

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
JERRY D. GRAGG, D.D.S. :
RESPONDENT. :

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

Jerry D. Gragg, D.D.S.
c/o John Broadnax
8500 West Capitol Drive
Milwaukee, WI 5322

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. Respondent Jerry D. Gragg, D.D.S. ("Gragg") is a dentist licensed to practice in the State of Wisconsin pursuant to license # 2473, granted on June 6, 1980.
2. Beginning in 1984, Gragg knowingly participated in the illegal drug trafficking activities of James (Sonny) Harrison, who was eventually criminally convicted for these activities, in that he stored cocaine intended for distribution, aided in the transportation of cocaine and the money to purchase cocaine, held significant sums of money for Harrison, and acted as a straw for the rental and purchase of items to be used by Harrison in these illegal activities.
3. On diverse occasions, including various dates in 1984 and 1988, Gragg abused cocaine and suffered from a mental or emotional condition to the extent that his judgement and ability to function were impaired. Specifically, he became involved in drug trafficking activities to secure drugs to satisfy his addiction.

4. Between September 30, 1987 and March 9, 1988, Gragg practiced as a dentist in the State of Wisconsin without being currently registered.

5. Between September 30, 1987 and March 22, 1990, Gragg prescribed, dispensed or administered controlled substances as defined in Chapter 161, Wis. Stats, including acetaminophen with codeine, aspirin with codeine, and diazepam, without a current and valid registration issued by the Drug Enforcement Administration.

6. On diverse occasions, including January, 1991 to July, 1991, Gragg prescribed controlled substances containing codeine to his wife Connie Gragg not in good faith and not in the usual course of his practice, in that his wife had no legitimate dental condition requiring treatment with a controlled substance containing codeine, Gragg was aware that his wife was addicted to codeine and intended to use the prescriptions for this purpose, and Gragg wrote the prescriptions in a certain manner to avoid detection of his prescription practices.

7. On March 23, 1990, April 13, 1990, April 18, 1990 and April 23, 1990, Gragg illegally delivered prescriptions for Valium, a Schedule IV controlled substance generically known as diazepam, to Milwaukee Police Officer Constance Zarse, who was acting in an undercover capacity using the name of Colleen Wickman.

8. On July 22, 1991, before the Milwaukee County Circuit Court, Gragg was found guilty on his plea of guilty to one felony count of delivering a controlled substance, in violation of secs. 161.20(2)(cr) and 161.41(1)(i), Stats.; was convicted as found guilty; and was sentenced to sixty days in the house of corrections and payment of a fine, costs, and a surcharge.

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 Jerry D. Gragg has:

a. Engaged in unprofessional conduct in the practice of dentistry, in violation of sec. 447.07(3)(a), Stats.

b. Engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry, in violation of sec. 447.07(3)(g), Stats. (1987-1988), subsequently repealed and recreated as Sec. 447.07(3)(h), Stats.

c. Violated Chapter 161, Wis. Stats, in violation of sec. 447.07(3)(L), Stats.

d. Engaged in practices which constitute a substantial danger to the health, welfare or safety of a patient or the public, in violation of sec. DE 5.02(1), Wis. Adm. Code.

e. Practiced or attempted to practice while his ability to perform services was impaired by mental or emotional disorder, drugs or alcohol, in violation of sec. DE 5.02(4), Wis. Adm. Code.

f. Practiced in a manner which substantially departs from the standard of care ordinarily exercised by a dentist which harms or could have harmed a patient, in violation of sec. DE 5.02(5), Wis. Adm. Code.

g. Administered, dispensed, prescribed, or supplied controlled substances as defined in s. 161.01(4), Stats., other than in the course of legitimate practice, or as otherwise prohibited by law, in violation of sec. DE 5.02(6), Wis. Adm. Code.

h. Violated laws and was convicted of a crime, the circumstances of which substantially relate to the practice of a dentist, in violation of sec. DE 5.02(15), Wis. Adm. Code.

i. Practiced without a current registration in violation of sec. DE 2.03 and thereby violated sec. DE 5.02(16), Wis. Adm. Code.

