

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY .  
PROCEEDINGS AGAINST . FINAL DECISION  
: AND ORDER  
: ROXANA L. BURCHE, D.D.S., : LS9606111DEN  
: RESPONDENT. :  
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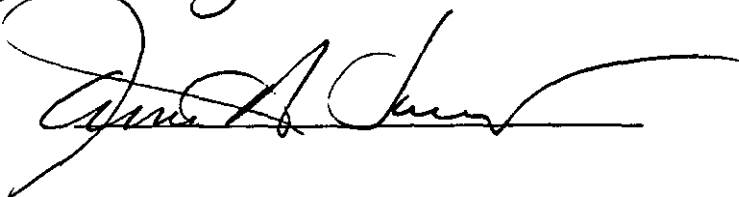
The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

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 10<sup>th</sup> day of January 1987



STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

ROXANA L. BURCHE, D.D.S.

LS9606111DEN

Applicant

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PROPOSED DECISION

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The parties to this proceeding for the purposes of sec. 227.53. Stats., are:

Roxana L. Burche, D.D.S.  
P.O. Box 2494  
Davenport, IA 52809

State of Wisconsin Dentistry Examining Board  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708

State of Wisconsin Department of Regulation & Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53709

A Class 2 hearing was conducted in the above-captioned matter on September 20, 1996. Applicant appeared in person and without counsel. Appearing for the Division of Enforcement was Attorney James W. Harris.

Based upon the entire record in this case, the administrative law judge recommends that the Dentistry Examining Board adopt as its final decision in the matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Roxana L. Burche, D.D.S. (Dr. Burche) is licensed as a dentist in the State of Wisconsin by license # 4325, issued on October 29, 1991. Dr. Burche was born on June 24, 1960, and her address of record with the board is P.O. Box 2494, Davenport, IA 52809.

2. On December 28, 1995, the Board of Dental Examiners of the State of Iowa (Iowa board), after a hearing conducted on December 6, 1995, issued its Findings of Fact, Conclusions of Law, Decision and Order in *the Matter of Roxana L. Burche, D.D.S.* The Iowa board concluded that Dr. Burche had violated Iowa law relating to dental practice, and had thereby engaged in unprofessional conduct in the practice of dentistry. The Iowa board found in part that she had maintained a solo dental practice in Davenport, Iowa, since October, 1991, and that, in the middle of the night of November 3, 1994, she left the State of Iowa and abandoned her dental practice without properly notifying her patients and making arrangements for the transfer of their dental records.

3. The Iowa board also found that the preponderance of the evidence produced at the hearing "did not establish that the respondent is currently unable to practice dentistry with reasonable skill and safety by reason of illness or a mental or physical condition." The board did, however, find probable cause to support an order requiring a mental examination.

4. Based upon its findings of unprofessional conduct and of probable cause supporting an order requiring that Dr. Burche submit to a mental examination, the Iowa board placed Dr. Burche's license on probation for an indefinite period, and required that she undergo a comprehensive multi-disciplinary evaluation at a facility approved by the Iowa board prior to resuming practice in that State.

5. On February 6, 1996, Dr. Burche petitioned for judicial review of the Iowa board's Decision and Order in the Iowa District Court for Polk County. The court ultimately dismissed the petition and affirmed the Iowa board's Decision and Order for lack of jurisdiction, based upon Dr. Burche's failure to file the petition within 30 days after the issuance of the Iowa board's Decision and Order.

6. On February 27, 1996, Dr. Burche submitted to a psychological evaluation conducted by Paul Miller, Ph.D., a psychologist with Madison Psychiatric Associates, Ltd., Madison, Wisconsin. Dr. Miller's final conclusion states as follows:

In short, none of the information from this evaluation would suggest the existence of any psychological disturbance or dysfunction in this individual at this time which would prohibit her from being able to successfully and appropriately practice her profession.

#### CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to sec. 447.07(3), Stats.

2. In having been subject to disciplinary action by the Iowa Board of Dental Examiners, Dr. Burche has had a license granted by another state to practice as a dentist limited, suspended or subject to other disciplinary action, in violation of sec. DE 5.01(14), Code, and she has thereby engaged in unprofessional conduct for the purposes and within the meaning of sec. 447.07(3)(a), Stats.

