

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
DENNIS R. ANDERSON, D.D.S.,	:	ADOPTING STIPULATION
RESPONDENT.	:	93 DEN 041

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

Dennis R. Anderson
10701 West Lincoln Avenue
West Allis, WI 53227

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. The Respondent is Dennis R. Anderson (D.O.B. 6/20/46) and is licensed as a dentist in the state of Wisconsin (license # 5001336). Respondent is also licensed in the state of Wisconsin as a pharmacist (license # 7965). Respondent's most recent address on file with the Department of Regulation and Licensing is 10701 West Lincoln Avenue, West Allis, WI 53227.

2. At all times relevant to this proceeding the Respondent was engaged in the practice of dentistry in West Allis, Wisconsin.

3. Meprobamate (and a preparation containing meprobamate) is a Schedule IV controlled substance listed in Wis. Stats. sec. 161.20(2)(g).

4. On November 7, 1990 the Wisconsin Dentistry Examining Board entered a Final Decision and Order in Case 88 DEN 012, in which Dennis R. Anderson was the Respondent. All provisions of the Order remain in full force and effect.

Respondent does not admit, but for purposes of this disciplinary proceeding only, does not contest the following Findings of Fact:

5. On numerous occasions between December 31, 1992 and March 11, 1993 Respondent violated the provisions of the Order of the Dentistry Examining Board entered in Case 88 DEN 012 in the following respects:

- a. Respondent ingested meprobamate, a controlled substance, not prescribed for a valid medical purpose;
- b. Respondent failed to report medications and drugs taken by him to his therapist within 24 hours of ingestion or administration, and further failed to identify the source of the medications or drugs;
- c. Respondent intentionally evaded the program of random witnessed monitoring for controlled substances established by the Order;
- d. Respondent failed to assure the filing of timely, accurate reports of his condition and progress with the Dentistry Examining Board.

6. Between December 31, 1992 and March 11, 1993 Respondent self-prescribed the controlled substance, meprobamate.

7. During the period of time set forth in paragraph 6, Respondent issued prescription orders in the name of a patient for controlled substances, which were not issued in the legitimate practice of dentistry, and which were intended for Respondent's personal use.

8. During the period of time set forth in paragraph 6, Respondent issued prescription orders in the name of a fictitious patient for controlled substances, which were not issued in the legitimate practice of dentistry, and which were intended for Respondent's personal use.

CONCLUSIONS OF LAW

9. The Wisconsin Dentistry Examining Board has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stats. sec. 447.07, and Wis. Adm. Code Ch. DE 5.

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

11. By reason of the conduct described hereinabove, Respondent is subject to disciplinary action against his license pursuant to Wis. Stats. section 447.07(3)(a),(f),(L) and (n), and sec. 161.38(5) 161.41(3),and 161.43(1), and Wis. Adm. Code sections DE 5.02(1), (5), (6), (7), (15), (16), (17),and (20).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

That the STIPULATION of the parties, attached hereto, is ACCEPTED.

IT IS FURTHER ORDERED that effective on the date of this Order, the dentistry license of Dennis R. Anderson, Respondent, shall be SUSPENDED for a period of not less than five (5) years. The Board may restore Respondent's license to full, unlimited status upon petition by Respondent after completion of the period of five years from the date of the signing of this Order, and a showing that Respondent has complied with all terms and conditions of this Order, and a demonstration that Respondent may practice without condition or limitation.

1. STAY OF SUSPENSION. The suspension shall be STAYED for a period of three months, conditioned upon compliance with the conditions and limitations outlined in paragraph 2., below.

a. The Respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the Respondent for rehabilitation and practice during the prior three (3) month period.

b. The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that Respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by the Respondent for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

c. Upon a showing by Respondent of successful compliance for a period of five years with the terms of paragraph 2., below, the Board may grant a petition by the Respondent for return of full licensure.

d. The applications for extension under 1.a. and all required reports under 2.a-c. shall be due on each and every January 1st, April 1st, July 1st and October 1st for the period that this Order remains in effect, commencing October 1, 1993.

