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MO ATTORNEY GENERAL

Wardale  
Missouri Court of Appeals  
Western District

DARYL G. HOLDREDGE, D.D.S., )  
APPELLANT, )  
vs. (COLE) ) WD 68836  
MISSOURI DENTAL BOARD, ) CIR. CT. 07AC-CC00215  
RESPONDENT. )

Now on this day the judgment is affirmed. The Respondent shall recover against the Appellant the costs and charges herein expended, and shall have execution therefor.  
Opinion filed.

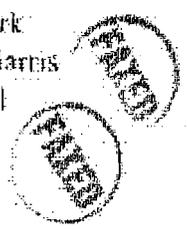
STATE OF MISSOURI - Set.

I, TERENCE G. LORD, Clerk of the Missouri Court of Appeals, Western District, certify that the foregoing is a full, true and complete transcript of the judgment of the Missouri Court of Appeals, Western District, entered of record on the 12th day of August, 2008, in the above entitled cause.

Given under my hand and the seal of the Court, at Kansas City, Missouri, this 3<sup>rd</sup> day of September, 2008.

*Terence G. Lord*  
TERENCE G. LORD, CLERK

cc: Circuit Court Clerk  
Samantha Anne Harris  
Kevin Robert Hall



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MISSOURI DENTAL BOARD

NOTICE OF ENTRY  
(SUPREME COURT RULE 74.03)

In The 19th Judicial Circuit Court, Cole County, Missouri

DARYL HOLDREDGE DDS V MO DENTAL BOARD

CASE NO : 07AC-CC00215

To: WILLIAM E ROBERTS  
ASST ATTORNEY GENERAL  
PO BOX 899  
JEFFERSON CITY, MO 65109

RECEIVED  
AUG 13 2007  
MO ATTORNE

YOU ARE HEREBY NOTIFIED that the court duly entered the following:

<u>Filing Date</u>	<u>Description</u>
06-Aug-2007	Judgment Entered Judgment in favor of Respondent. Certified copies forwarded to parties. PSJ  Tried by Court-Civil

  
Clerk of Court

CC: File  
SAMUEL TRAPP  
WILLIAM E ROBERTS  
Date Printed : 09-Aug-2007

RECEIVED  
AUG 14 '07 00:00  
MISSOURI DENTAL BOARD

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

DARYL G. HOLDREDGE, D.D.S., )

Petitioner, )

v. )

No. 07AC-CC00215

MISSOURI DENTAL BOARD, )

Respondent. )

JUDGMENT

On July 23, 2007, the cause was called for argument. Petitioner (hereinafter "Holdredge") appeared by counsel Samantha Harris. Respondent (hereinafter the "Board") appeared by counsel Assistant Attorney General William E. Roberts. Both sides presented argument to the court.

The instant cause is a review of the decision of the Administrative Hearing Commission (hereinafter the "Commission") finding cause for discipline against the Holdredge's Missouri dentist's license pursuant to § 332.321.2(8), RSMo; and the Board's subsequent decision to publicly censure Holdredge's license. The scope of judicial review is set forth in § 536.140, RSMo. The petition for judicial review was timely filed and the court has jurisdiction over the subject matter and the parties.

The Administrative Hearing Commission found that Holdredge was subject to discipline pursuant to § 332.321.2(8), RSMo, because on or about July 2, 2003, the Wisconsin Dentistry Examining Board (hereinafter the "Wisconsin Board") issued a Final Decision and Order (hereinafter the "Wisconsin Order"), wherein it was found that

Respondent had engaged in inappropriate and unprofessional conduct towards female patients, staff and coworkers. The Wisconsin Order required Licensee to pay the Wisconsin Board \$1,875.00 to defray the Wisconsin Board's costs. Paragraph 6 of the Wisconsin Order further directs that Licensee's dentistry license in Wisconsin could have been subjected to summary suspension and possible revocation if Licensee had not complied with the requirements of the Order.

