

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
BARBARA C. McCLINTOCK, R.D.H.,	:	LS9503221DEN
RESPONDENT.	:	

The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

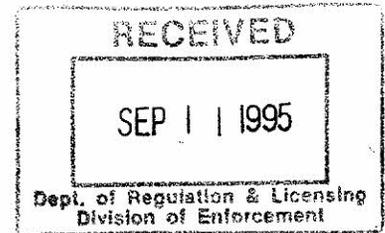
ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 6th day of September 1995.

Thomas C. Brault DDS.



**STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST**

**PROPOSED DECISION
LS-9503221-DEN**

**BARBARA C. McCLINTOCK, R.D.H.,
RESPONDENT.**

PARTIES

The parties in this matter under § 227.44, Stats., and for purposes of review under § 227.53, Stats., are:

Barbara C. McClintock
1750 North 56th Street
Milwaukee, WI 53208

Dentistry Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

This proceeding was commenced by the filing of a Notice of Hearing and Complaint on March 22, 1995. A hearing was set in the above-captioned matter for June 14, 1995. On May 17, 1995, the Division of Enforcement by its attorney, Robert T. Ganch, filed a Motion for Default. A motion hearing was scheduled for May 25, 1995. On May 22, 1995, Barbara C. McClintock submitted a letter in this matter waiving her right to a hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Dentistry Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Barbara C. McClintock, d.o.b., 5/9/62, was granted a license to practice as a dental hygienist in the State of Wisconsin on October 15, 1986, license #3857. Respondent's most recent address on file with the Department of Regulation and Licensing is 1750 North 56th Street, Milwaukee, WI 53208.

2. On or about August 22, 1990, in Dane County Circuit Court, respondent was convicted upon her plea of guilty of Medical Assistance offenses, secs. 49.49 (1) (a) 1 and (1) (b) 1, Wis. Stats., said offenses involving respondent having obtain Medical Assistance overpayments from the State of Wisconsin by submitting false statements of hours she worked as a dental hygienist during the period between December 6, 1987, and June 30, 1990.

3. On the basis of the conviction, respondent was placed on probation for a period of five years and ordered to pay \$30,126.73, in restitution, assessments, costs and surcharges in the amount of \$80.00, and to perform 400 hours of community service.

4. By Final Decision and Order dated May 1, 1991, the State of Wisconsin Dentistry Examining Board ordered the suspension of respondent's license to practice as a dental hygienist for a period of three (3) years. The Order provided for a stay of the suspension conditioned upon respondent's compliance with the conditions and limitations contained in the Order.

5. One of the conditions contained in subparagraph (i) of the Board's Order dated May 1, 1991, provided in material part as follows:

"i Respondent Barbara C. McClintock will abide by the terms and conditions of her court-ordered probation. ..."

6. The May 1, 1991, Order of the Board provided in material part as follows:

"IT IS FURTHER ORDERED, that if respondent Barbara McClintock violates or otherwise fails to comply with the conditions and limitations set forth herein during the designated period, the Board may enter an order imposing the three (3) year suspension, without prior notice or hearing, upon the filing of an affidavit by the Department of Regulation and Licensing setting forth facts supporting respondent's violation of or non-compliance with the Order.

Respondent's only remedy in the event that the suspension is imposed will be to request a post-suspension hearing to be conducted as a class 2 proceeding, as defined under ch. 227, Wis. Stats., for the sole purpose of determining whether or not there has been a violation of or non-compliance with the conditions and limitations imposed by the Board. A post-suspension hearing will be held only if respondent files a request for a hearing within thirty (30) days after the mailing of the order of suspension.

7. On September 7, 1994, an affidavit was filed with the Dentistry Examining Board on behalf of the Department of Regulation and Licensing, setting forth facts indicating that respondent had failed to comply with the Final Decision and Order of May 1, 1991. The affidavit states in material part as follows:

"3. Respondent's probation and parole agent, Sandra Strabel, has reported that on numerous occasions respondent has failed to comply with the terms of her court ordered probation, which have included the following violations of her terms of probation:

- a. Failure to make monthly restitution payments of \$100.00 per month toward her restitution balance of \$29, 555.19. As of September 1, 1994, respondent has paid only \$2,130.26 of the original balance of \$30, 126.73.
- b. Failure to perform and confirm to the probation agent community service hours toward the 400 hours of community service required by the terms of her probation. Ms. McClintock has confirmed only 10 hours of community service as of September 1, 1994."

8. On September 8, 1994, the Dentistry Examining Board issued an Order Rescinding Stay of Suspension and Reinstating Suspension on the basis and grounds set forth in the affidavit filed by the Department of Regulation and Licensing, Division of Enforcement. The Board found that respondent had violated or failed to comply with the terms of her court-ordered probation, in violation of the Board's Final Decision and Order dated May 1, 1991.

9. Pursuant to the terms of the Final Decision and Order of the Dentistry Examining Board, dated May 1, 1991, respondent requested a post suspension hearing relating to the Board's Order Rescinding Stay of Suspension and Reinstating Suspension, dated September 8, 1994.

10. On May 17, 1995, the Department of Regulation and Licensing, Division of Enforcement, filed a Motion for Default in this matter.

11. On May 22, 1995, the respondent, Barbara C. McClintock submitted a letter in this matter in which she waived her right to a post-suspension hearing.

12. Respondent did not file an Answer to the Complaint filed in this matter by the Department of Regulation and Licensing, Division of Enforcement.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to s. 447.07 Wis. Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the respondent's request for dismissal of this proceeding, be and hereby is, granted.

OPINION

This matter was commenced by the filing of a Notice of Hearing and Complaint on March 22, 1995. A hearing was scheduled for June 14, 1995. On May 17, 1995, the Division of Enforcement by its attorney, Robert Ganch, filed a Motion for Default. A motion hearing was scheduled for May 25, 1995. On May 22, 1995, Ms. McClintock filed a letter with the Administrative Law Judge in which she waived her right to a post suspension hearing.

Based upon on the record herein, including respondent's statement waiving her right to a hearing in this matter, the Administrative Law Judge recommends that the Dentistry Examining Board adopt as its final decision in this matter, the proposed Findings of fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 16th day of June 1995.

Respectfully submitted,

Ruby Jefferson-Moore

Ruby Jefferson-Moore
Administrative Law Judge