ORDER

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

IT IS FURTHER ORDERED, that the voluntary surrender of the license (# 2473) of Respondent Jerry D. Gragg to practice as a dentist in the State of Wisconsin, together with all rights and privileges conferred by said license, be accepted.

IT IS FURTHER ORDERED, that the dental license (# 2473) of Respondent Jerry D. Gragg, together with all rights and privileges conferred by said license, be terminated effective on the date of this Final Decision and Order.

IT IS FURTHER ORDERED, that Respondent Jerry D. Gragg may petition the Board for licensure as a dentist no sooner than eighteen (18) months from the date of this Final Order and Decision.

IT IS FURTHER ORDERED, that upon Respondent Jerry D. Gragg's petition for licensure, the Board may, in its sole discretion, determine whether, and under what terms and conditions, Respondent may be licensed to practice as a dentist. At a minimum, Respondent must satisfy the Board that:

1. He is successfully participating or has successfully participated in a program for treatment of his chemical dependency acceptable to the Board. To be acceptable to the Board, the program must be under the

direction of an AODA certified facility, include a requirement of weekly random urine or blood monitoring for chemical substances and alcohol, include individual and group counseling as recommended by a therapist, and include attendance at NA/AA meetings.

The proof of successful participation which he must submit shall include a report from a physician in charge of his treatment for chemical dependency indicating (1) his progress in treatment and the extent of his rehabilitation, including his monitoring record for chemical substances and alcohol and his attendance record at AA/NA meetings; (2) recommendations for further treatment; (3) the likelihood of his compliance with treatment recommendations; (4) recommendations, if any, for his return to work as a dentist, including the imposition of practice restrictions; and (5) his prognosis.

2. He will accept any or all of the following limitations the Board may impose on his license for a period not to exceed five (5) years: (1) continued participation in a program for the treatment of his chemical dependency as recommended by a designated supervising physician; (2) attendance at AA/NA meetings; (3) his consent to release of various employment, counseling and treatment records; (4) abstinence from alcohol and drugs not required to treat a medical condition; (5) Reporting and pre-approval requirements for drugs he takes; (6) random witnessed monitoring for controlled substances and alcohol at frequency to be established by the Board; (7) work restrictions including limitations on his ability to prescribe, dispense, administer or order controlled substances and his ability to treat his wife or other immediate family members; (8) provision of quarterly reports from his employer, monitoring facility, supervising physician and health care providers; (9) annual appearances before the Board to review his progress, and (10) notification requirements concerning a change in employment, residence or telephone number.

The Board may in its discretion reduce the period of limitation based on proof of prior successful treatment.

3. He shall successfully complete a mini-residency conducted by the University of Medicine and Dentistry of New Jersey, School of Osteopathic Medicine entitled, "The Proper Prescribing of Controlled Dangerous Substances," including both the didactic and clinical components. A copy of the program is attached as Ex. A.

Respondent may substitute education substantially equivalent to the education required by this Order only if he obtains prior approval from the Board. To obtain such approval, he must submit a course outline to the Board prior to commencing the course of study. No outline will be approved unless Respondent includes the name of the school, the name of the instructor, and the content of the course he intends to study.

IT IS FURTHER ORDERED, that within Ten (10) days of the date of this

Final Decision and Order, Jerry D. Gragg surrender to the Department of Regulation and Licensing all licenses and certificates issued to him.

Dated this 6 day of November, 1991.