2. CONDITIONS OF STAY AND LIMITATIONS. The initial stay of suspension and any subsequent stay shall be conditioned upon the following terms and limitations:

a. Non-Prescription Use of Drugs and Alcohol Prohibited. Respondent shall remain free of alcohol, prescription drugs and controlled substances not prescribed by a practitioner for legitimate medical purposes. Respondent shall have his physician report in writing to the supervising physician or therapist under paragraph 2.b.(1) all medications prescribed to the Respondent within 10 days of such prescribing.

b. Rehabilitation, Monitoring and Treatment Program. Respondent shall continue to participate in a rehabilitation, monitoring and treatment program acceptable to the Board for the treatment of chemical abuse and dependency. Such program shall consist of the following elements and requirements:

(1) AODA Rehabilitation. Respondent shall continue to participate in an AODA rehabilitation program under the care and supervision of a qualified physician or therapist (hereinafter, "supervising physician or therapist"), at an accredited drug and alcohol abuse/dependency treatment facility. Respondent shall obtain from the Dentistry Examining Board approval of the drug and alcohol abuse/dependency treatment facility and the supervising physician or therapist. The supervising physician or therapist shall be responsible for the Respondent's total rehabilitation program. Respondent shall immediately provide a copy of this order to his supervising physician or therapist. Respondent shall participate in and comply with all recommendations for treatment, subject to the requirements of this order.

(2) Individual/Group Therapy. The rehabilitation program shall include and Respondent shall participate in individual and/or group therapy sessions for the first year of the stayed suspension upon a schedule as recommended by the supervising physician or therapist, but not less than once weekly. Such therapy shall be conducted by the supervising physician or therapist, or another qualified physician or therapist as designated by the supervising physician or therapist and acceptable to the Board. After the first year of stayed suspension, this requirement for therapy sessions may be modified upon written recommendation by the supervising physician or therapist.

(3) AA/NA Meetings. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, upon a frequency as recommended by the supervising physician or therapist, but not less than one meeting per week. Attendance of Respondent at such meetings shall be verified and reported monthly to the supervising physician or therapist.

(4) Drug Screening. Respondent's rehabilitation program shall include and Respondent shall participate in a program of random, witnessed collection of urine and/or blood specimens for monitoring for the presence of controlled substances and alcohol in his blood and/or urine on a frequency of not less than four (4) times per month for the first year following the date of this Order. Thereafter, the frequency of such blood and/or urine screens shall be as deemed appropriate by Respondent's supervising physician or therapist in their reasonable discretion.

All urine screens shall include testing and reporting of the specific gravity of the urine specimen.

The random drug and alcohol screening program shall include weekends and holidays for collection of specimens. Failure of the drug and alcohol screening program to be conducted on a random basis shall be deemed a violation of this Order and may result in denial of extension of Stay of Suspension, disapproval of the monitoring facility or program, or other action as deemed appropriate by the Board.

The Respondent shall appear and provide a specimen not later than 5 hours following a request for a specimen, but in no event later than the same calendar date that the request is made.

If the physician or therapist supervising the Respondent's plan of care, Respondent's employer, the Board or the Department of Regulation and Licensing, Division of Enforcement deems that additional blood or urine screens are warranted, Respondent shall submit to such additional screens as requested or recommended. The supervising physician or therapist may exceed the above stated minimum frequency for obtaining drug and alcohol screens to prevent ability of Respondent to predict that no further screens will be required for a given period because the minimum frequency for that period has been met.

The Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board. Respondent shall immediately provide a copy of this Order to the monitoring facility conducting the collection of specimen and/or chemical analyses upon specimens for the random witnessed drug and alcohol screening program.

To be an acceptable program, the monitoring facility shall agree to provide random and witnessed gatherings of specimens for analysis for controlled substances and alcohol. Any specimen that yields a positive result for any controlled substance or alcohol shall be immediately subjected to a gas chromatography-mass spectrometry (hereinafter, "GC-MS") test to confirm the initial positive screen results. The monitoring facility shall agree to immediately file a written report directly with the Board, and with the supervising physician or therapist upon any of the following occurrences: if the Respondent fails to appear for collection of a specimen as requested; or if a drug or alcohol screen and confirmatory GC-MS test prove positive; or if the specific gravity of a urine specimen is below 1.008; or if the Respondent refuses to give a specimen for analysis upon a request authorized under the terms of this Order. Respondent

shall arrange for quarterly reports from the monitoring facility directly to the Board and to Respondent's supervising physician or therapist providing the dates and results of specimen analyses performed. Such reports shall be due on dates specified in paragraph 1.d. above.