Holdredge alleges that the decision of the Commission was based on a Joint Stipulation of Facts submitted by the Board to which Holdredge had not intended to agree. However, this Court notes that Holdredge's Answer to the Board's initial Complaint before the Commission expressly admits paragraph 4 of the Board's Complaint, which states that "on or about July 2, 2003, the Wisconsin Dentistry Examining Board issued a Final Decision and Order . . . wherein it was found that [Holdredge] had engaged in inappropriate and unprofessional conduct towards female patients, staff and coworkers." Furthermore, Holdredge raised no objection, either during the proceedings below or before this Court, to the admission of the certified copy of the Wisconsin Order into the record. The Complaint, Answer and the Wisconsin Order alone constitute competent and substantial evidence to support the Commission's finding that Holdredge had been disciplined in another state on grounds for which discipline is also authorized in this state.

Holdredge also asserts that the Board and Commission lack authority to proceed based upon the statute of limitations set forth in Section 620.154, RSMo. Section 620.154, however, marks the beginning of the statutory period as "the date upon which the licensing . . . agency received notice of the alleged violation of an applicable statute or regulation." In

the instant case, the Board proceeded on the basis that Holdredge was disciplined in another state. The Wisconsin Order was issued on July 2, 2003. The Board filed its Complaint on November 5, 2004, well within the three-year time period from the execution of the Wisconsin Order.

Finally, Holdredge challenges the decision of the Board to censure Holdredge's license as unsupported by the conduct at issue. However, censure is the lightest form of actual discipline that the Board is authorized to issue. § 332.321.3, RSMo. The Board is not authorized to seek costs of the proceeding or impose other lesser discipline. Therefore, Holdredge's claim of excessive discipline is contrary to the applicable statute.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. The decision of the Commission at issue herein finding cause for discipline as to Holdredge's dentist's license be and is hereby affirmed.
2. The disciplinary order of the Board publicly censuring Holdredge's dentist's license be and is hereby affirmed.

  
\_\_\_\_\_  
Hon. Patricia S. Joyce  
Circuit Judge, Division IV

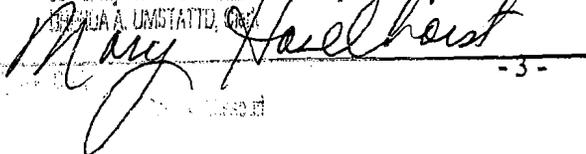
8.6.07  
Date

STATE OF MISSOURI }  
COUNTY OF COLE } SS  
I, BRENDA A. UMSTATTD, Clerk of the Circuit Court of Cole County, Missouri,  
herby certify that the above and foregoing is a full true and correct copy of

*Judgment*

as fully as the same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
seal of my said office this 7<sup>th</sup> day of Sept 2007

BRENDA A. UMSTATTD, Clerk  
  
- 3 -

BEFORE THE MISSOURI DENTAL BOARD  
STATE OF MISSOURI

MISSOURI DENTAL BOARD,	)	
	)	
Petitioner	)	
	)	No.: DB 04-1475DB
v.	)	
	)	
DARYL G. HOLDREDGE, D.D.S.	)	
	)	
Respondent	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DISCIPLINARY ORDER**

On January 13, 2007, the Missouri Dental Board held a hearing on the Notice of Disciplinary Hearing in the above-styled cause. The hearing was held at the Holiday Inn Select Executive Center, 2200 I-70 Drive SW, Columbia, Missouri, for the purpose of determining what, if any, disciplinary action should be taken against the certificate of registration and license of Daryl G. Holdredge, D.D.S. The Missouri Dental Board was represented by William E. Roberts, Assistant Attorney General. Nanci R. Wisdom, outside counsel for the Missouri Dental Board, advised the Board on legal matters. Respondent, Daryl G. Holdredge, D.D.S., appeared with counsel, Samantha Harris. The Board heard evidence on the issue of what, if any, disciplinary action should be taken against the certificate of registration and license of Daryl G. Holdredge, D.D.S. The Board took evidence and heard legal arguments from the attorney for Daryl G. Holdredge, D.D.S., Samantha Harris, and William E. Roberts, Attorney for the Missouri Dental Board. The Board accepted into evidence Respondent's Exhibits A through L and

incorporated into evidence the record of proceedings before the Administrative Hearing Commission in the case Missouri Dental Board v. Daryl G. Holdredge, D.D.S., Cause Number: 04 -1475 DB. At the conclusion of the hearing, the Board went into closed session to make its determination.

