

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MAX G. POELTZIG, D.D.S.,
RESPONDENT.

FINAL DECISION
AND ORDER

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

Max G. Poeltzig, D.D.S.
10021 W. Fond du Lac
Milwaukee, WI 53224

Dentistry Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & 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. Max G. Poeltzig, D.D.S., Respondent herein, holds a valid dentistry license in the State of Wisconsin. His license bears number 0545 and was granted April 22, 1948.
2. The Department of Regulation and Licensing, Division of Enforcement, is conducting an investigation (89 DEN 017) of Dr. Poeltzig's dental practice.
3. The Respondent has experienced medical problems which have caused Respondent to decide to retire from the practice of dentistry.
4. Because of his medical problems and his retirement from the practice of dentistry, Respondent has agreed to voluntarily surrender his license to practice dentistry in the State of Wisconsin. He further agreed never to apply or reapply for registration to practice dentistry in the State of Wisconsin without prior approval of the Board, and if the Board withholds approval it shall not be considered a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a) and shall not entitle Respondent to a hearing on the Board's decision not to allow Respondent to apply for licensure.

5. Respondent has agreed that if he seeks permission to apply or reapply for licensure or registration to practice as a dentist in the State of Wisconsin, he will provide whatever information the Board may desire regarding his ability to practice dentistry, including his medical records relating to the condition which led to his decision to retire and current records and evaluation establishing that his medical condition does not interfere with his ability to practice dentistry.

6. Respondent further agreed that if he seeks permission to apply or reapply for registration to practice as a dentist in the State of Wisconsin, the factual situation established in regards to investigative file 89 DEN 017 may be considered by the Board in reaching its decision whether to permit application for licensure.

CONCLUSION OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction of this matter pursuant to Wis. Stats. sec. 447.07(3).

ORDER

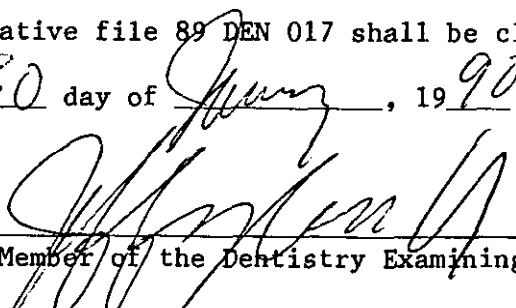
NOW THEREFORE IT IS ORDERED that the Wisconsin Dentistry Examining Board hereby accepts Max G. Poeltzig's Voluntary Surrender of his license to practice dentistry in the State of Wisconsin.

IT IS FURTHER ORDERED that Max G. Poeltzig, D.D.S. shall never apply or reapply for licensure to practice dentistry in the State of Wisconsin without prior approval of the Board, and that if the Board withholds approval it shall not be considered a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a) and shall not entitle Respondent to a hearing on the Board's decision not to allow Respondent to apply for licensure.

IT IS FURTHER ORDERED that if Max G. Poeltzig, D.D.S., ever seeks approval of the Board for application for licensure or relicensure, that Max G. Poeltzig shall release his medical records relating to the condition which led to his retirement from the practice of dentistry to the Dentistry Examining Board for their use in determining whether his medical condition interferes with his ability to practice dentistry in the State of Wisconsin.

IT IS FURTHER ORDERED that investigative file 89 DEN 017 shall be closed.

Dated at Madison, Wisconsin this 30 day of January, 1990.


A Member of the Dentistry Examining Board

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

REH:mkm
DOEATTY-40

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

| | | |
|--------------------------|---|-------------|
| IN THE MATTER OF THE | : | |
| LICENSE OF | : | |
| | : | STIPULATION |
| MAX G. POELTZIG, D.D.S., | : | |
| LICENSEE. | : | |

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

1. That this Stipulation is entered into as a result of a pending investigation of Max G. Poeltzig's dentistry license by the Division of Enforcement (File No. 89 DEN 017). Dr. Poeltzig consents to the resolution of this investigation by stipulation and without the issuance of a formal disciplinary complaint and hearing.

2. That Dr. Poeltzig 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 those 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 the officials who are to render the final decision; the right to petition for rehearing; the right to appeal the final decision to the Circuit Court and through the court system; and all other applicable rights afforded him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. That the Dentistry Examining Board has jurisdiction of this matter pursuant to Wis. Stats. sec. 447.07(3).


4. That 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. That 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 Findings of Fact, Conclusions of Law, Final Decision and Order shall be void and have no effect.

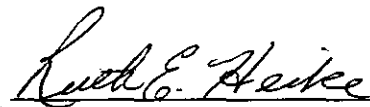
6. That the parties agree that Dr. Poeltzig and counsel for the Department of Regulation and Licensing, Division of Enforcement, may appear before the Dentistry Examining Board to argue in favor of acceptance of this Stipulation and entry of the attached Final Decision and Order.

7. That based upon the Findings of Fact and Conclusions of Law in the attached Final Decision and Order, Dr. Poeltzig agrees to voluntarily surrender his license to practice dentistry in the State of Wisconsin. Dr. Poeltzig agrees never to apply or reapply for licensure or registration to practice dentistry in the State of Wisconsin without obtaining prior approval of the Dentistry Examining Board. Dr. Poeltzig agrees that if he ever seeks Board approval to apply or reapply for licensure or registration as a dentist he will provide releases for all of his medical records related to the condition which led to his retirement and current evaluations of his medical status, so the Board may determine whether his medical condition may interfere with his ability to practice dentistry. Dr. Poeltzig agrees that, if the Board withholds approval, it shall not be considered a denial of licensure within the meaning of Wis. Stats. sec. 227.01(3)(a) and shall not entitle him to a hearing on the Board's decision not to allow him to apply.

Dated this 25 day of October, 1989.


Max G. Poeltzig, D.D.S.

Dated this 10th day of November, 1989.


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

REH:mkm
DOEATTY-38

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 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 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: State of Wisconsin Dentistry Examining Board.

The date of mailing of this decision is February 1, 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 20 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.