The monitoring facility shall further agree to keep a formal record of the chain of custody of all specimens collected and subjected to analysis. The facility shall further agree to preserve any specimens which yielded positive results for any controlled substance or alcohol, or specific gravity below 1.008, pending further written direction from the Board.

(5) Quarterly Reports. Respondent shall arrange for quarterly reports from his supervising physician or therapist directly to the Board evaluating and reporting:

- (a) A summary of Respondent's progress in his rehabilitation program to date, and all recommendations for continuing rehabilitation treatment,
- (b) Respondent's attendance in NA/AA meetings,
- (c) Respondent's participation in and results of his random witnessed urine and/or blood screening program.

Such quarterly reports shall be due on the dates specified under paragraph 1.d. of this Order.

(6) Immediate Reports. Respondent shall arrange for agreement by his supervising physician or therapist to report immediately to the Board any conduct or condition of Respondent that may constitute a danger to the public in his practice of dentistry, and any occurrence that constitutes a failure on the part of the Respondent to comply with the requirements of this Order or treatment recommendations by the supervising physician or therapist, including any indications of consumption of alcohol or unauthorized use of any controlled substances, notice of any positive blood and/or urine screen for alcohol or controlled substances, and any urine specimen that is below a specific gravity of 1.008.

c. Practice of Dentistry: Limitations and Conditions. Any practice of Dentistry by Respondent during the pendency of this Order shall be subject to the following terms and conditions:

(1) Full Compliance with Order Required. Respondent shall not practice as a dentist in any capacity unless he is in full compliance with the rehabilitation and treatment programs as specified and approved under this Order.

(2) Prohibition of Access to Controlled Substances. Respondent shall not prescribe or administer any controlled substance, nor shall Respondent have any access to any controlled substance (subject only to the provisions of paragraph 2.a.). Respondent shall submit proof of surrender of any DEA permit granted to him, to the Board.

(3) Provision of Copy of Order to Employers. Respondent shall provide his employer and any prospective employers with a copy of this Stipulation and Final Decision and Order immediately upon issuance of this Order, and upon any change in employment.

(4) Quarterly Reports. Should Respondent change his current employment and commence employment as a dentist with an entity other than Anderson and Culver, S.C., or with an entity other than another corporate entity in which he is a shareholder and, officer or director, or other than as a self-employed practicing dentist, Respondent shall arrange for such employer to provide directly to the Board quarterly written reports evaluating Respondent's work performance. Such reports shall be due on the dates specified in paragraph 1.d. of this Order.

d. Consents for Release of Information. Respondent shall provide and keep on file with his supervising physician/therapist and all treatment facilities and personnel current releases which comply with state and federal laws, authorizing release of all his medical and drug and alcohol counseling, treatment and monitoring records to the Board and the Department of Regulation and Licensing, Division of Enforcement, and permitting his supervising physician/therapist and treating physicians and therapists to disclose and discuss the progress of his treatment and rehabilitation and all matters relating thereto with the Board or its duly authorized representatives or agents. Copies of these releases shall be filed simultaneously with the Board and the Division of Enforcement. Should Respondent change his current employment as a dentist and commence employment as a dentist with an entity other than Anderson and Culver, S.C. or with an entity other than another corporate entity in which he is a shareholder and, officer or director, or other than as a self-employed practicing dentist, Respondent shall provide and keep on file with such employer(s) current releases authorizing release of all employment records and reports regarding Respondent to the Board and the Division of Enforcement, and authorizing such employer to discuss with the Board or its authorized agents and representatives Respondent's employment history, progress and status and all matters relating thereto. Copies of these employment records releases shall be filed simultaneously with the Board and the Division of Enforcement.

e. Notification of Change of Address and Employment. The Respondent shall report to the Board any change of employment status, residence address or phone number within five (5) days of any such change.

