

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

RICHARD SMITH, D.D.S.

ORDER

On this 12th day of January, 1990, comes on for hearing the matter of RICHARD SMITH, D.D.S. A quorum of the Arkansas State Board of Dental Examiners was present and represented by its attorney, William H. Trice, III. The respondent, DR. RICHARD SMITH appeared together with his attorney, John Kitterman. From the pleadings and argument of counsel, the Board finds that:

1. The Board has jurisdiction of the parties and the subject matter of the litigation.

2. RICHARD SMITH, D.D.S. is a licensed dentist in the State of Arkansas under the provisions of the Dental Practice Act.

3. Counts II through XVIII of the Order and Notice of Hearing dated 8 December, 1989, are substantiated by the testimony and evidence.

4. DR. RICHARD SMITH has over-prescribed, either in choice of drugs, volume of drugs, or frequency of drugs, for the patients in issue.

5. DR. RICHARD SMITH has admitted under testimony that in fact he has made errors in judgment in over-prescribing Schedule 2 narcotic drugs for the patients in issue.

WHEREFORE, IT IS CONSIDERED ORDERED AND ADJUDGED THAT:

1. RICHARD SMITH, D.D.S. has violated the Dental Practice Act, more specifically Ark. Code Ann. §17-82-316B(3)(c),

professional incompetency, that is, the over-prescribing of narcotic drugs for his patients.

2. The Board finds that RICHARD SMITH, D.D.S. has not violated Ark. Code Ann. §17-82-316B(3)(c), more specifically the violation of a Rule and Regulation of the Board, that being Article X (m).

3. The Board orders that the license of RICHARD SMITH, D.D.S. to practice dentistry in the State of Arkansas will be suspended for a period of thirty (30) days beginning 20 January, 1990. The Board further orders the following sanctions as a result of the violation of the Dental Practice Act:

A. RICHARD SMITH, D.D.S. will be fined the sum of One Thousand Dollars (\$1,000).

B. RICHARD SMITH, D.D.S. will be placed on probation for a period of eighteen (18) months, under the following terms and conditions:

(1) During the first twelve (12) months of his probation, he will not be able to utilize his DEA privileges and in fact, will turn in his DEA certificate to personnel of the Board.

(2) During the entire period of probation, the dental practice of RICHARD SMITH, D.D.S. will be monitored by the Board, and DR. RICHARD SMITH will make himself and his records available to the Board or its designated personnel for inspection and review.

(3) During the period of probation, he will not violate any of the provisions of the Dental Practice Act, or the Rules and Regulations of the Arkansas State Board of Dental Examiners.

(4) Said One Thousand Dollars (\$1,000) fine will be paid within ninety (90) days from the date of this order.

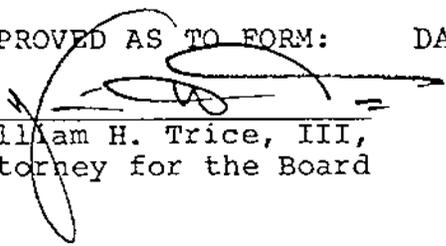
IT IS SO ORDERED.

ARKANSAS STATE BOARD OF DENTAL EXAMINERS

BY: Louise Allred, ms

APPROVED AS TO FORM:

DATED: 2/2/90


William H. Trice, III,
Attorney for the Board

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

RICHARD L. SMITH, D.D.S.

ORDER

On the 6th and 7th days of September, 1991, comes on for hearing the matter of RICHARD L. SMITH, D.D.S. The Arkansas State Board of Dental Examiners appeared by a quorum of its membership, together with its attorney, William H. Trice, III; RICHARD L. SMITH, D.D.S. appeared together with his attorney, Judson C. Kidd. From the pleadings, testimony of the witnesses, evidence introduced, and argument of counsel, the Board finds that:

1. RICHARD L. SMITH, D.D.S. is a licensed dentist in the State of Arkansas under the provisions of the Dental Practice Act, pursuant to Arkansas Code Annotated §17-82-101 et seq.

2. RICHARD L. SMITH, D.D.S., while practicing dentistry under a license issued by the Arkansas State Board of Dental Examiners performed a root canal on patient B.W. in a professionally incompetent manner.

3. RICHARD L. SMITH, D.D.S., while practicing dentistry under a license issued by the Arkansas State Board of Dental Examiners performed a root canal on patient B.D. in a professionally incompetent manner.

