

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

FILE COPY

IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

KURT R. SCHOENOFF, D.D.S.  
RESPONDENT.

FINAL DECISION AND ORDER  
90 DEN 44

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

Kurt R. Schoenoff, D.D.S.  
P.O. Box 688  
Adam, WI 53910

Wisconsin 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 in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Kurt R. Schoenoff, D.D.S. ("Schoenoff") is licensed to practice as a dentist in the State of Wisconsin pursuant to license # 3965, granted on August 23, 1988. Schoenoff is also licensed to practice as a pharmacist pursuant to license # 11452, granted on June 13, 1990.

2. In early 1989, when Schoenoff's alcohol abuse impaired his ability to function, he received treatment for chemical dependency from McBride Center for the Professional, Milwaukee, WI.

3. Schoenoff is practicing as a dentist and maintains that he is not presently impaired by reason of substance abuse.

4. Apart from the investigation in this matter, the Board has not received additional information to call into question the dental practice of Schoenoff; nonetheless, the Board desires to establish Schoenoff's fitness to practice safely and competently.

5. Schoenoff has agreed to undergo a chemical dependency assessment, to arrange for the facility performing the assessment to furnish the Board with a report concerning the findings and conclusions of the assessment, and to comply with any treatment regime recommended as a part of the assessment and other monitoring required by the Board.

#### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter pursuant to Secs. 15.08(5) and 447.07(3), Wis. Stats.

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

3. Respondent Kurt R. Schoenoff is subject to disciplinary action pursuant to sec. 447.07, Wis. Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that consistent with Respondent Kurt R. Schoenoff's agreement and in lieu of other discipline:

- I. (a) Within thirty (30) days of this Order Respondent shall obtain a current assessment for chemical dependency from a health care facility acceptable to the Board, which assessment will include (1) his history of prior substance use and treatment, (2) a diagnosis of Respondent's condition, (3) recommendations, if any, for treatment, including specific types of treatment and the anticipated duration of treatment, (4) an evaluation of Respondent's level of cooperation in the assessment process, (5) recommendations, if any, for work restrictions, and (6) Respondent's prognosis.
- (b) As a part of the assessment, Respondent shall provide a copy of this Final Decision and Order to the health care facility selected to perform the assessment. Upon request of that facility, Respondent shall furnish the facility copies of his treatment records from McBride Center for the Professional or other health care provider from whom he has received treatment, or current releases complying with state and federal laws, authorizing release of his counseling, treatment and monitoring records from these providers.
- (c) Within forty-five (45) days of this Order Respondent shall arrange for the facility performing the assessment to furnish the Board with a report describing the findings and conclusions of the assessment, including the items set forth in I(a) above.

II. If it appears from the assessment and other information available to the Board that Respondent Kurt R. Schoenoff does not require additional treatment or monitoring, the Board will close this matter without further action on the part of the parties.

III. If it appears from the chemical dependency assessment that Respondent Kurt R. Schoenoff does require additional treatment or monitoring, the Board without further notice, pleading, appearance or consent of the parties may enter the following Order ("Treatment Order"), which Respondent must satisfy within thirty (30) days of the date the Treatment Order is entered:

(a) In accordance with the recommendations of the assessment, Respondent shall successfully participate in all components of the program for the treatment of chemical dependency at or through the facility performing the assessment. In addition to other inpatient or outpatient treatment recommended, Respondent must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

(b) The following must be satisfied within thirty (30) days regardless of the recommendations set forth in the assessment:

1. Upon request of the Board, Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release of his counseling, treatment and monitoring records, and employment records.
2. Respondent shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes.
3. Respondent must participate in a program of random witnessed monitoring for controlled substances and alcohol in his blood and/or urine on a frequency of not less than four (4) times per month. If the physician or therapist supervising his plan of care or his employer deems that additional blood or urine screens are warranted, Respondent shall submit to such additional screens.

Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board, as well as for all costs incurred in conjunction with the required monitoring and reporting.

To be an acceptable program, the monitoring facility shall agree to provide random and witnessed gatherings of specimens for evaluation. It shall further agree to file an immediate report directly with the Board upon such failures to participate as: if the screen reveals that Respondent is not taking medications as prescribed; or if a drug or alcohol screen proves positive; or if Respondent refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

4. Respondent shall arrange for quarterly reports to the Board from his employer evaluating his work performance; from the monitoring facility providing the dates and results of screenings performed; and from his therapist or other person in charge of his chemical dependency program evaluating his attendance and progress in treatment and rehabilitation, as well as his participation in NA/AA meetings.

5. Respondent will report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

IV. The limitations imposed by the Treatment Order will be effective for a period of at least one year, but no more than three (3) years, from the date the Treatment Order is entered. Annually following the date the Treatment Order is entered, Respondent Kurt R. Schoenoff shall appear before the Board to review the progress of his treatment and rehabilitation. At this review, Respondent may present a petition, together with supporting documentation from his treatment providers, to the Board for modification or elimination of the limitations. The Board in its discretion may grant the petition in whole or part, deny the petition, or impose additional limitations if warranted. Denial in whole or in part of a petition or imposition of additional limitations under this section shall be treated as a denial of a license, giving rise to a class 1 proceeding within the meaning of Wis. Stats. §§ 227.01(3), 227.42 and 227.44, and entitling Respondent to a hearing conducted pursuant to Chapter RL 1 of the Wisconsin Administrative Code. During the pendency of any hearing, Respondent shall continue to comply with the limitations then in effect.