WISCONSIN DENTISTRY EXAMINING BOARD

by: Em Oull 1995



University of Medicine & Dentistry of New Jersey
School of Osteopathic Medicine

401 Haddon Avenue
Camden, New Jersey 08103-1505

THIS PACKET IS SENT TO THE STATE BOARD

Department of Family Practice
William Vilensky, D.O., Director
Controlled Dangerous Substances Program
(609) 757-7857

MINI-RESIDENCY IN PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES

A Continuing Medical Education Course For Physicians and Dentists Who Want to Upgrade Their Knowledge or Whose License is Subject to Sanction or Has Been Suspended for Injudiciously Prescribing Controlled Dangerous Substances. (45 hours)

William Vilensky, D.O., Course Director

According to many State Boards of Medical and Dental Examiners/Professional Licensing Bureaus, a recommendation that a physician/dentist whose license is subject to sanction or has been suspended for injudiciously prescribing Controlled Dangerous Substances (CDS), complete some continuing education before having his/her license reinstated, or in order to retain it. Below is a nationally recognized program of the University of Medicine and Dentistry of New Jersey School of Osteopathic Medicine, Department of Family Practice's Section on Controlled Dangerous Substances for a constructive continuing education program that will not only provide relevant education, but would offer a comprehensive, individualized approach to reeducation of these practitioners.

It is assumed that the practitioners can be placed in one of three categories:

- (1) The dated doctor whose injudicious prescribing results from a lack of knowledge about drugs;
- (2) The script doctor whose actions are the result of an attempt to increase his/her income at the expense of the patient; and
- (3) The impaired doctor who is him/herself physically or psychologically addicted to drugs and/or alcohol.

Of course, a doctor can be in more than one category, but for the sake of clarity and planning, these distinctions are helpful. While the program is intended to educate all three types of doctors, the program will not attempt to give therapy or rehabilitate the drug impaired physicians. Instead, the Department of Family Practice will refer impaired doctors to the Impaired Physicians Committee of the Medical Society of New Jersey and/or to other programs specifically designed for them. The purpose of the program described here is strictly to educate, not to provide therapy or impose punishments.

Physicians and dentists will be evaluated on several levels. First, all participants will be given both a pre-course test and a post-course test to measure how much of the didactic material was learned. Secondly, participants will be evaluated by their attendance and participation in class by the faculty members. The participant may request that the results be sent to the practitioner's board, or significant other agencies, insurance companies or individuals.

It should be noted that the faculty for this program is trained in the psychological and educational aspects of working with this special type of "student" in order to help reduce embarrassment and resistance.

The program is sponsored by the University of Medicine and Dentistry-School of Osteopathic Medicine's Department of Family Practice.

In conclusion, the benefits of this unique, broad-based educational program are:

- (1) provides for the availability of highly qualified experts;
- (2) offers a comprehensive, individualized program;
- (3) arranges for the appropriate continuing education credits with the AMA, AOA and AGD;
- (4) allow physicians, dentists and podiatrists to learn in an environment in which they can make a constructive contribution to the community;
- (5) provides a minimum of 45 hours of CME;
- (6) the tuition is paid by the participant for his own reeducation. The states or taxpayers have no financial burden.

THE USE OF TAPE RECORDERS OR CAMERAS IS STRICTLY PROHIBITED!

COURSE OBJECTIVES:

1. To ascertain the participants' level of knowledge of Controlled Dangerous Substances prescribing before and after the course.
2. To heighten the knowledge of the practicing physician/dentist in the prescribing of Controlled Dangerous Substances.
3. To educate physicians/dentists in the most modern concepts of pharmacology of Controlled Dangerous Substances.
4. To train physicians/dentists in the pharmacology, diagnosis and treatment of addiction to Controlled Dangerous Substances.
5. To be sensitive to the patient who legitimately requires Controlled Dangerous Substances.
6. To educate the health provider with a comprehensive program on diagnosing and treating medical problems that involve the use and prescribing of narcotics, sedative/hypnotics, tranquilizers and stimulants.
7. To make physicians/dentists aware of the psychology of the drug abuser and the dependent personality, and evaluate the psychiatric components of substance abuse.
8. To stimulate the physicians/dentists in the evaluation of ethical values of both the prescriber and user.
9. To assess the physician's prescribing habits that are affected by his own stress or drug, physical or emotional impairment.
10. To elucidate state and federal laws regulating the prescribing and use of the various drugs in the categorized "Schedules" under the Controlled Dangerous Substance Act.