3. COSTS. Respondent shall pay costs of this investigation under Wis. Stats. section 440.22 in the amount \$ 1,000.00, to the Department of Regulation and Licensing, which costs shall be paid within 60 days following the date of this Order.

4. TERMS FOR MODIFICATION OF ORDER. The Respondent may petition the Board, in conjunction with an application for extension of the stay of suspension, for modification of the conditions or limitations for stay of suspension. Any such petition shall be accompanied by a written recommendation of the Respondent's supervising physician or therapist expressly supporting the specific modifications sought. A denial of such a petition for modification shall not be deemed a denial of license under sec. 227.01(3), or 227.42, Wis. Stats., or Ch. RL 1, Wis. Adm. Code, and shall not be subject to any right to further hearing or appeal.

5. RESPONDENT RESPONSIBLE FOR COSTS AND EXPENSES OF COMPLIANCE. Respondent shall be responsible for all costs and expenses of complying with this Order and for arranging any alternative means for covering such costs and expenses.

6. VIOLATIONS OF ORDER. Violation of any of the terms of this Order or of any law substantially relating to the practice of dentistry may result in a summary suspension of the Respondent's license; the denial of an extension of the stay of suspension; the imposition of additional conditions and limitations; or the imposition of other additional discipline, including revocation of license.

9. EFFECTIVE DATE. This Order shall become effective immediately upon issuance by the Dentistry Examining Board, except for provisions 2.a., which is effective the date of signing by Respondent.

Dated this 7 day of July, 1993.

DENTISTRY EXAMINING BOARD

By: Thomas G Brault DDS
A Member of the Board

JWH
ATY2-4411

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
DENNIS R. ANDERSON, D.D.S.,	:	93 DEN 041
RESPONDENT	:	

It is hereby stipulated between Dennis R. Anderson, personally on his own behalf and by his attorney, William E. Callahan, Jr. and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered in resolution of the pending proceedings concerning Respondent's license. The stipulation and order shall be presented directly to the Dentistry Examining Board for its consideration for adoption.

2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations 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 and has obtained legal advice prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Dentistry 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. Attached to this Stipulation is the current licensure card of Respondent. If the Board accepts the Stipulation, Respondent's license shall be reissued in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Respondent shall be returned to him with a notice of the Board's decision not to accept the Stipulation.


7. Also attached to this Stipulation are copies of Respondent's health care records for review by the Board in conjunction with their consideration of the attached Final Decision and Order.

8. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Dentistry Examining 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.

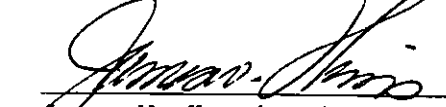
9. The Division of Enforcement joins Respondent in recommending the Dentistry Examining Board adopt this Stipulation and issue the attached Final Decision and Order.


Dennis R. Anderson

6-30-93
Date

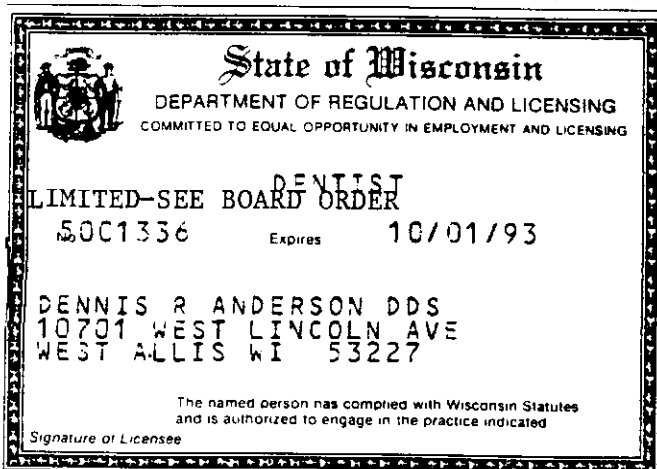

William E. Callahan, Jr,
Attorney for Respondent

6/30/93
Date


James W. Harris, Attorney
Division of Enforcement

7/1/93
Date

jh



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 July 12, 1993.