### ORDER

NOW, THEREFORE, IT IS ORDERED that Roxana L. Burche, D.D.S., be, and hereby is reprimanded.

IT IS FURTHER ORDERED that, pursuant to sec. 440.22, Stats., Dr. Burche be assessed the partial costs of this proceeding in the amount of \$197.10.

### OPINION

Complainant recommends that the Wisconsin Dentistry Examining Board "adopt" the finding of the Iowa board that there was not a preponderance of the evidence of inability to safely practice at the time of the Iowa hearing, and there is in fact no evidence or finding in the Iowa proceeding indicating that Dr. Burche practiced dentistry in other than a safe and competent manner. Nonetheless, the Division of Enforcement's recommendations for discipline in this matter include, along with a reprimand, imposition of limitations on Dr. Burche's license for two years requiring monitoring of her practice by another dentist or group of dentists, and submission by her to the board of quarterly reports of her activities as a dentist. While this recommendation for continuous monitoring of Dr. Burche's practice raises an inference of some continuing concern by the complainant as to Dr. Burche's ability to practice in a competent manner, it is concluded that the record in this matter does not present sufficient basis in that regard to justify the imposition of restrictions or limitations on Dr. Burche's practice.

In requiring that Dr. Burche submit to a complete psychological assessment, the Iowa board commented in its second Conclusion of Law as follows:

*The respondent's demeanor at the hearing and some of the evidence appears to suggest that the respondent may have resolved any psychological or psychiatric condition which may have existed when she left Iowa. However, there is also substantial evidence in the record which indicates that the respondent has experienced significant mental health problems in the past. Moreover, her behavior when she left Iowa in the middle of the night was not rational. The respondent's continued assertion that the circumstances of her departure from Iowa were appropriate is a concern to the board. (Iowa Decision and Order, p. 8)<sup>1</sup>*

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<sup>1</sup> The Iowa board's decision finds that Dr. Burche's explanation as to why she suddenly left the state was as follows:

*The respondent states that she was severely ill with ear and skin infections, beginning in March, 1993. At times she was confined to bed and had to cancel patients or refer them to other dentists. The respondent sought medical care from numerous different physicians, but none were able to find a medical reason for her condition or to alleviate her symptoms. . . The respondent described her decision to leave Iowa in the middle of the night as a "move of desperation." She hoped that the medical care and technology would be superior in Europe.*

That explanation is consistent with Dr. Burche's testimony at this hearing.

Dr. Burche complied with the Iowa board's order and submitted to a complete psychological evaluation performed by Dr. Paul Miller, a licensed psychologist with Madison Psychiatric Associates, Ltd., located in Madison, Wisconsin. The assessment consisted of a clinical interview and psychological testing, including the Minnesota Multiphasic Personality Inventory and the Millon Clinical Multiaxial Inventory. Based upon the interview and the results of the two psychological tests, both of which were deemed by Dr. Miller as having provided a valid assessment of Dr. Burche's psychological functioning, Dr. Miller reached the following conclusions:

The results of this extended psychological evaluation, which utilized both clinical interview, behavioral observation and psychological test data, would indicate that this individual is not showing any evidence of psychological disturbance at this time. She is showing expected and typical reactions of an individual who is facing the levels of stress which she is facing. She appears to have a good level of psychological insight, and in the interview, she seemed to be quite open in discussing her difficulties and her reactions to them. She appears to be an individual who has a conventional and strongly positive value system, a normal level of social facility and a normal level of frustration tolerance. Her physical health appears to be normal and adequate at this time, judging both by her personal appearance and her self-report. There is no history admitted by her of alcohol or other drug problems, and her behavior in the interview was quite appropriate and cooperative.

In short, none of the information from this evaluation would suggest the existence of any psychological disturbance or dysfunction in this individual at this time which would prohibit her from being able to successfully and appropriately practice her profession.  
(Exh #3)

Dr. Burche was also evaluated by John M. Rohr, M.D., a psychiatrist practicing in New Berlin, Wisconsin. In a letter to Dr. Burche's attorney dated June 10, 1996, Dr. Rohr wrote, "On the basis of my evaluation, I find no psychiatric impediment or limitation to her resumption of her practice of dentistry." (Exh. 3)

Dr. Burche's demeanor and conduct during the course of the hearing was consistent with the observations of the two health care professionals. Both her testimony and the testimony elicited by her was relevant and to the point; and she remained poised and composed throughout the course of the hearing. Her ability to grasp the procedural and substantive aspects of the hearing process were unusual in one proceeding without legal counsel, and this enhanced her credibility.