V. Any violation of an Order entered by the Board shall be deemed to be conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license, and may form the basis of a summary suspension of Respondent's license to practice dentistry in the State of Wisconsin, or may form the basis for additional disciplinary action.

Dated this 4<sup>th</sup> day of Sept., 1991.

WISCONSIN DENTISTRY EXAMINING BOARD

by: Eva Dahl, D.D.S.  
Dj

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
KURT R. SCHOENOFF, D.D.S.	:	90 DEN 44
RESPONDENT.	:	

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It is hereby stipulated between Kurt R. Schoenoff, personally on his own behalf and the Department of Regulation and Licensing, Division of Enforcement, by its attorney Richard Castelnuevo, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Kurt R. Schoenoff ("Respondent") by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.

2. Respondent is aware and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; the right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses 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. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Respondent is aware of his right to seek legal representation and has been provided the opportunity to obtain legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent does not contest the allegations arising out of the Department's investigation, and agrees that the Board may find the facts in the Findings of Fact, may reach the Conclusions of Law and enter the Order requiring a chemical dependency assessment and imposing limitations on Respondent's license under certain conditions.

6. Respondent agrees to undergo a chemical dependency assessment, to arrange for the facility performing the assessment to furnish the Board with a report concerning the findings and conclusions of the assessment, and to comply with any treatment regime recommended as a part of the assessment and other monitoring required by the Board. He understands that the assessment may be used as evidence in the event further action is maintained against his license to practice as a dentist or pharmacist.

7. If it appears from the chemical dependency assessment that Respondent Kurt R. Schoenoff does require additional treatment or monitoring, Respondent agrees that without further notice, pleading, appearance or consent of the parties the Board may enter the following Order ("Treatment Order"), which Respondent must satisfy within thirty (30) days after the Treatment Order is entered:

a) In accordance with the recommendations of the assessment, Respondent shall successfully participate in all components of the program for the treatment of chemical dependency at or through the facility performing the assessment. In addition to other inpatient or outpatient treatment recommended, Respondent must attend Alcoholics or Narcotics Anonymous at least one (1) time per week.

b) The following must be satisfied regardless of the recommendations set forth in the assessment:

i. Upon request of the Board, Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release of his counseling, treatment and monitoring records, and employment records.

ii. Respondent shall remain free of alcohol, prescription drugs and controlled substances not prescribed for valid medical purposes.

iii. Respondent must participate in a program of random witnessed monitoring for controlled substances and alcohol in his blood and/or urine on a frequency of not less than four (4) times per month. If the physician or therapist supervising his plan of care or his employer deems that additional blood or urine screens are warranted, Respondent shall submit to such additional screens.

Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board, as well as for all costs incurred in conjunction with the required monitoring and reporting.

To be an acceptable program, the monitoring facility shall agree to provide random and witnessed gatherings of specimens for evaluation. It shall further agree to file an immediate report directly with the Board upon such failures to participate as: if the screen reveals that Respondent is not taking medications as prescribed; or if a drug or alcohol screen proves positive; or if Respondent refuses to give a specimen for analysis upon a request authorized under the terms of this Order.

iv. Respondent shall arrange for quarterly reports to the Board from his employer evaluating his work performance; from the monitoring facility providing the dates and results of screenings performed; and from his therapist or other person in charge of his chemical dependency program evaluating his attendance and progress in treatment and rehabilitation, as well as his participation in NA/AA meetings.

v. Respondent will report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

c) The limitations outlined in a) and b) above will be effective for a period of at least one year, but no more than three (3) years, from the date the Treatment Order is entered. Annually following the date the Treatment Order is entered, Respondent shall appear before the Board to review the progress of his treatment and rehabilitation. At this review, Respondent may present a petition, together with supporting documentation from his treatment providers, to the Board for modification or elimination of the limitations. The Board in its discretion may grant the petition in whole or part, deny the petition, or impose additional limitations if warranted. Denial in whole or in part of a petition or imposition of additional limitations under this section shall be treated as a denial of a license, giving rise to a class 1 proceeding within the meaning of Wis. Stats. §§ 227.01(3), 227.42 and 227.44, and entitling Respondent to a hearing conducted pursuant to Chapter RL 1 of the Wisconsin Administrative Code. During the pendency of any hearing, Respondent shall continue to comply with the limitations then in effect.

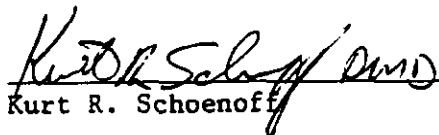
d) Any violation of an Order entered by the Board shall be deemed to be conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license, and may form the basis of a summary suspension of Respondent's license to practice dentistry in the State of Wisconsin, or may form the basis for additional disciplinary action.

8. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, 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.

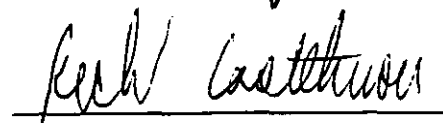
9. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

10. Respondent agrees that complainant's attorney, Richard M. Castelnuovo, may appear at any deliberative meeting of the Board with respect to this Stipulation but that appearance is limited to statements solely in support of the Stipulation and for no other purpose.

11. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Kurt R. Schoenoff

8/6/91  
Date

  
Richard M. Castelnuovo, Attorney  
Division of Enforcement

8/19/91  
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)**

**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** September 27, 1991.

**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 employee 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) 1 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. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. 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.

3. 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) A copy 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 each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(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.