11. To better understand the role of regulating and licensing agencies in the practices of medicine and dentistry.
12. To convey the successful completion of this training program to the Continuing Medical Education Offices of the AMA, AOA, AGD, institutions of higher education and/or state licensing and law enforcement agencies at the request of the participant.

COURSE METHODS:

1. Formal lecture presentations
2. Informal small group discussions
3. Slide presentations
4. Overhead projections
5. Movie presentations
6. Video Cassette Recordings
7. Group participation and discussion
8. Role-playing by preceptors
9. Role-playing by participants
10. Case studies.

**IMPORTANT FACTS REGARDING THE "MINI-RESIDENCY
IN PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES"**

1. This program encompasses 45 hours of formal classroom education.
2. The didactic course site will be in the Mt. Laurel, New Jersey, area, and you will be notified of the exact location at a later date.
3. The clinical rotation site will be Parkside Lodge of New Jersey, East Second and Pancoast Avenue, Moorestown, New Jersey.
4. The registration fee for the didactic course only is \$1,350.00, or \$1,500.00 for both the didactic and the clinical portion.
(Various states will require completion of one or both.)
5. Approval for CME Credits:

This program has been reviewed and is acceptable for 45 prescribed hours by the American Academy of Family Physicians.

The University of Medicine and Dentistry of New Jersey Office of Continuing Education certifies that this continuing education program meets the criteria for 45 hours of credit in Category 1 for the Physicians' Recognition Award of the American Medical Association provided the course is completed as designed.

American Osteopathic Association	Category IA,	45 hrs
Academy of General Dentistry		45 hrs

6. Registration is now open, but limited, and requires completion of the attached form along with a non-refundable \$200.00 check (made payable to UMDNJ-SOM/CDS Program) to reserve a seat in the next class.

**IF YOU HAVE ANY QUESTIONS REGARDING THE COURSE
OR REGISTRATION, PLEASE CALL (609) 757-7857.**

William Vilensky, D.O.
Associate Professor of Clinical Family Practice
Course Director: Controlled Dangerous Substances Program

17th MINI-RESIDENCY

"THE PROPER PRESCRIBING OF CONTROLLED DANGEROUS SUBSTANCES"

FEE SCHEDULE

Didactic Portion 6 Days	\$1,350.00
Clinical Portion (mandated or desired) 5 Days after Clinical Portion	<u>\$ 150.00</u>
Total	\$1,500.00

PAYMENT SCHEDULE

Didactic + Clinical = Total	\$1,500.00
Registration (non refundable)	DIDACTIC + CLINICAL
February 11	\$ 200.00 + \$ 200.00
March 11	400.00 + 50.00 = \$ 450.00
April 15	400.00 + 50.00 = \$ 450.00
	<u>350.00 + 50.00 = \$ 400.00</u>
Total	\$1,350.00 + 150.00 = \$1,500.00

****NOTE**** No one will be admitted to the course unless final payment has been received by April 15, 1991 after which the registrant will be placed on a waiting list.

All checks must be made payable to the UMDNJ-SOM-CDS Program and forwarded with this letter to:

William Vilensky, D.O., Director
UMDNJ-SOM-CDS Program
401 Haddon Avenue, Suite 386
Camden, NJ 08103-1291
Attention: Lora Donia

If you have any questions regarding the course or registration, please call William Vilensky, D.O. or Lora Donia at (609) 757-7870.

MINI-RESIDENCY IN PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES

DATES: May 6 - 11, 1991
LOCATION: Mt. Laurel, New Jersey
(PRINT WITH BLACK PEN OR TYPE)

NAME: _____

OFFICE ADDRESS: _____

CITY STATE ZIP

HOME ADDRESS: _____

CITY STATE ZIP
HOME () OFFICE ()

- Please Check: Enclosed is my non-refundable registration deposit in the amount of \$200.00.
- I will pay the remaining fee by April 15, 1991.
- I will pay the remaining fee according to the installment plan (see attached Fee Schedule).
- Are you being mandated to take this course by your professional or licensing board?
- In order to inform your board of your registration and intent to complete this course, please fill in the exact name and address of that agency.