#### FINDINGS OF FACT

1. The Missouri Dental Board is created by the provisions of chapter 332 RSMo, and has jurisdiction under the provisions of said chapter and Chapters 536 and 621 RSMo, to hear this case.

2. The Administrative Hearing Commission is an agency of the State of Missouri created and established pursuant to Section 621.105 RSMo for the purposes of conducting hearings and making findings of fact and conclusions of law in cases in which disciplinary action may be taken against the licensee by certain state agencies including the Missouri Dental Board.

3. Daryl G. Holdredge, D.D.S., holds a registration and license number 015436. The Administrative Hearing commission issued it's Amended Decision in the matter of Missouri Dental Board vs. Daryl G. Holdredge, D.D.S., Cause No. 04-1475DB finding that there exists cause for the Missouri Dental Board to discipline Respondent's certificate of registration and license to practice dentistry under Section 332.321.2(8) RSMo.

**CONCLUSIONS OF LAW**

1. The Missouri Dental Board has jurisdiction to take disciplinary action against the license and certificate of registration of Daryl G. Holdredge, D.D.S., pursuant to the provisions of Chapter 332, 536, and 621 RSMo.

2. Daryl G. Holdredge's, D.D.S., certificate of registration and license number 015436 are subject to discipline by the Missouri Dental Board pursuant to Section 332.321.2 and 332.321.3 RSMo.

**ORDER**

It is the Order of the Missouri Dental Board that the license and certificate of registration of Daryl G. Holdredge, D.D.S. shall be censured for violation of §332.321.2(8).

The provisions of this Order become effective on the first day of March, 2007.

MISSOURI DENTAL BOARD

BY: Sharlene Rimiller  
Sharlene Rimiller  
Executive Director

**CERTIFICATE OF SERVICE**

I hereby certify that I have forwarded a copy of the foregoing Findings of Fact, Conclusions of Law and Disciplinary Order, by certified mail, return receipt requested, this 1<sup>st</sup> day of March, 2007, to:

Daryl G. Holdredge, D.D.S.  
1612 Sunvale Drive  
Olathe, KS 66062

I further certify that I have delivered a copy of the foregoing document by regular mail, postage prepaid, to:

Mr. Samuel E. Trapp  
Attorney At Law  
522 East Capitol Avenue  
P.O. Box 362  
Jefferson City, MO 65102

Mr. William E. Roberts  
Assistant Attorney General  
Broadway State Office Building  
P.O. Box 899  
Jefferson City, MO 65102

Signed: Sharlene Rimiller  
Sharlene Rimiller  
Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI DENTAL BOARD,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 04-1475 DB
	)	
DARYL G. HOLDREDGE, D.D.S.,	)	
	)	
Respondent.	)	

**AMENDED DECISION**

The Missouri Dental Board (“the Board”) may discipline the dentist license of Daryl G. Holdredge because the State of Wisconsin took disciplinary action against him.

**Procedure**

The Board filed its complaint on November 5, 2004. The parties submitted the case on stipulated facts on August 26, 2005. Our Regulation 1 CSR 15-3.440(3)(B)3 provides that a motion for a decision on stipulated facts constitutes a motion for summary determination. Pursuant to § 536.073.3, RSMo 2000,<sup>1</sup> our Regulation 1 CSR 15-3.440(3)(B)3.A provides that we may decide this case without a hearing if any party establishes facts that entitle any party to a favorable decision and no party disputes such facts. The Board filed the last written argument on December 7, 2005.

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<sup>1</sup>Statutory references are to the 2004 Supplement to the Revised Statutes of Missouri unless otherwise noted.

