

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
STEVEN R. SCHNOLL, D.D.S., :
RESPONDENT. : **ORDER 0001176**

[Division of Enforcement Case # 11 DEN 056]

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

Steven R. Schnoll, D.D.S.
2669 N. 92nd Street
Wauwatosa, WI 53226

Division of Enforcement
Department of Safety and Professional Services
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Dentistry Examining Board
Department of Safety and Professional Services
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Dentistry Examining 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. Steven R. Schnoll, D.D.S. ("Respondent") was born on November 1, 1957, and is licensed to practice as a dentist in the State of Wisconsin, under license number 3039-15. This license was granted on August 6, 1982.

2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services ("Department") is 2669 N. 92nd Street, Wauwatosa, WI 53226.

3. At all times relevant to this proceeding, Respondent owned and was employed as a dentist at Swan Dental Group in Wauwatosa, Wisconsin.

4. Respondent was previously disciplined by the Dentistry Examining Board on two different occasions:

a. On November 7, 1990, Respondent was convicted in Milwaukee County of five counts of taking a controlled substance as a practitioner without a valid prescription, Wis. Stat. §961.38(5). The conviction of a crime substantially related to practice under Respondent's license, subjected Respondent to discipline pursuant to Wis. Stat. § 447.07(3). On March 6, 1991, in file 90DEN037, Respondent had limitations placed on his license to practice dentistry, including not ordering, obtaining, possessing, dispensing or administering controlled substances to non-surgical patients.

b. On May 6, 1992, in file 92DEN022, Respondent was reprimanded for violating an order of the Dentistry Examining Board. Respondent issued a prescription for a controlled substance to a non-surgical patient in April 1991, violating the previous limitation placed on his license to practice dentistry in file 90DEN037.

5. In May 2011, Respondent presented numerous prescriptions to different pharmacies in the Wauwatosa area and obtained approximately five hundred and sixty (560) doses of Hydrocodone, a Schedule III controlled substance. All of the handwritten prescriptions presented by Respondent were written on the prescription pad of Respondent's business partner, Dr. O, D.D.S.

6. On May 24, 2011, Respondent presented a prescription to a Pick 'N Save Pharmacy in Wauwatosa, Wisconsin. The prescription was written out to Respondent for Hydrocodone and issued from Dr. O's prescription pad. The pharmacist responsible for filling the prescription became suspicious, as Respondent had previously obtained the same prescription on May 14, 2011. The pharmacist was also suspicious as Respondent was paying for narcotics in cash, which can be an indication of fraud. The pharmacist told Respondent the prescription was not ready and asked Respondent to come back later. Respondent never returned to pick up his prescription.

7. On May 26, 2011, the pharmacist contacted Dr. O to verify the validity of the prescription. Dr. O. stated that he did not know if he wrote the prescription and if the pharmacist had any doubts of the prescriptions' legitimacy, he should not fill the prescription. The pharmacist did not fill the prescription and contacted the Wauwatosa Police Department ("WPD").

8. On June 15, 2011, as part of the ongoing investigation with Respondent, the WPD recovered items from Respondent's garbage. One item recovered was a pre-printed prescription pad form in the name of Dr. O. Written on the pad was the address and phone number for Swan Dental Group, some scribbled writings, and the text "Fmetrol liquid." Another item recovered was a small notepad with a written note of the telephone number and address for Aurora Pharmacy in Mequon, Wisconsin.

9. On June 16, 2011, the WPD and the Drug Enforcement Agency (DEA) executed a search warrant at Swan Dental Group and interviewed Dr. O. During the interview, Dr. O stated that he rarely prescribes pain medication, never dispenses any controlled pain medication and has never written a prescription of any controlled substance for Respondent. When shown a photocopy of the prescription recovered from Pick 'N Save, Dr. O recognized the prescription pad as his own, but denied writing or allowing someone else to write the prescription.

10. On June 16, 2011, the WPD performed surveillance on Respondent at Swan Dental. The WPD observed Respondent discard various items into three different dumpsters. The WPD stopped and arrested Respondent. A search of the dumpsters revealed six (6) transparent prescription bottles with their labels scratched off.

11. At the time of Respondent's arrest, the following items were recovered from his vehicle:

- a. Two (2) bottles of Sulfamethoxazole and Trimethoprim 800/160 mg, 100 tablets each;
- b. Two (2) bottles of Amoxicillin 500mg, 100 capsules each;
- c. One (1) bottle of Tramadol Hydrochloride 50mg, 500 tablets;
- d. One (1) bottle of Penicillin V Potassium 500 mg, 800,000 units;
- e. One (1) bottle of Carisoprodol soma 350mg, 150 tablets, written to Respondent by a Dr. P;
- f. One (1) pill bottle, containing a mixture of pills. Included in the mixture was 95 pills marked "AN 627" (Tramadol 50mg), 22 pills marked "DAN 5513" (Carisoprodol 350mg), 1 pill marked "WW 176" (Carisoprodol 350mg), 49 Benadryl pills and 17 Advil pills; and
- g. One (1) open bottle of Tramadol Hydrochloride tablets and six tablets of Ondansetron Orally Disintegrating 8mg.