*NOTE: No one will be admitted to the didactic course unless final payment has been received by April 15, 1991.

All checks must be made payable to UMDNJ-SOM/CDS Program and forwarded with this form to:

William Vilensky, D.O., Director
UMDNJ-SOM/CDS Program
401 Haddon Avenue, Third Floor
Camden, NJ 08103-1291
Attention: Lora Donia



University of Medicine & Dentistry of New Jersey
School of Osteopathic Medicine

May 30, 1991

401 Haddon Avenue
Camden, New Jersey 08103-1505

Original

Dear Dr

This is a summary of your participation in the 17th Mini-Residency in the Proper Prescribing of Controlled Dangerous Substances, which was held from May 6 through May 11, 1991.

DIDACTIC PORTION: (Comments, if applicable, attached)

ATTENDANCE:	<u>EXCELLENT</u>	FAIR	POOR
ATTENTION:	<u>EXCELLENT</u>	FAIR	POOR
PARTICIPATION:	<u>EXCELLENT</u>	FAIR	POOR

TEST RESULTS: ALL TEST QUESTIONS WERE COVERED IN THE COURSE.

	<u>PRE-TEST</u>	<u>POST-TEST</u>
MAXIMUM SCORE:	100	100
PASSING SCORE:	65	65
YOUR SCORE:	64.4	95.2

Improvement in number correct (PRE-TEST to POST TEST): 30.8

Percentage improvement in score over PRE-TEST: 48%

Class PRE-TEST average score:	58.58
Class POST-TEST average score:	87.59
Class % improvement in score over PRE-TEST:	50%

CLINICAL PORTION: (if applicable)

CLINICAL EVALUATION: OUTSTANDING PASS FAIL

THE ORIGINAL CLINICAL EVALUATION IS ENCLOSED FOR YOUR REVIEW.

Very truly yours,

William Vilensky, D.O.
Association Professor of Clinical Family Practice
Director: Controlled Dangerous Substance Programs

cc: Jean Brown



University of Medicine & Dentistry of New Jersey
School of Osteopathic Medicine

Family Practice
609/757-7870

401 Haddon Avenue
Camden, New Jersey 08103-1505

May 20, 1991

Dear :

This letter will confirm your appointment to the clinical portion of the 17th Mini-Residency in the Proper Prescribing of Controlled Dangerous Substances.

You are scheduled to attend Parkside Lodge of Janesville, Wisconsin beginning Tuesday, May 28th thru Saturday, June 1st at 8:00 A.M. Please call Ron Del Ciello or Dave Hutchinson at Parkside Lodge (608) 754-2264 for directions.

After completion of your clinical week, a completed evaluation of your Mini-Residency performance will be mailed to you and to those persons or Boards indicated by you on your Release Form. If you wish any further information or records, please do not hesitate to contract me.

Very truly yours,

A handwritten signature in cursive script that reads 'Lora Donia'.

Lora Donia, Secretary to William Vilensky, D.O.
Associate Professor of Clinical Family Practice
Director: Controlled Dangerous Substance Programs

:ld

Fax: Ron Del Ciello
Parkside Lodge of Janesville, Wisconsin

MINI-RESIDENCY IN PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES
 UMDNJ-New Jersey School of Osteopathic Medicine, Department of Family Practice

