

BEFORE THE IOWA DENTAL BOARD

IN THE MATTER OF:)	
)	Docket No. 17-0001
Request for Reinstatement of)	DIA No. 18DB0002
Dental License)	
JACK A. ELDER, D.D.S.)	
License No. 05839,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	DECISION AND ORDER
)	

STATEMENT OF THE CASE

On January 25, 2018, a hearing was held before the Iowa Dental Board (Board) on the application for reinstatement filed by Respondent Jack Elder. The following members of the Board presided at the hearing: Steven Bradley, chairperson; Michael Davidson; Thomas Jeneary; Monica Foley; William McBride; Mary Kelly; Nancy Slach; Bruce Thorsen; and Lori Elmitt. Respondent appeared and was self-represented. Assistant attorney general Sara Scott represented the State. The hearing was open to the public at the election of Respondent, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

THE RECORD

The record includes Respondent's Application for Reinstatement of a Lapsed Dental or Dental Hygiene License and supporting documentation, received by the Board on November 4, 2016, and the Notice of Reinstatement Hearing. The record also includes State's Exhibits 1 through 6.

FINDINGS OF FACT

Respondent Jack Elder was originally issued license number 05839 to practice dentistry in the state of Iowa in 1972. His license expired and lapsed effective June 30, 2008. After becoming licensed in Iowa, Respondent engaged in the private practice of dentistry in Minnesota from 1973 through 1984 and in Wisconsin from 1984 through 2006. From May 2006 on, Respondent has been engaged in the private practice of dentistry in California. (Exh. 4, p. 9).

On or about November 4, 2016, the Board received an application for reinstatement from Respondent. The application included information about a 2011 disciplinary action against Respondent's license in Wisconsin. (Exh. 4, p. 11).

No disciplinary action was taken against Respondent's license in Minnesota while the license was active. Respondent's license in California is currently active and is set to expire May 31, 2018. No disciplinary action has been taken against Respondent's California license. (Exh. 4, pp. 25, 26).

Wisconsin disciplinary proceedings

In November 2009, the Wisconsin Dentistry Examining Board held a hearing before an administrative law judge regarding two allegations relating to Respondent: 1) whether Respondent engaged in billing irregularities that constituted misconduct and violated state statute; and 2) whether Respondent made misrepresentations on his application for a license to practice dentistry in California. The case had a lengthy procedural history, with decisions issued by the ALJ and the Board in 2010, and by the Board again in 2011 and 2013. Ultimately, in a decision dated February 28, 2013, the Board revoked Respondent's license to practice dentistry in Wisconsin. The Board provided that Respondent could not apply for reinstatement until a minimum period of two years from the date of the order. Reinstatement would only be considered where, among other things, Respondent provided evidence that reinstatement would not constitute a danger to the public or a patient and Respondent paid the full costs of the investigation and prosecution of the disciplinary proceeding. That decision was upheld by the Court of Appeals of Wisconsin on July 31, 2014. (Exh. 5).

Generally speaking, the situations in which the Wisconsin board found falsification of records were situations where Respondent provided dates of service for purposes of insurance billing that did not correspond to the dates services were actually provided. In this fashion, Respondent received greater reimbursement from patients with limited dental insurance. Approximately seven patients were involved. The dates in question were generally from approximately 2003 to 2005. (Exh. 5, pp. 66-72).

Additionally, the Board found that Respondent was notified that a complaint had been filed against him in Wisconsin on February 9, 2006, but stated on his application for a dental license in California that he was not currently the subject of any investigation by any governmental entity. (Exh. 5, p. 73).

Respondent has sought to have his license reinstated in Wisconsin. According to Respondent, the state of Wisconsin has provided him a complete list of things he needs to do in order for his license to be reinstated. He has completed all of these items but one, which is the payment of the full costs of the investigation and prosecution of the disciplinary proceeding. According to Respondent, the state has informed him that the full costs are approximately \$30,000. (Elder testimony).

Respondent's reinstatement request

Respondent seeks reinstatement in Iowa as he has family in Iowa and would like to spend summers here and have the option of doing contract dentistry assignments in Iowa. Respondent has been actively practicing dentistry in California since 2006.

Respondent has not been sanctioned by any insurance company as a result of billing practices. (Elder testimony).

CONCLUSIONS OF LAW

The Board's regulations regarding reinstatement of a lapsed license provide, in relevant part:

When the board finds that a practitioner applying for reinstatement is or has been subject to disciplinary action taken against a license or registration held by the applicant in another state of the United States, District of Columbia, or territory, and the violations which resulted in such actions would also be grounds for discipline in Iowa in accordance with rule 650-30.4(153), the board may deny reinstatement of a license or registration to practice dentistry, dental hygiene, or dental assisting in Iowa or may impose any applicable disciplinary sanctions as specified in rule 650-30.2(153) as a condition of reinstatement.¹

While the discipline imposed against Respondent by the state of Wisconsin could justify the Board's denial of reinstatement of his license, the Board is permitted to exercise discretion in these matters. In this case, the Board has considered the fact that the incidents underlying the disciplinary action in Wisconsin took place over 10 years ago, as well as Respondent's lengthy period of practice in California without incident following the Wisconsin discipline. The Board does not conclude that reinstating Respondent's license will pose any danger to the public or be in any way contrary to the public interest. The Board does not believe that any restrictions on Respondent's license are necessary to protect the public interest. The Board does caution Respondent, however, to pay careful attention to his billing practices to ensure that they are in compliance with all applicable laws and regulations.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent's dental license number 05839 shall be REINSTATED.

Dated this 6th day of April, 2018

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Steven P. Bradley, D.D.S.
Chairperson, Iowa Dental Board

cc: Sara Scott, Assistant Attorney General

¹ 650 Iowa Administrative Code (IAC) 14.6(3).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.