4. RICHARD L. SMITH, D.D.S., while practicing dentistry under a license issued by the Arkansas State Board of Dental

Examiners performed a root canal on patient D.A. in a professionally incompetent manner.

5. RICHARD L. SMITH, D.D.S., while practicing dentistry under a license issued by the Arkansas State Board of Dental Examiners administered nitrous oxide to a patient P.H. in a professionally incompetent manner.

6. RICHARD L. SMITH, D.D.S, while practicing dentistry in the State of Arkansas, pursuant to a license issued by the Arkansas State Board of Dental Examiners, permitted one Alecia Terry to scale teeth while in his employ knowing that the scaling of teeth is a function reserved only to dental hygienists and further knowing that Alecia Terry was not licensed as a dental hygienist.

WHEREFORE, IT IS CONSIDERED, ORDERED AND ADJUDGED THAT:

to Sect 9
1. RICHARD L. SMITH, D.D.S. has violated the Dental Practice Act, more especially Arkansas Code Annotated §17-82-316(e), that is, permitting an unlicensed person under his supervision or control to perform any act, service or practice or operation on any patient who is not licensed to practice dentistry or dental hygiene.

2. The Arkansas State Board of Dental Examiners reprimands RICHARD L. SMITH, D.D.S. for his violation of the Dental Practice Act and waives all further punishment for the violation stated in paragraph 1 above.

3. RICHARD L. SMITH, D.D.S. has violated the Dental Practice Act, more especially Arkansas Code Annotated

§17-82-316(c), that is, professional incompetency by failing to monitor the administration of nitrous oxide to a patient.

4. The Arkansas State Board of Dental Examiners reprimands RICHARD L. SMITH, D.D.S. for his violation of the Dental Practice Act and waives all further punishment for the violation stated in paragraph 3 above.

5. RICHARD L. SMITH, D.D.S. has violated the Dental Practice Act, more especially Arkansas Code Annotated §17-82-316(c), that is, professional incompetency in the manner in which he rendered services to patient B.W.

6. As a result of the violation of the Dental Practice Act as stated in paragraph 5 above, the license of RICHARD L. SMITH, D.D.S. to practice dentistry in the State of Arkansas will be suspended for a period of four months commencing 60 days from the date of this hearing, that being 7 November, 1991. The Board further imposes a fine in the amount of \$500.00 on RICHARD L. SMITH, D.D.S. to be paid by 31 December, 1992.

7. RICHARD L. SMITH, D.D.S. has violated the Dental Practice Act, more especially Arkansas Code Annotated §17-82-316(c), that is, professional incompetency in the manner in which he rendered services to patient B.D.

8. As a result of the violation of the Dental Practice Act as stated in paragraph 7 above, the license of RICHARD L. SMITH, D.D.S. to practice dentistry in the State of Arkansas will be suspended for a period of four months commencing 60 days from the date of this hearing, that being 7 November, 1991. The Board

further imposes a fine in the amount of \$500.00 on RICHARD L. SMITH, D.D.S. to be paid by 31 December, 1992.

9. RICHARD L. SMITH, D.D.S. has violated the Dental Practice Act, more especially Arkansas Code Annotated §17-82-316(c), that is, professional incompetency in the manner in which he rendered services to patient D.A.

10. As a result of the violation of the Dental Practice Act as stated in paragraph 9 above, the license of RICHARD L. SMITH, D.D.S. to practice dentistry in the State of Arkansas will be suspended for a period of four months commencing 60 days from the date of this hearing, that being 7 November, 1991. The Board further imposes a fine in the amount of \$1,000.00 on RICHARD L. SMITH, D.D.S. to be paid by 31 December, 1992.

11. The four months suspensions of the license to practice dentistry in the State of Arkansas of RICHARD L. SMITH, D.D.S. referred to in paragraphs 6, 8 and 10 above are to run concurrently.

IT IS SO ORDERED.

ARKANSAS STATE BOARD OF DENTAL EXAMINERS

BY: Kenneth W. Lovern DDS
Kenneth W. Lovern, D.D.S., President

Date: Sept 12, 1991

APPROVED AS TO FORM:

William H. Trice, III
Attorney, Arkansas State
Board of Dental Examiners

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FIFTH DIVISION

IN THE MATTER OF
RICHARD L. SMITH, D.D.S.

