dental practice.

3. In 1986, Dr. Mehlos performed endodontic treatment on tooth #19 of patient E. B.. X-rays show that treatment was only instituted on the mesial root, nothing was done to the distal root.

4. In 1985, Dr. Mehlos treated patient A. E.. Dr. Mehlos placed a post in tooth #13. The post was placed in such a manner that it perforated the mesial surface of the root.

5. In 1984, Dr. Mehlos treated patient D. O.. Dr. Mehlos placed a post in tooth #13. The post was placed in such a manner that it perforated the mesial surface of the root.

6. In 1988, Dr. Mehlos voluntarily sought treatment for depression. Prior to seeking treatment, Dr. Mehlos practiced at a time when his depression impaired his ability to practice dentistry. Dr. Mehlos' psychiatrist has recommended that Dr. Mehlos participate in ongoing therapy with a psychologist, and if necessary, consult a psychiatrist for prescription of anti-depressant drugs. At the present time, anti-depressant drugs are not necessary.

CONCLUSIONS OF LAW

1. By performing endodontic treatment on tooth #19 on patient E. B. by instituting treatment only on the mesial root and leaving the distal root untreated, Dr. Mehlos engaged in unprofessional conduct as defined by Wis. Admin. Code sec. 5.02 (5).

2. By placing a post in tooth #13 of patient A. E. in such a manner that it perforated the mesial surface of the root, Dr. Mehlos engaged in unprofessional conduct as defined by Wis. Admin. Code sec. 5.02 (5).

3. By placing a post in tooth #13 of patient D. O. in such a manner that it perforated the mesial surface of the root, Dr. Mehlos engaged in unprofessional conduct as defined by Wis. Admin. Code sec. 5.02 (5).

4. By attempting to practice dentistry when his ability to practice was impaired by mental or emotional disorder, Dr. Mehlos engaged in unprofessional conduct as defined by Wis. Admin. Code sec. 5.02 (5).

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Mark Mehlos, D.D.S. shall surrender his unlimited dentistry license.

IT IS FURTHER ORDERED that Mark Mehlos, D.D.S. shall be issued a limited dentistry license. The limited license shall prohibit Dr. Mehlos from practicing endodontics and crown and bridge until the limitation is removed by the Dentistry Examining Board. The limitation prohibiting practicing endodontics shall be considered independent of the limitation prohibiting practicing crown and bridge. One limitation may be removed without removing the other.

IT IS FURTHER ORDERED that before the limitation prohibiting the practice of endodontics is removed, Mark Mehlos, D.D.S. shall present evidence to the Dentistry Examining Board establishing that Dr. Mehlos has completed a training course of at least 40 hours in endodontics. The course outline shall be pre-approved by the Dentistry Examining Board. When submitting a course outline for pre-approval, the outline must include the name of the school and the name of the instructor as well as a description of the course he intends to take. If, after the Board has pre-approved the course and the faculty, the faculty member responsible for the training determines that Dr. Mehlos is competent in endodontics following less than 40 hours of training, the faculty member may advise the Board of Dr. Mehlos' competence in writing. If the Board receives such written notification, Dr. Mehlos will be considered to have completed the requisite training, without undergoing additional hours to fill out the 40 hours.

IT IS FURTHER ORDERED that before the limitation prohibiting the practice of crown and bridge is removed, Mark Mehlos, D.D.S. shall present evidence to the Dentistry Examining Board establishing that Dr. Mehlos has completed a training course of at least 40 hours in crown and bridge. The course outline shall be pre-approved by the Dentistry Examining Board. When submitting a course outline for pre-approval, the outline must include the name of the school and the name of the instructor as well as a description of the courses he intends to take. If, after the Board has pre-approved the course and the faculty, the faculty member responsible for the training determines that Dr. Mehlos is competent in crown and bridge following less than 40 hours of training, the faculty member may advise the Board of Dr. Mehlos' competence in writing. If the Board receives such written notification, Dr. Mehlos will be considered to have completed the requisite training, without undergoing additional hours to fill out the 40 hours.

IT IS FURTHER ORDERED that Dr. Mehlos shall continue regular treatment with his pyschologist for a period of two years from the date of this order. Dr. Mehlos shall arrange to have his pyschologist file quarterly reports with the Dentistry Examining Board regarding his progress.

IT IS FURTHER ORDERED that any costs or expenses associated with complying with the terms of this order shall be the responsibility of Dr. Mehlos.

Dated at Madison, Wisconsin this 9 day of May, 1990.

DENTISTRY EXAMINING BOARD

by _____
A Member of the Board
Chairman

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DENTISTRY LICENSE OF	:	
	:	STIPULATION
MARK L. MEHLOS, D.D.S., RESPONDENT	:	

It is hereby stipulated and agreed, by and between, Mark L. Mehlos, D.D.S., Bruce F. Ehlke, Attorney for Dr. Mehlos, 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 a pending investigation of Mark L. Mehlos' dentistry license by the Division of Enforcement (file number 89 DEN 003). Dr. Mehlos consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.

2. Dr. Mehlos understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to have a disciplinary complaint issued; the right to a hearing on the allegations against him, 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 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 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 him 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 impact.

6. The parties agree that counsel for either party may appear before the Dentistry Examining Board to argue in favor of acceptance of this Stipulation and entry 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. Mehlos agrees to voluntarily surrender his unlimited license to practice dentistry, and to accept a limited license to practice dentistry. The license limitation shall be that Dr. Mehlos shall not practice endodontics or crown and bridge work until the Dentistry Examining Board has accepted proof of completion of 40 clock hours of training in endodontics and 40 clock hours of training in crown and bridge, including use of posts. The training shall be arranged by Dr. Mehlos, at Dr. Mehlos expense and must be preapproved by the Dentistry Examining Board. If the faculty member overseeing the training believes Dr. Mehlos has demonstrated competence in endodontics or crown and bridge prior to completion of 40 hours of training, the faculty member can advise the Board in writing that the full 40 hours are not deemed necessary. If the Board is advised in writing by the faculty member overseeing the training that the full 40 hours are not necessary, Dr. Mehlos will be deemed to have completed the required training.

8. Based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Mehlos agrees to continue seeing his psychologist as frequently as recommended by the psychologist for a period of at least two years following the date of the Order in this matter. Dr. Mehlos further agrees to arrange to have the psychologist file quarterly reports with the Dentistry Examining Board regarding his progress.

Dated this 7th day of April, 1990.

Mark L. Mehlos, D.D.S.

Dated this 9th day of April, 1990.

Bruce F. Ehlke, Attorney for Dr. Mehlos

Dated this 10th day of April, 1990.

Ruth E. Heike, Attorney for the
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 May 16, 1990.

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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) (e). 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.