EVALUATION FORM FOR CLINICAL ROTATION

Parkside Lodge
 of
 Wisconsin

May 27 - 31, 19

name _____ site _____ dates _____

<u>ATTENDANCE</u>	Monday	Tuesday	Wednesday	Thursday	Friday
<u>TARDINESS</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>PARTICIPATION</u>	Active	<u>X</u>		Passive	
<u>ATTITUDE TOWARD DRUG DEPENDENT PATIENTS</u>			hostile	<u>empathetic</u>	non-committal
<u>ATTITUDE TOWARD ADDICTION</u>			<u>disease</u>	criminal	condemn cond
			ok in moderation		ok for recreatio
<u>LISTENING SKILLS</u>		<u>X</u>			
		<u>X</u>			
		<u>X</u>			
		<u>X</u>			
<u>OBSERVATION SKILLS</u>					
during history taking			excellent	good	poor
during physical exam			excellent	good	poor
during counseling			excellent	<u>good</u>	poor
<u>COURSE INTEREST</u>					
			negative attitude		
			putting in time		
			seems involved		
			positive attitude		
insight into injudicious prescribing			<u>yes</u>	no	
insight into street sales and purchases			yes unknown	no	
insight into manipulative behavior			<u>yes</u>	no	
insight into faked medical problem			<u>yes</u>	no	
<u>BEHAVIOR</u>					
Interactions with patients			<u>good</u>	satisfactory	marginal unsatisf
Interactions with doctors			good	satisfactory	marginal unsatisf
Interactions with nurses			good	<u>satisfactory</u>	marginal unsatisf
Interactions with counselors			good	<u>satisfactory</u>	marginal unsatisf
<u>OVERALL EVALUATION</u>			outstanding	<u>pass</u>	fail

(Please complete the back of this form.)

WA-4/19/85

William A. Donsky, D.O.
Associate Professor of Clinical Family Practice
Program Director, Controlled Dangerous Substances
University of Medicine and Dentistry of New Jersey -
School of Osteopathic Medicine
Education and Research Building, Suite 386
401 Raddon Ave.
Camden, New Jersey 08103-1291

Return to:

Signature

Evaluated by:

John Donsky, D.O., M.D., M.P.H.
Date: 6/11/91

[Lined area for handwritten notes]

COMMENTS:

The signature may have been more legible if the Dr. were not told to sign as Doctor.

06-12-91 10:33AM

SENT BY:

11:23

11

P. 03

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	
JERRY D. GRAGG, D.D.S.	:	
RESPONDENT	:	

It is hereby stipulated between Jerry D. Gragg, personally on his own behalf and the Department of Regulation and Licensing, Division of Enforcement by its attorney Richard Castelnuovo, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary action against Jerry D. Gragg by the Division of Enforcement. Respondent consents to the resolution of the formal disciplinary action without further proceedings by Stipulation to be submitted directly to the Dentistry Examining Board.

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 obtained legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the allegations of misconduct, but agrees solely for the purpose of resolving this matter that the Board may find the facts in the Findings of Fact, reach the conclusions in the Conclusions of Law and enter the Order accepting Respondent's voluntary surrender of his license and setting conditions for Respondent's return to practice.

6. As a part of this agreement, Respondent has agreed to surrender his D.E.A. registration, and complete the necessary forms to accomplish this surrender. Respondent understands that if he seeks licensure as dentist, his practice will be limited to preclude him from prescribing, administering, dispensing or ordering any controlled substance.

7. Respondent understands and agrees that should the Board adopt this Stipulation, the Final Decision and Order adopting the terms of the Stipulation shall be published in the Monthly Disciplinary Report issued by

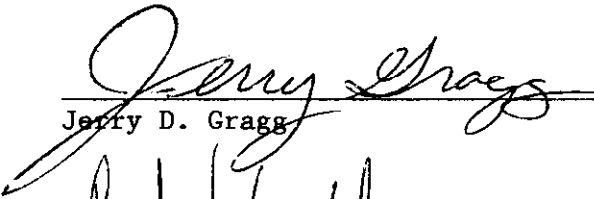
the department, and a summary of the Board's order adopting the terms of the Stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the department.

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 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.

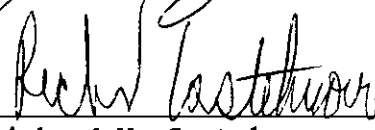
9. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

10. Respondent agrees that an attorney from the Division of Enforcement 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.


Jerry D. Gragg

10-9-91
Date


Richard M. Castelnuovo, Attorney
Division of Enforcement

October 14, 1991
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 November 7, 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 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) 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.