## Findings of Fact

1. Holdredge holds a Missouri license as a dentist that is, and was at all relevant times, current and active.

2. Holdredge also holds a license to practice dentistry in Wisconsin, also current and active at all relevant times.

3. On or about July 2, 2003, the Wisconsin Dentistry Examining Board (“the Wisconsin Board”) issued a Final Decision and Order (“Wisconsin Order”) wherein it was found that Holdredge had engaged in inappropriate and unprofessional conduct towards female patients, staff, and co-workers. The Wisconsin Order cites findings from a naval peer review panel hearing that Holdredge, during his service at a dental clinic in Kansas City, made inappropriate and unprofessional comments to female patients, staff, and coworkers; placed his hand on a patient’s knee for no therapeutic reason; and inappropriately attempted to establish personal relationships with female patients, staff, and co-workers.

4. The Wisconsin Order contains the following terms:

- “[Holdredge] shall not engage in sexual harassment of any patient, employee or co-worker.”
- “[Holdredge] having completed the continuing education on sexual harassment in the work place, which is set out in Finding of Fact 13, no further education is ordered.”
- “If [Holdredge] violates the terms of this Order, [Holdredge] shall immediately submit written notification of that violation to the Board.”
- “Within 30 days of the date of this Order, [Holdredge] shall pay costs of this proceeding in the amount of \$1,875.00 to the Department of Regulation and Licensing.”

\* \* \*

- “Violation of any term or condition of this Order may constitute grounds for revocation of [Holdredge’s] license as a dentist in Wisconsin. Should the Board determine that there is probable cause to believe that [Holdredge] has violated the terms of this Order; the Board may order that [Holdredge’s] license be summarily suspended pending investigation of and hearing on the alleged violation.”

### **Conclusions of Law**

We have jurisdiction to hear the Board’s complaint. Section 332.321.2. The Board has the burden to prove that Holdredge has committed an act for which the law allows discipline. *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989). The Board cites § 332.321.2(8), which allows discipline for:

[d]isciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state[.]

The parties dispute whether the Wisconsin order is a “disciplinary action . . . upon grounds for which discipline is authorized in this state.” We conclude that it is.

#### A. Disciplinary Action

Holdredge argues that the Wisconsin order does not place restrictions on his license, so it is not a “disciplinary action” within the terms of § 332.321.2(8). We acknowledge that the Wisconsin order does not restrict or limit Holdredge’s ability to practice dentistry in Wisconsin. The requirement that he not engage in sexual harassment obligates Holdredge only to obey the same laws that every other dentist, employer, or co-worker must obey. The citation that Holdredge has already completed a sexual harassment course is evidently in lieu of any further educational requirement.

However, we believe that Holdredge errs when he argues that a disciplinary action must include a restriction or limitation. He argues that the Court of Appeals in *Bhuket v. Missouri Bd. of Regis'n for the Healing Arts*, 787 S.W.2d 882, 885 (Mo. App., W.D. 1990):

defined the phrase “disciplinary action” as that which places a *limitation* on the right of a license-holder to practice that for which he is licensed. The court stated, “[t]he term ‘disciplinary action’ as used in § 334.100.2(8), contemplates any censure, reprimand, suspension, denial, revocation, restriction or other *limitation* placed upon the license of a person subject to Chapter 334.”<sup>2]</sup>

But a careful reading of *Bhuket* reveals that its use of the phrase “restriction or other limitation” is as an example, not an all-inclusive definition of “disciplinary action.” The court also included censure and reprimand as examples of “disciplinary action,” even though neither, by itself, restricts a license. We conclude that disciplinary action does not necessarily have to comprise a restriction or limitation.<sup>3</sup>

We read § 332.321.2(8) broadly because it is a remedial law, one enacted for the protection of life and property. *State ex rel. Webster v. Myers*, 779 S.W.2d 286, 290 (Mo. App., W.D. 1989). In *Bhuket*, the Court of Appeals explained:

Statutes authorizing the Missouri State Board of Registration for the Healing Arts to regulate and discipline physicians are remedial statutes enacted in the interest of the public health and welfare and must be construed with a view to suppression of wrongs and mischiefs undertaken to be remedied.

787 S.W.2d at 885. The *Bhuket* court’s reasoning is no less true for the Missouri Dental Board than for the Missouri State Board of Registration for the Healing Arts. Further, we give great

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<sup>2</sup>Resp. Brief at 3, quoting *Bhuket* at 885.