NO. CIV-91-5680

AMENDED ORDER

This Court's previous Order of January 29, 1992, found based on the evidence, oral arguments and briefs of counsel, the decision of the Dental Board and the punishment imposed on Dr. Smith was unduly harsh; however, this Court failed to modify the punishment imposed by the Dental Board. Subsequent thereto, counsel for Dr. Smith filed a Motion to Reconsider on February 3, 1992, and an Amended Motion to Reconsider on February 4, 1992.

The Court further finds that, pursuant to the Temporary Order entered by this Court on October 30, 1991, the petitioner was prevented from performing any dental work involving root canal therapy from the date of said Order, resulting in his inability to perform said service for a period of approximately four months.

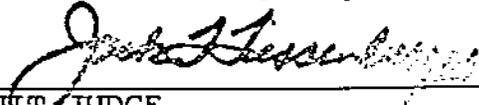
Further, the Court finds that, pursuant to Exhibit A attached to petitioner's Motion to Reconsider, the petitioner herein has completed in excess of 50 hours of continuing education in the field of endodontics presented by the Texas Institute for Advanced Dental Studies.

IT IS, THEREFORE, CONSIDERED, ORDERED AND ADJUDGED by this Court that the previous decision of January 29, 1992, is hereby amended or modified to reflect the decision of the Dental Board be amended with respect to Paragraphs 6, 8, and 10 to provide a suspension for a period of 30 days as opposed to six months, with

all other provisions of the Board's previous Order remaining in full force and effect.

IT IS SO ORDERED.

Original Signed By

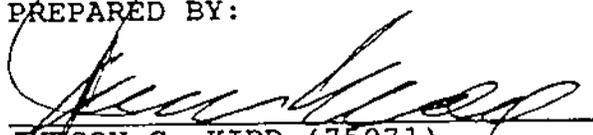


CIRCUIT JUDGE

DATE:

3-9-92

PREPARED BY:



JURSON C. KIDD (75071)
Dodds, Kidd, Ryan & Moore
313 West Second Street
Little Rock, Arkansas 72201

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

RICHARD L. SMITH, D.D.S.

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ORDER

On this 20th day of November, 1992, comes on for hearing the matter of RICHARD L. SMITH, D.D.S. The Arkansas State Board of Dental Examiners appeared together by a quorum of its membership, together with its attorney, William H. Trice III; RICHARD L. SMITH, D.D.S. appeared together with his attorney, John Kitterman. From the pleadings, testimony of the witnesses, evidence introduced, and argument of counsel, the Board finds that:

1. RICHARD L. SMITH, D.D.S. is a licensed dentist in the State of Arkansas under the provisions of the Dental Practice Act, pursuant to Arkansas Code Annotated §17-82-101 et seq.
2. RICHARD L. SMITH, D.D.S. admitted that on the 6th and 7th of September, 1991 he appeared before the Arkansas State Board of Dental Examiners where a hearing was conducted and he was found to be in violation of the Dental Practice Act resulting in a four (4) month suspension of his license to practice dentistry in the State of Arkansas.
3. RICHARD L. SMITH, D.D.S. admitted that he appealed said decision to the Circuit Court of Pulaski County, Arkansas.
4. RICHARD L. SMITH, D.D.S. admitted that the Honorable Jack Lessenberry, in reviewing the Order of the Board, reduced the suspension period to that of thirty (30) days.

5. RICHARD L. SMITH, D.D.S. admitted that he and the Board appealed the decision of the Honorable Jack Lessenberry to the Arkansas Court of Appeals. RICHARD L. SMITH, D.D.S. further admitted that the Arkansas Court of Appeals, on two (2) occasions, denied a stay of the suspension with the last denial effective 9 September, 1992.

6. The Board finds that from 9 September, 1992, for a period of thirty (30) days RICHARD L. SMITH, D.D.S. continued to employ individuals to include dentists and offered services to the general public and received monies for said services received. He further offered said services in the name of the dental practice RICHARD L. SMITH, D.D.S.

7. RICHARD L. SMITH, D.D.S. further failed to appear before the Board and offer further assurance as to future correct conduct and pay an administrative fee even if he had allegedly complied with the order of suspension.

WHEREFORE, IT IS CONSIDERED ORDERED AND ADJUDGED that:

1. RICHARD L. SMITH, D.D.S. is in violation of the Dental Practice Act; more specifically Arkansas Code Annotated §17-82-316(e) in that he permitted an unlicensed person, more specifically himself, to perform dentistry when his license had been in a state of suspension.

