

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
: 90 MED 385
ALFREDO S. DAZO, M.D., :
RESPONDENT. :

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

Alfredo S. Dazo, M.D.
1100 Parkview Drive
Roseville, CA 95661

Wisconsin Medical 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. Alfredo S. Dazo, M.D., Respondent herein, (D.O.B. 4/10/42) is duly licensed and registered to practice medicine and surgery in the State of Wisconsin pursuant to license number 18146, which license was first granted on 12/7/72.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 1100 Parkview Drive, Roseville, CA 95661.
3. Respondent's specialty area of practice is family practice.
4. That Respondent has not practiced medicine or surgery in the State of Wisconsin since prior to 1988.

5. That by Order dated February 16, 1990, which became effective on March 18, 1990, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California, took disciplinary action against Respondent's license to practice medicine and surgery in that state.

6. In that Order, the California authorities found that on May 3, 1988 Respondent was convicted on his plea of nolo contendere of violating section 242 (unlawful use of force and violence upon Sandra S. committed on April 29, 1987) of the California Penal Code. The California authorities found that the crime was a misdemeanor involving moral turpitude and that it substantially related to the qualifications, functions or duties of a licensed physician because it arose out of a medical examination.

7. That based upon the findings, set out in Finding of Fact 6 above, the California authorities determined that a stayed revocation with two years probation and standard probation conditions was an appropriate discipline in that matter. The terms and conditions of probation were:

a. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

b. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

c. Respondent shall comply with the Division's probation surveillance program.

d. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

e. The period of probation shall not run during the time Respondent is residing or practicing outside the jurisdiction of California. If, during probation, Respondent moves out of the jurisdiction of California to reside or practice elsewhere, Respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

f. Upon successful completion of probation, Respondent's certificate will be fully restored.

g. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

h. During probation, Respondent shall have a third party present while examining or treating female patients.

8. That by Order dated May 22, 1992, which was effective June 21, 1992, the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California again imposed discipline against Respondent's license to practice medicine and surgery in the State of California.

9. In that Order, the California authorities found that on July 9, 1990 and August 30, 1990, Respondent examined female patients for the Department of Rehabilitation. The examinations included various systems, blood pressure, pulse and urinalyses. The examinations included the breasts but did not include pelvic exams. In each of these cases, Respondent was alone in the examining room with the patient. No third party was present. Both patients complained to the Department regarding what they stated were sexual overtones to their examinations. The California authorities found that Respondent had violated the condition of his Order of probation which required a third party present when examining or treating female patients.

10. Based upon the findings, set out in Finding of Fact 9 above, the California authorities ordered that Respondent's California license be revoked for violation of probation. It further ordered that the revocation was stayed and he was placed on probation for a new term of ten years with the following terms and conditions:

a. As part of probation, Respondent is suspended from the practice of medicine for 180 days beginning the effective date of this decision.

b. During the first five years of probation, Respondent is prohibited from examining or treating female patients. After that 5-year period, Respondent may exam or treat female patients, but only under the express condition that a third party chaperon is present.

c. Within thirty 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Division or its designee, Respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed necessary) by a Division-appointed psychiatrist who shall furnish a psychiatric report to the Division or its designee.

If Respondent is required by the Division or its designee to undergo psychiatric treatment, Respondent shall within thirty 30 days of the requirement notice submit to the Division for its prior approval the name and qualifications of a psychiatrist of Respondent's choice. Upon approval of the treating psychiatrist, Respondent shall undergo and continue psychiatric treatment until further notice from the Division. Respondent shall have the treating psychiatrist submit quarterly status reports to the Division.

d. Within 30 days of the effective date of this decision, Respondent shall submit to the Division for its prior approval a plan of practice in a structured environment in which Respondent's practice shall be monitored by another physician in Respondent's field of practice, who shall provide periodic reports to the Division.

If the monitor resigns or is no longer available, Respondent shall, within fifteen (15) days, move to have a new monitor appointed, through nomination by Respondent and approval by the Division. Respondent is prohibited from engaging in solo practice.

e. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

f. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

g. Respondent shall comply with the Division's probation surveillance program.

h. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

i. The period of probation shall not run during the time Respondent is residing or practicing outside the jurisdiction of California. If, during probation, Respondent moves out of the jurisdiction of California to reside or practice elsewhere, Respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

j. Upon successful completion of probation, Respondent's certificate will be fully restored.

k. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. Respondent has no intention of practicing in the State of Wisconsin and hereby voluntarily surrenders his license to practice in Wisconsin.

CONCLUSIONS OF LAW

1. That the Wisconsin Medical Examining Board has authority to enter into this stipulated resolution pursuant to sec. 227.44(5), Wis. Stats.

2. That the Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to sec. 448.02(3), Wis. Stats.


3. That Respondent's conduct, in having been subject to disciplinary action by the medical licensing authorities in California is unprofessional conduct as defined by Wis. Stats. sec. 448.02(3), and Wis. Adm. Code sec. MED 10.02(2)(q).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the voluntary surrender by Alfredo S. Dazo, M.D. of his license to practice medicine and surgery in the State of Wisconsin is hereby accepted.

IT IS FURTHER ORDERED, that in the event that Respondent ever reapplies for a license to practice medicine and surgery in the State of Wisconsin that the Medical Examining Board may impose upon that license whatever limitations and conditions it deems appropriate at that time.

Dated at Madison, Wisconsin this 25th day of March, 1993.


Clark O. Olsen, M.D., Secretary
Wisconsin Medical Examining Board

JZ:pw
ATY-2445

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	90 MED 385
ALFREDO S. DAZO, M.D.,	:	
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between, Alfredo S. Dazo, M.D., Respondent; and, John R. Zwieg, attorney for the Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation (file 90 MED 385) by the Department of Regulation and Licensing, Division of Enforcement. Investigative file 90 MED 385, contains allegations that Respondent's license to practice as a physician and surgeon in the State of California was disciplined by the Division of Medical Quality, Board of Medical Quality Assurance, Department of Consumer Affairs, State of California.

2. The Respondent understands that by signing the Stipulation he voluntarily and knowingly waives his rights including the right to have a formal complaint issued against him; at which time the state has the burden of proving those allegations by a preponderance of the 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; 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 is aware of his right to seek legal representation prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. 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. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, 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.

6. The parties to this stipulation agree that the Respondent, his attorney, and the attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The parties to this stipulation agree that the member of the Board appointed as the investigative advisor in this matter may appear before the Board in open or closed session for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

Dated this 11th day of March, 1993.

Alfredo S. Dazo M.D.
Alfredo S. Dazo, M.D.
Respondent

Dated this 5th day of March, 1993.

John R. Zwieg
John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

JZ:pw
ATY-2446

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 Medical 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 Medical 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 Medical Examining Board.

The date of mailing of this decision is March 29, 1993.

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.