<sup>3</sup>Curiously, the Board argues that we should not rely on the *Bhuket* court definition of “disciplinary action” because the statute at issue, § 334.100.2(8), was significantly different from the one at issue here, § 332.321.2(8). It is true that § 334.100.2(8) is now different from § 332.321.2(8). However, the version of § 334.100.2(8) that the *Bhuket* court analyzed was identical to the current § 332.321.2(8).

weight to the Board's interpretation of § 332.321.2(8) because the statutes charge the Board with enforcing that law. *Foremost-McKesson v. Davis*, 488 S.W.2d 193, 197 (Mo. banc 1972).

The Wisconsin Order is captioned "In the Matter of the Disciplinary Proceedings Against Daryl G. Holdredge, D.D.S." The Order is called a "Final Decision and Order." *Bhuket* instructs us that we must give the term "disciplinary action" its plain, non-technical meaning. Accordingly, we look to the dictionary for definitions of those words. "Disciplinary" means "of or relating to discipline" or "designed to correct or punish breaches of discipline."<sup>4</sup> "Discipline" has two meanings that could be appropriate: both "punishment" and "training that corrects, molds, or perfects the mental faculties or moral character."<sup>5</sup> But we reject, in accordance with case law, the notion that the licensing laws of this state are punitive in nature. See *Younge v. State Bd. of Regis'n for the Healing Arts*, 451 S.W.2d 346, 349 (Mo. 1969). As previously noted, they are meant to protect the public. Thus, we consider that the appropriate meaning of disciplinary is "corrective." Finally, "action" has many meanings, of course, but its common meaning in this context is simply "a thing done."<sup>6</sup>

Putting these definitions together, we construe a "disciplinary action" simply as an action meant to protect the public by restricting or correcting a licensee's behavior or practice. Under that definition, the Wisconsin Order was the product of a disciplinary action as it was meant to correct an aspect of Holdredge's behavior that was injurious to patients and co-workers. The Wisconsin Board cited that Holdredge had already completed continuing education on the topic of sexual harassment. It imposed a self-reporting obligation on Holdredge, and stated that he could be subject to a summary suspension if the Board had probable cause to believe he had

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<sup>4</sup>MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 330 (10th ed. 1993).

<sup>5</sup>*Id.*

<sup>6</sup>*Id.* at 12.

violated the Order's terms. Although that does not directly restrict his license, it has the potential to do so, and without a hearing until there is an investigation. Holdredge was also required to pay costs of \$1,875, which is no small amount. This is similar to a civil fine. We believe that the Wisconsin Order was a disciplinary action within the meaning of § 332.321.2(8).

B. Grounds for Which Discipline is Authorized in this State

Holdredge also argues that if the Wisconsin Order was a disciplinary action, it was not on grounds for which discipline is authorized in this state. He makes several arguments to support this contention.

First, Holdredge argues that he neither pled guilty to nor was found guilty of any offense, but was merely the subject of generalized, subjective accusations. It is true that the conduct set forth in the Wisconsin Order is not very specific or detailed, but it is sufficiently so for Holdredge to understand the substance of the complaint against him, and for us to determine whether it is conduct for which disciplinary action is authorized in this state.

Second, Holdredge argues that the conduct for which he was disciplined in Wisconsin is not proscribed by Chapter 332. While sexual harassment and inappropriate conduct toward patients, staff, and co-workers is not specifically mentioned in Chapter 332, § 332.321.2(5) allows discipline for misconduct in the performance of professional functions or duties, and § 332.321.2(13) allows it for violation of any professional trust or confidence. Thus, the conduct is cause for discipline under Chapter 332.

Third, Holdredge argues that the conduct specified in the Wisconsin Order is not grounds for discipline in Missouri because it did not occur in Wisconsin, but in Missouri and Illinois while he was serving in the Navy. The fact that the conduct did not occur in Wisconsin is irrelevant.

Finally, Holdredge argues that the grounds for discipline in the Wisconsin Order are not grounds for discipline in Missouri because he avoided discipline in Wisconsin by voluntarily completing sexual harassment education and because his license in Wisconsin was not restricted in any manner. These are mere repetitions of Holdredge's argument that we have already rejected, that the Wisconsin Order was not a "disciplinary action."