2. RICHARD L. SMITH, D.D.S. further failed to appear before the Board and give further assurance of correct conduct and pay the administrative fee as provided for in Arkansas Code §17-82-316(e)(1).

IT IS FURTHER ORDERED AND ADJUDGED that the license to practice dentistry in the State of Arkansas of RICHARD L. SMITH, D.D.S. is suspended for a period of thirty (30) days, effective 20 November, 1992.

IT IS FURTHER ORDERED AND ADJUDGED that RICHARD L. SMITH, D.D.S. will pay within sixty (60) days, at the conclusion of his suspension, a One Thousand and No/100 (\$1,000.00) Dollars fine to the Arkansas State Board of Dental Examiners.

IT IS SO ORDERED.

ARKANSAS STATE BOARD OF DENTAL EXAMINERS

BY: Robert H. Burch, D.D.S.
Robert H. Burch, D.D.S., President

DATE: 30 December 1992

APPROVED AS TO FORM:

William H. Trice III
WILLIAM H. TRICE III
Attorney for the Arkansas State
Board of Dental Examiners

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF:

RICHARD L. SMITH, D.D.S.

ORDER

On this 15th day of October, 1993, comes on for hearing the matter of RICHARD L. SMITH, D.D.S. The Arkansas State Board of Dental Examiners appeared together by a quorum of its membership, together with its attorney, William H. Trice, III; RICHARD L. SMITH, D.D.S. appeared together with his attorney, Judson C. Kidd. From the pleadings, agreement of the parties and argument of counsel, the Board finds that:

1. The parties agree and acknowledge that on the 6th and 7th of September, 1991, Richard L. Smith, D.D.S. proceeded to a disciplinary hearing before the Arkansas State Board of Dental Examiners. As a result of said hearing, an Order was entered. Said Order is attached as Exhibit 1 to this Order.
2. The Order (Exhibit 1) was appealed to the Circuit Court of Pulaski County. The Court reduced the sanction of the Board to a total of thirty (30) days suspension of the license to practice dentistry and a total fine of \$2,000.
3. On the 20th of November, 1992, Richard L. Smith, D.D.S. appeared before the Arkansas State Board of Dental Examiners for a disciplinary hearing and was found to have violated A.C.A. § 17-82-316(e), that is, practicing dentistry without a license. His license to practice dentistry was suspended for a period of thirty (30) days and a fine of \$1,000 was imposed.

4. The entire matter was appealed to the Court of Appeals which remanded it for further findings of the Board. Said Order has been entered and appealed once more to the Circuit Court of Pulaski County.

5. A.C.A. § 25-15-208(b) provides that any Board or commission governed by the Administrative Procedure Act and any individual before that Board may settle any dispute by informal disposition of stipulation, settlement, consent order or default.

6. Richard L. Smith, D.D.S., together with his attorney, Judson C. Kidd, made the following offer to the Board to completely resolve any disciplinary matters pending before the Board:

a. Richard L. Smith, D.D.S. will acknowledge that he has violated the Dental Practice Act as provided in the Amended Order dated 15 May, 1993 and the Order dated 30 December, 1992 as a result of the hearing of the 20th day of November, 1992.

b. The license of Richard L. Smith, D.D.S. to practice dentistry in the State of Arkansas will be suspended for a period of four (4) months. Two (2) months of said suspension is found to have been completed and two (2) months will be suspended, upon satisfactory completion of his probation.

c. Richard L. Smith, D.D.S. will be placed on probation for a period of 18 months under the following terms:

1. Dr. Jeff Moore will review and approve all endodontic care cases of Richard L. Smith, D.D.S.

IT IS SO ORDERED.

ARKANSAS STATE BOARD OF DENTAL EXAMINERS

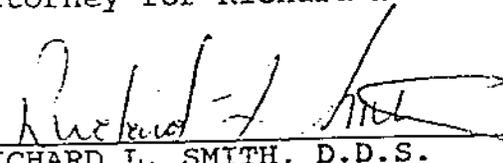
BY: Edward F. Adair, D.D.S., President

DATE: April Nov. 1993

APPROVED AS TO FORM:


WILLIAM H. TRICE, III
Attorney for the Arkansas State
Board of Dental Examiners


JUDSON C. KIDD
Attorney for Richard L. Smith, D.D.S.


RICHARD L. SMITH, D.D.S.

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