As stated above, the Iowa board placed Dr. Burche's license in a probationary status and required that she submit to a psychological assessment based upon its findings that she "experienced significant mental health problems in the past," that "her behavior when she left Iowa in the middle of the night was not rational," and that her assertion that the circumstances of her departure were appropriate is a basis for concern. The Iowa board did not, however, impose discipline other than the probationary requirement that she have a psychological assessment. The Iowa order specifies that "additional conditions of probation may be imposed dependent on the results of the evaluation," but there is no evidence in this record that such additional conditions have been imposed. Nor, based upon the results of the ordered assessment, would there be any

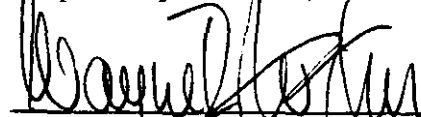
basis for doing so. Moreover, even if there existed a basis in this record for imposing the monitoring limitations sought by complainant, there is no reason to believe that such monitoring would obviate a problem such as the one identified by the Iowa board.

The exclusive basis for the disciplinary action in Wisconsin is the fact that Dr. Burche was disciplined in Iowa. Complainant did not present evidence of the underlying conduct except introduction of the Iowa board's order, and Dr. Burche was foreclosed from presenting evidence relating to that conduct except for purposes of mitigation. Accordingly, it could be argued that, in light of the fact that Dr. Burche has already satisfied the conditions imposed by the Iowa board, no additional discipline should be imposed in Wisconsin. Based upon the circumstances of the discipline imposed in Iowa, however, it is deemed that a reprimand is appropriate in satisfying the established disciplinary objectives of protecting the public through rehabilitation of the licensee and deterring other licensees from engaging in similar conduct. See *State v. Aldrich*, 71 Wis. 2d 206 (1976).

Finally, both parties to these proceeding expressed willingness to resolve the matter through stipulation, and it seems likely that such resolution would ultimately have been reached. The scheduled hearing date intervened, however, and, absent a request by either party for a postponement, the hearing went forward. In such circumstances, it seems appropriate that Dr. Burche be assessed only a portion of the costs of the proceedings. The amount suggested constitutes the department's actual out-of-pocket costs for the court reporter (Magne-Script Invoice # 10186).

Dated this 23rd day of October, 1996.

Respectfully submitted,



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Wayne R. Austin  
Administrative Law Judge

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# Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529, impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On January 10, 1997, the Dentistry Examining Board  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \$197.10 Case #: LS9606111DEN

The amount of the forfeiture is: \_\_\_\_\_ Case # \_\_\_\_\_

Please submit a check or a money order in the amount of \$ 197.10

The costs and/or forfeitures are due: February 9, 1997

NAME: Roxana L. Burche LICENSE NUMBER: 4325

STREET ADDRESS: P.O. Box 2494

CITY: Davenport STATE: IA ZIP CODE: 52809

Check whether the payment is for costs or for a forfeiture or both:

COSTS  FORFEITURE

Check whether the payment is for an individual license or an establishment license:

INDIVIDUAL  ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

\_\_\_\_\_

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING  
1400 E. WASHINGTON AVE., ROOM 141  
P.O. BOX 8935  
MADISON, WI 53708-8935**

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STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE DENTISTRY EXAMINING BOARD

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In the Matter of the Disciplinary Proceedings Against

Roxana L. Burche, D.D.S.,

AFFIDAVIT OF MAILING

Respondent.

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STATE OF WISCONSIN    )  
  )  
COUNTY OF DANE        )


I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On January 16, 1997, I served the Final Decision and Order dated January 10, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9606111DEN, upon the Respondent Roxana L. Burche, D.D.S. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 377 256.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Roxana L. Burche, D.D.S.  
P.O. Box 2494  
Davenport IA 52809

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me  
this 16<sup>th</sup> day of January, 1997.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

January 16, 1997

### 1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### 2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)