**Summary**

Holdredge is subject to discipline under § 332.321.2(8).

SO ORDERED on January 31, 2006.

  
KAREN A. WINN  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

FILED  
NOV 05 2004  
ADMINISTRATIVE HEARING  
COMMISSION

MISSOURI DENTAL BOARD  
3605 Missouri Boulevard  
P.O. Box 1367  
Jefferson City, MO 65102

Petitioner,

v.

DARYL G. HOLDREDGE, D.D.S.  
1612 Sunvale Drove  
Olathe, KS 66062

Respondent.

No. 04-1475-DB

COMPLAINT

Comes now petitioner, by and through its attorney, the Attorney General of the State of Missouri, and for its cause of action states:

1. The Missouri Dental Board is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 332, RSMo, which regulates the practice of dentistry.

2. Respondent Daryl G. Holdredge is licensed by the Board as a dentist, License No. 015436. Respondent's Missouri license was at all times relevant herein, and is now, current and active.

3. Respondent was issued a license by the Wisconsin Dentistry Examining Board as a dentist in the state of Wisconsin, which was first granted on June 30, 1992, and which was current and active at all relevant times herein.

4. On or about July 2, 2003, the Wisconsin Dentistry Examining Board issued a Final Decision and Order (“Wisconsin Order”), wherein it was found that Respondent had engaged in inappropriate and unprofessional conduct towards female patients, staff and coworkers. The Wisconsin Order is attached hereto as Exhibit A and is incorporated into this Complaint as though fully set forth herein.

5. The Wisconsin Order constitutes disciplinary action against Respondent’s Wisconsin license to practice dentistry.

6. The Wisconsin Order is based upon grounds for which discipline is authorized in this state.

7. Cause exists for Petitioner to take disciplinary action against Respondent’s license under § 332.321 RSMo Supp. 2002, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

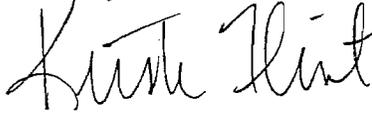
....

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state;

WHEREFORE, Petitioner requests this Administrative Hearing Commission to conduct a hearing, if necessary, in this case pursuant to §§ 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that Petitioner may take disciplinary action against the license of Respondent for violations of Chapter 332 RSMo.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General

A handwritten signature in black ink, appearing to read "Kristi Flint". The signature is written in a cursive, flowing style.

Kristi R. Flint  
Assistant Attorney General  
Missouri Bar No. 55223

7<sup>th</sup> Floor, Broadway State Office Building  
221 West High Street  
P.O. Box 899  
Jefferson City, MO 65102  
Telephone: 573-751-4087  
Telefax: 573-751-5660

Attorneys for Petitioner

RECEIVED

SEP 26 2003

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

MISSOURI DENTAL BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

DARYL G. HOLDREDGE, D.D.S.,  
RESPONDENT

Case No: LS 0211061 DEN

FINAL DECISION AND ORDER

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

Daryl G. Holdredge, D.D.S.  
2743 Canyon Bluff Road  
Green Bay, WI 54302

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

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. Daryl G. Holdredge, D.D.S., Respondent, date of birth June 19, 1959, is licensed by the Wisconsin Dentistry Examining Board as a dentist in the state of Wisconsin pursuant to license number 4401, which was first granted June 30, 1992.
2. Respondent's last address reported to the Department of Regulation and Licensing is 2743 Canyon Bluff Road, Green Bay, WI 54302.
3. From 1998 to April 2000, Respondent was a Lieutenant Commander in the U.S. Navy and the director of the Branch Dental Clinic Kansas City, Marine Corps Reserve Support Command in Kansas City, Missouri. At Branch Dental Clinic, Respondent served as the sole dentist to approximately 800 active duty military personnel and retirees from various branches of the armed services.



4. In April 2000, a number of female patients and staff members at Branch Dental Clinic alleged that over the past year Respondent had engaged in behaviors which they considered to be inappropriate, offensive and of a sexually suggestive nature.

