

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

DOUGLAS F. PIERRE, DDS
RESPONDENT.

89 DEN 5

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

Douglas F. Pierre, DDS
2626 South Oneida Street
Green Bay, WI 54304

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

FILE COPY

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 Douglas F. Pierre, is and was at all times relevant to the facts set forth herein a dentist licensed in the State of Wisconsin pursuant to license # 5000682.

2. On January 30, 1992, a member of respondent's staff testified that it is the protocol in respondent's office (from 1988 to that day) is that nitrous oxide is provided to all patients on initial exam unless the patient declines it, and that very seldom does a patient decline it.

3. On January 30, 1992, a member of respondent's staff testified that the protocol in respondent's office (from 1988 to that day) is that if a patient arrives for an initial consultation without bringing a set of recent radiographs, then a full-mouth radiograph is performed upon the patient before a dentist meets the patient.

4. Findings and recommendations have been made by qualified experts regarding respondent's use of alcohol Respondent disputes the findings and appropriateness of these, but has agreed to comply with certain of those recommendations solely to settle this matter, and not as an admission or agreement that the recommendations are warranted.

CONCLUSIONS OF LAW

5 The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter pursuant to § 447.07(3), Wis. Stats., and is authorized to enter into the attached Stipulation pursuant to § 227.44(5), Wis. Stats.

6. The conduct described in paragraphs 2-3, above, violated one or more of the following: §447.07(3)(a), Wis. Stats. and § DE 5.02(1), (5), (19), and (21), Wis. Adm. Code, and their predecessor rules. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

8. IT IS FURTHER ORDERED, that respondent's license to practice dentistry is LIMITED in the following respects:

a. Respondent shall make an individualized determination regarding the need for any analgesia, including nitrous oxide, and the need for radiographs, for each patient before giving any patient nitrous oxide or other analgesia, or taking radiographs. No patient shall be given nitrous oxide without a reasonable need for such analgesia, and without express informed consent.

b Respondent shall undergo the following program of continuing education in the appropriate and ethical use of analgesia and radiographs at his own expense, and shall execute and keep on file with the Board and the Division of Enforcement appropriate releases in such form as they shall prescribe, so that his progress may be monitored: 2 credit hours in an individualized course of instruction, as devised by Thomas Rypel, D.D.S., Associate Dean, Marquette University School of Dentistry. Such instruction shall be completed no later than April 1, 1994. Respondent shall pay the usual and customary tuition charge for 2 credit hours promptly when billed, and shall not attempt to negotiate the terms of either instruction or payment without prior approval of the board.

c. No later than April 1, 1994, respondent shall comply with § DE 11.05(2), Wis. Adm. Code., notwithstanding any compliance with § DE 11.05(1) and/or (3), Wis. Adm. Code. Respondent may do this by an individualized program of instruction under the direction and supervision of Peter Jacobsohn, D.D.S., Marquette University School of Dentistry. Any such program shall be subject to the approval of the Board or its designee. If respondent chooses the individual program option, respondent shall pay the usual and customary tuition charge for the instruction time promptly when billed, and shall not attempt to negotiate the terms of either instruction or payment without prior approval of the board.

d. Respondent shall immediately provide an ethanol test upon request of any agent of the Board or department, during (or within one hour) of his regular office hours or any other time when he has been actually practicing dentistry.

9 IT IS FURTHER ORDERED, that the period of suspension ordered by the board by its order of May 24, 1993, is reduced from six months to three months. All other provisions of the order remain in full force and effect. The suspension shall commence Friday, December 3, 1993 at 6:00 PM.

10. IT IS FURTHER ORDERED, that respondent shall ensure that none of his staff administers nitrous oxide or other analgesia or any anesthetic to any patient unless there is a licensed dentist in the office suite.

11. IT IS FURTHER ORDERED, that respondent's license to practice dentistry is further LIMITED in the following respects:

a. Respondent shall obtain, at his own expense, an experienced periodontist acceptable to the board to monitor his practice. This monitoring shall include on-site review of all patient charts at least twice per month (or more often, as determined by the monitoring periodontist). After the third review, the review may be conducted alternately by mail and by on-site visit, at the option of the monitoring periodontist. After five on-site reviews, the reviews may be either on-site or by mail, in the discretion of the monitoring periodontist, except that at least one on-site review shall be performed in the month before each report is due. The monitoring periodontist shall report to the board quarterly on respondent's practice, including respondent's technique, diagnostic skills, documentation and charting, treatment planning, and other issues which, in the monitoring periodontist's judgment, may affect the health, safety or welfare of patient or public. The monitoring periodontist may recommend to the board any changes in the conditions and terms of the monitoring that he or she deems appropriate, but such changes shall not be implemented without board approval.

b. Respondent shall not perform any osseous surgery or grafts unless he has consulted with the patient's general dentist (unless the patient expressly requests otherwise) and if such consultation is in writing, it must be mailed to the general dentist one week before any surgery is performed. If in person or by telephone, it must be conducted at least two days before any surgery is performed. If the patient has no general dentist, such fact shall be documented in the chart.

c. Before any treatment course is commenced or analgesia or anesthetic is administered, respondent shall obtain written informed consent from the patient, and the consent signed by the patient shall be maintained in the chart. The form shall include a discussion of alternative modes of treatment. A sample copy of the consent form used by respondent shall be filed with the board.

d. Respondent shall appear before the board at such times as the board may direct.

e. Respondent may petition the board for modification or removal of one or more of these limitations after one year of active practice under them. It shall be totally within the discretion of the board to modify or remove any limitation, and denial of such a petition is not be a denial of license or entitle respondent to a hearing on such denial. After three years, the monitoring limitations set forth in paragraph (11)(a) of this order shall expire

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12. IT IS FURTHER ORDERED, that respondent shall pay the costs of this matter in the amount of \$600 within 30 days of this order. The costs imposed by the board's order of May 24, 1993 shall be paid before respondent next renews his license to practice dentistry.

Dated this 3 day of November, 1993.

WISCONSIN DENTISTRY EXAMINING BOARD

by: Thomas G Brandt DDS
a member of the board

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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST:

DOUGLAS F PIERRE, DDS,
RESPONDENT.

STIPULATION
89 DEN 5

It is hereby stipulated between the above Respondent and the Department of Regulation and Licensing, Division of Enforcement by its undersigned attorney as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of an additional formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a further statement of the allegations against respondent; a 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 respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; 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 respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of respondent's right to seek legal representation and has obtained legal advice before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties 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. Respondent agrees to take all necessary steps to dismiss any appeal already pending in any matter covered by this Stipulation, including any appeal of the Board's order of May 24, 1993.

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 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.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and views of the case acquired during the investigation.

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

9. Respondent is informed that should the Board adopt this stipulation, the board's final decision and order is a public record and will be published in the Monthly Disciplinary Report issued by the department. A summary of the order will be published in the Wisconsin Regulatory Digest issued semiannually by the Board. A press release may be issued. This is standard department procedure and in no way specially directed at Respondent.

10. With respect to ¶9 in the Order, the parties agree that the Board may choose between the alternatives presented. Either side may advocate for either alternative.

Douglas F. Prime 10/20/93
Respondent Date

P. Scott Hassett 10/26/93
P. Scott Hassett, Attorney for Respondent Date

James W. Jumo 10/29/93
Prosecuting Attorney Date
Division of Enforcement

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 4, 1993.