

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR

AN ADMINISTRATIVE INJUNCTION

FINAL DECISION AND ORDER

INVOLVING

LS9901121RAL

RICHARD E. NELLEN, D.D.S

RESPONDENT.

The State of Wisconsin, Department of Regulation and Licensing, 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, Department of Regulation and Licensing.

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 23rd day of March, 1999.

Marlene A. Cummings, Secretary

IN THE MATTER OF A PETITION FOR

AN ADMINISTRATIVE INJUNCTION

INVOLVING

RICHARD E. NELLEN, D.D.S.,

RESPONDENT.

PROPOSED DECISION AND ORDER

Case No. LS9901121DEN

: :

The parties to this action under section 227.44 of the Wisconsin Statutes and Chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under §227.53, Wis. Stats., are:

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

*Mr. Steven M. Gloe
Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

*Richard E. Nellen, D.D.S.
c/o Mr. Ronald S. Stadler
Stadler & Schott, S.C.
16655 W. Bluemound Road, Ste. 330*

Brookfield, WI 53005-5945

PROCEDURAL HISTORY

On January 11, 1999, the Division of Enforcement, by its attorney Steven M. Gloe, filed a petition for an administrative injunction. A copy of the petition and a notice of hearing were sent to Dr. Nellen by first-class mail to his last known address. A hearing in this matter was held on March 5, 1999. Attorney Steven M. Gloe appeared on behalf of the Department of Regulation and Licensing. Attorney Ronald S. Stadler appeared by telephone on behalf of Dr. Nellen.

Based on the entire record of this case, this is the proposed decision and order of the undersigned administrative law judge.

FINDINGS OF FACT

1. Richard E. Nellen's license to practice dentistry in the State of Wisconsin expired on September 30, 1997.
2. On April 15, 1998, Candace Bloedow, a consumer specialist-investigator with the Department of Regulation and Licensing, verbally informed Dr. Nellen that his dentistry license had expired. Ms. Bloedow sent a follow-up letter to Dr. Nellen in August of 1998, in which she again informed him that his license had expired.
3. On October 7, 1998, Dr. Nellen admitted that he was treating patients and practicing dentistry without a license.

4. Dr. Nellen is not currently licensed to practice dentistry in the State of Wisconsin.
5. Dr. Nellen has filed a renewal application with the Department of Regulation and Licensing (DORL or Department).
6. The Department of Revenue has placed a "hold" on Dr. Nellen's right to renew his dentistry license. Until the Department of Revenue lifts its hold, the DORL cannot renew Dr. Nellen's license.

CONCLUSIONS OF LAW

1. Richard E. Nellen engaged in the practice of dentistry without the required credential contrary to §447.039 (1), Wis. Stats.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Richard E. Nellen is enjoined and prohibited from directly or indirectly engaging in the practice of dentistry unless and until he obtains the appropriate credential under Chapter 447, Wis. Stats.

OPINION

On April 15, 1998, Candace Bloedow, a consumer specialist-investigator with the Department of Regulation and Licensing, informed Dr. Nellen that his dentistry license had expired. Ms. Bloedow sent a letter to Dr. Nellen sometime in August of 1998, in which she again informed him of his expired credential. Dr. Nellen did not respond to her letter. On October 7, 1998, Ms. Bloedow went to Dr. Nellen's dental office. While she was there, Dr. Nellen admitted that he had been seeing patients and had been engaged in the practice of dentistry. The Department subsequently served a Petition for Injunction on Dr. Nellen by first-class mail on January 11, 1999.

Although Dr. Nellen has filed an application for the renewal of his dentistry license, the Department cannot issue him a credential due to the "hold" that has been placed on it by the Department of Revenue. Nevertheless, it is undisputed that Dr. Nellen engaged in the practice of dentistry without the professional credential required by law. Section 440.21, Wis. Stats., authorizes the Department to seek a special order enjoining anyone from practicing without a professional credential. Such an order is clearly appropriate here.

Before the Department can renew Dr. Nellen's dentistry license, he must first resolve his existing dispute with the Department of Revenue. In the meantime, Dr. Nellen is prohibited from practicing dentistry in the State of Wisconsin.

Dated this 5th day of March in Madison, Wisconsin.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

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Madison, Wisconsin 53708

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Jacquelynn B. Rothstein

Administrative Law Judge