5. On April 13, 2000, Respondent was reassigned to the Naval Dental Center in Great Lakes, Illinois. Subsequently, Respondent's clinical privileges at the Naval Dental Center in Great Lakes were summarily suspended by the Navy based on the allegations made previously at Branch Dental Clinic in Kansas City.

6. On June 9, 2000, as a result of the action taken by the Navy, Respondent referred himself for a psychological evaluation by Dr. Robert Baker, a clinical psychologist. Dr. Baker did not diagnosis Respondent as suffering from any pathological condition. Dr. Baker did suggest that Respondent might benefit from a course of individual therapy designed to assist him in understanding and taking responsibility for his behavior.

7. Respondent received psychotherapy from Dr. Baker and by August 15, 2000, Dr. Baker reported that Respondent had acquired an understanding of his behaviors and how they might be perceived by others.

8. On August 29, 2000, a peer review panel conducted a hearing at the Naval Dental Center to determine if Respondent should lose his clinical privileges as a result of the allegations from Branch Dental Clinic. The peer review panel, in its report of September 12, 2000, made findings that Respondent had:

a. Made inappropriate and unprofessional comments to female patients, staff and coworkers that negatively and substantially impacted Respondent's ability to provide dental care to patients.

b. Inappropriately attempted to establish personal relationships with female patients, staff and coworkers.

c. Placed his hand on one patient's knee for no therapeutic reason and left his hand there until she physically removed it.

d. Made female patients feel uncomfortable during treatment and made female staff feel uncomfortable in the workplace.

9. Based on its findings, the panel recommended revocation of Respondent's clinical privileges at Naval Dental Center. On September 28, 2000, the Commanding Officer of the Naval Dental Center issued a Final Decision in which he found the allegations to be substantiated, revoked Respondent's clinical privileges and terminated Respondent's professional staff appointment at Naval Dental Center, Great Lakes.

10. On October 11, 2000, Respondent filed an appeal of the Commanding Officer's Final Decision with the Chief, Bureau of Medicine and Surgery, Department of the Navy. On June 15, 2001, Respondent's appeal was denied, his clinical privileges were revoked and his staff appointment was terminated. Shortly thereafter, Respondent resigned from the Navy.

11. In May of 2002, at the request of the Division of Enforcement, Respondent was evaluated again by Dr. Baker. In his report of June 24, 2002, Dr. Baker concluded that Respondent was not suffering from any personality or emotional disorder. Dr. Baker also reported that Respondent "has a good grasp of the type of thinking and behaviors that have been problematic for him in the past and reports the use of several active interventions to prevent those sorts of situation from occurring again in the future."

12. Following his leaving the Navy, Respondent practiced at dental clinics in Missouri and Kansas. Respondent's supervisors at those clinics have told the Division of Enforcement that there were no complaints made by patients or staff alleging that Respondent engaged in inappropriate, uninvited behavior with them while practicing in those settings. Neither the Division of Enforcement nor the Board has received any complaints regarding Respondent's behavior since he began practicing in Wisconsin in 2001.

13. At the recommendation of the Division of Enforcement, Respondent recently voluntarily took and has completed "Sexual Harassment at Work," a 3 credit, self-study, continuing education course offered by ArcMesa Educators and approved for dentists by the American Dental Association. The course examines what constitutes sexual harassment in the workplace.

#### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction over this matter pursuant to § 447.07(3), Stats.
2. The Wisconsin Dentistry Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent shall not engage in sexual harassment of any patient, employee or co-worker.
2. Respondent having completed the continuing education on sexual harassment in the work place, which is set out in Finding of Fact 13, no further education is ordered.
3. If Respondent violates the terms of this Order, Respondent shall immediately submit written notification of that violation to the Board.
4. Within 30 days of the date of this Order, Respondent shall pay costs of this proceeding in the amount of \$1,875.00 to the Department of Regulation and Licensing.
5. All requests, notifications, reports or payments required by this Order shall be mailed, faxed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264

6. Violation of any term or condition of this Order may constitute grounds for revocation of Respondent's license as a dentist in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order; the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

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

Dated at Madison, Wisconsin this 2nd day of July, 2003.



Bruce J. Barrette, D.D.S.  
Chair  
Dentistry Examining Board

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