

BEFORE THE MISSOURI DENTAL BOARD

MISSOURI DENTAL BOARD)	
)	
Petitioner,)	
)	
v.)	No. 2011-000824
)	
WAYNE S. MARKMAN, DDS)	
)	
Respondent.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DISCIPLINARY ORDER

At its scheduled meeting on April 15, 2011, and pursuant to notice described in the Findings of Fact, the Missouri Dental Board (Board) took up the suspension violation complaint alleging that Wayne S. Markman, DDS (Licensee) has failed to comply with the terms of his suspension.

The Board appeared at the hearing through Attorney Tina Crow Halcomb, Attorney at Law. Licensee was present at the hearing but was not represented by counsel. Division of Professional Registration Senior Legal Counsel Earl Kraus served as the Board's legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The Board is an agency of the state of Missouri created and established pursuant to § 332.021, RSMo Cum. Supp. 2009, for the purpose of licensing all persons engaged in the practice of dentistry in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapter 332, RSMo (as amended).

2. Licensee Wayne S. Markman holds dentist license number 012374 issued by the Board. Licensee's license was current and active at all relevant times. Licensee's license is currently suspended.

3. On or about December 27, 2010, the Board executed a Settlement Agreement and Disciplinary Order (Disciplinary Order) between the Board and Licensee. The Disciplinary Order found cause to discipline Licensee's license pursuant to § 332.321.2(1), (2), (5), (13), and (15), RSMo based on Licensee's impairment as a result of heroin use, criminal guilty plea to

unlawful use of drug paraphernalia, incompetency, misconduct, violation of professional trust or confidence and violation of the drug laws, rules or regulations of the state.

4. The Disciplinary Order suspended Licensee's license to practice dentistry for a period of three years or until satisfactory completion of a Board approved competency examination. A period of five years probation was to immediately follow the suspension. The suspension and probation constituted the disciplinary period of Licensee's license.

5. Page 11, General Requirements, paragraph D required Licensee to comply with all state and federal laws and rules during the disciplinary period.

6. On February 24, 2011, Licensee overdosed on heroin in the parking lot of Casa Gallardo Restaurant in Des Peres, Missouri. Licensee was admitted to Des Peres Hospital and discharged on February 25, 2011. Licensee admitted at the hearing that he overdosed on heroin on February 24, 2011, reported it to the Missouri Well Being Committee and agreed that it was a violation of his disciplinary order.

7. On or about March 22, 2011, the Board sent Licensee notice of the Suspension Violation hearing. The Notice contained the date, time and place for the hearing. The Board also provided Licensee a copy of the Suspension Violation Complaint filed with the Board on or about March 21, 2011.

Conclusions of Law

8. The Board has jurisdiction in this proceeding, pursuant to the Disciplinary Order to determine whether Licensee has violated the terms and conditions of the Disciplinary Order.

9. The Board also has jurisdiction pursuant to § 324.042, RSMo to determine whether Licensee has violated the terms and conditions of the Disciplinary Order. Section 324.042 states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

10. Regulation 20 CSR 2110-2.160 states, in relevant part:

(6) Any violation of a suspension order or a post-order requirement shall constitute grounds for the Missouri Dental Board to impose a further suspension or to revoke the licensee's certificate of registration, license to practice dentistry, or both.

(7) Any violation of a probationary agreement shall constitute grounds for the Missouri Dental Board to impose a further period of probation, a period of suspension or to revoke the licensee's certificate of registration, license to practice dentistry, or both.

11. Licensee's February 24, 2011 heroin overdose gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the Disciplinary Order and § 324.042, RSMo. and 20 CSR 2110-2.160(6) and (7).

12. The Disciplinary Order, § 324.042 and 20 CSR 2110-2.160 allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the Disciplinary Order.

13. The Board has determined this Order is necessary for the protection of the public.

Decision and Order

It is the decision of the Board that Licensee has violated the terms of the Disciplinary Order, and that his license is, therefore, subject to further disciplinary action.

The Board orders that the dental license of Licensee, license number 012374, shall be **REVOKED**. Licensee shall be precluded from re-applying for a Missouri dental license for **ONE YEAR** from the date of this Order.

Licensee shall return all indicia of licensure to the Board immediately.

This Order will be maintained as an open record of the Board as provided in Chapters 332, 610, 324, RSMo.

SO ORDERED this 22nd day of April 2011.

MISSOURI DENTAL BOARD



**Brian Barnett,
Executive Director**