12. Respondent's briefcase was also recovered from his vehicle at the time of his arrest. The items in Respondent's briefcase included:

- a. The death certificate of Respondent's ex-wife;
- b. Numerous letters and faxes between Respondent and the medical/dental supplier Henry Schein, Inc.;
- c. A prescription to Respondent for Hydrocodone, from Aurora Health Care;
- d. Thirty-one (31) pages of correspondence between March 13, 2008 and May 4, 2011, which chronicle multiple incidents, which call into question Respondent's fitness to practice dentistry and threaten his professional affiliation with Aurora Health Care. The letters describe periods of suspension from practice against Respondent for opioid medication addiction and abuse, and include a description of complaints, addiction assessments and treatment, as well as terms of reinstatement;
- e. A letter from St. Joseph's hospital stating that on March 7, 2008, Respondent consumed narcotics prior to entering a surgical site. St. Joseph's contacted Aurora Health Care regarding this incident. As a result, Respondent entered into a monitoring agreement with Aurora from September 8, 2009 until it was completed on January 1, 2011; and
- f. A letter from Aurora Health Care, dated March 1, 2011, indicating that there were incidents at the hospital involving Respondent that had come to their attention. Those incidents include falling asleep during the course of performing procedures on patients and Respondent asking the anesthesiologist if he would issue a prescription for back pain. Aurora Health Care requested that Respondent provide a letter of fitness for practice from his treating physician.

13. On June 24, 2011, in an attempt to be accepted in the Department's Professional Assistance Procedure (PAP), Respondent submitted a detailed statement about his drug dependency. Respondent was denied acceptance into PAP.

14. In Respondent's statement, he admits to generating fraudulent prescriptions from the prescription pad by forging Dr. O's signature and taking the prescriptions to various pharmacies. Respondent admits to problems with drug dependency after spinal surgery in February 2008. In 2009, Respondent began ordering Hydrocodone pills from Henry Schein, Inc. and diverting the pills for his own use. When Henry Schein, Inc. inquired about the orders, Respondent lied, responding that he was sending the drugs to help victims of natural disasters.

15. Respondent has entered a plea of guilty to the criminal charges resulting from his arrest. Respondent entered treatment for drug dependency through Aurora Health Care in June 2011, and has been compliant with treatment recommendations and abstinent from all inappropriate use of drugs since entering treatment, and has been fully cooperative with the Division of Enforcement in the investigation and resolution of this matter.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stat. § 447.07 and authority to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct described above constitutes unprofessional as defined by Wis. Admin. Code § DE 5.02(6) and subjects Respondent to discipline pursuant to Wis. Stat. § 447.07(3)(a).

ORDER

IT IS ORDERED that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

SUSPENSION

- A.1. The license of Steven Schnoll, D.D.S. to practice as a dentist in the State of Wisconsin is **SUSPENDED** for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of licensure to the Department Monitor within 14 days of the effective date of this Order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://drl.wi.gov/index.htm>.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active dentistry practice for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension is stayed immediately upon entry of this Order, and remains stayed during compliance with Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:

- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and shall continue, in a drug and alcohol treatment with a Treater acceptable to the Board or its designee ("Treater"). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.5., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Safety and Professional Services, Division of Enforcement to: (a) obtain all specimen screening results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater and

treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but not less than twice per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation. It is Respondent's responsibility to education himself about the medications and substances, which may violate this paragraph, and to avoid those medications and substances.
- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- C.12. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11.

Drug and Alcohol Screens

- C.13. Respondent shall enroll and begin participation in a drug and alcohol monitoring program that is approved by the Department ("Approved Program").

- C.14. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.15. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The Board may adjust the frequency of testing on its own initiative at any time.
- C.16. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.20. Respondent may work as a dentist in a setting in which Respondent has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
- C.21. Respondent shall practice only under the supervision of a Professional Mentor approved by the Board and only in work settings pre-approved by the Board or its designated agent.
- a. Respondent is responsible for obtaining a Professional Mentor acceptable to the Board. A Professional Mentor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Department (including but not limited to any bartering relationship, mutual referral of patients, etc.). A Professional Mentor shall be actively practicing in Respondent's field of practice, hold a valid Wisconsin license in

the Respondent's field of practice, and shall have read this Final Decision & Order and agree to be Respondent's Professional Mentor.

b. Supervision by the Professional Mentor shall include weekly meetings, review of charts selected by the Professional Mentor, and any other actions deemed appropriate by the Professional Mentor to determine that Respondent is practicing in a professional and competent manner.

c. Respondent shall arrange for his Professional Mentor to provide formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance. Respondent's Professional Mentor shall immediately report to the Department Monitor and the Respondent's Supervising Health Care Provider any conduct or condition of the Respondent that may constitute unprofessional conduct, a violation of this Order, or a danger to the public or patient. If a report indicates poor performance, the Board may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.

C.22. The Professional Mentor may designate another qualified dentist or other health care provider acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks.

C.23. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's professional mentor, the Board may in its sole discretion select a successor Professional Mentor.

C.24. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.

C. 25. Respondent may request the Board or its designee to modify the terms of supervision of his practice, at any time, but only on the occurrence of substantial changes to the ownership or operation of his clinic or his practice. Denial of such a request shall not entitle Respondent to a hearing contesting that denial.

C.26. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

MISCELLANEOUS

Department Monitor

D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Wisconsin Department of Safety and Professional Services
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935

Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Board for termination of this Order anytime after five years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.

Costs of Compliance

- D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

- D.8. Respondent shall pay costs of \$750.00 (seven hundred fifty dollars) to the Department of Safety and Professional Services, within ninety (90) days of this Order. Payment should

be directed to the attention of the Department Monitor at the address in paragraph D.1., above. In the event Respondent fails to timely submit any payment of costs, the Respondent's license (#3039-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Additional Discipline

D.9. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 447.07.

DENTISTRY EXAMINING BOARD

By: 
A Member of the Board

Date: 11/2/11