

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : Case No. LS0711081DEN  
THOMAS JOHN RADKE, D.D.S, :  
RESPONDENT. :

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ORDER OF SUMMARY SUSPENSION

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[Division of Enforcement Case # 07 DEN 090]

The Petition for Summary Suspension of November 1, 2007 was noticed to be presented at 10:45 a.m. on November 7, 2007. At the time and place noticed, attorney John R. Zwieg appeared for the Complainant, Department of Regulation and Licensing, Division of Enforcement. No one appeared on behalf of Respondent.

The Wisconsin Dentistry Examining Board, having considered the sworn Petition for Summary Suspension and the November 6, 2007 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension of John R. Zwieg and, having heard the arguments of counsel, hereby makes the following:

FINDINGS OF FACT

1. Thomas John Radke, D.D.S., Respondent, date of birth May 6, 1955, is licensed by the Dentistry Examining Board (Board) to practice dentistry in the State of Wisconsin, pursuant to license number 3977, which was first granted September 14, 1988.
2. Respondent's last address reported to the Department of Regulation and Licensing (Department) is his office at 6919 W. Forest Home Avenue, Greenfield, WI 53220.

Bases for Finding of Notice to Respondent

3. On November 1, 2007, John R. Zwieg placed in the regular U. S. mail with proper postage in an envelope addressed to Respondent at his office at 6919 W. Forest Home Avenue, Greenfield, WI 53220, which appears as Respondent's last known address in the files and records of the Department of Regulation and Licensing, true and accurate copies of the following documents dated November 1, 2007:
  - a. Notice of Presentation of Petition for Summary Suspension
  - b. Petition for Summary Suspension.
4. On November 6 at 12:50 p.m., Mr. Zwieg received a call from attorney David Geraghty who said he was representing Respondent. Mr. Geraghty said that Respondent had received the notice of Presentation and Petition for Summary Suspension on Monday November 5 and had provided copies to Mr. Geraghty. Later the afternoon of November 6, 2007, Mr. Geraghty called Mr. Zwieg and told him that he and his client had decided not to appear at the presentation of the petition on November 7, 2007.
5. Notice has been given under Wis. Adm. Code § RL 6.05.

Bases for Summary Suspension

6. On December 6, 2004, Respondent took a drug test and the results were positive for cocaine, a Schedule II controlled substance. Respondent did not obtain, possess and use the cocaine pursuant to the order of a practitioner and was therefore in violation of law.
7. In October 20, 2005, Respondent possessed and was arrested for possession of cannabis and psilocybin mushrooms, both of which are Schedule I controlled substances which pursuant to Wis. Stat. ch. 961 were illegal for Respondent to possess. Respondent was charged with and convicted on November 30, 2005 of violating a Milwaukee

County ordinance prohibiting possession of marijuana.

8. On February 3, 2006, Respondent was arrested in Cook County, Illinois for possession of 10 grams of psilocybin mushrooms, which were illegal for Respondent to possess.

9. In March 2006, the Division of Enforcement was investigating an allegation that Respondent had been illegally using illegal controlled substances (Case 05DEN004). During the investigation:

a. Respondent disclosed he received treatment for alcohol and other drug abuse:

(1) At the Intensive Outpatient Treatment Program at Waukesha Memorial Hospital from November 2004 to February 2005, with follow-up care with a counselor until May 2005.

(2) At Herrington Recovery Center of Rogers Memorial Hospital, Oconomowoc, where he had been admitted on February 15, 2006 and was still in that program. Respondent was diagnosed at Herrington with hallucinogen dependence, cannabis dependence and alcohol dependence.

b. Respondent was told that if he applied for and was accepted into the Department's Impaired Professional Procedure (IPP) the Division would recommend to the Board that the investigation be closed with no disciplinary action taken against Respondent.

10. Respondent applied for IPP. He signed an Agreement for Participation (Agreement) on August 4, 2006 and was accepted into IPP on August 22, 2006. On September 6, 2006, the Division recommended and the Board closed the investigation without disciplinary action.

a. The IPP Agreement required Respondent to:

1) Abstain from use of controlled substances (except as medically necessary) and alcohol.

2) Participate in individual or group therapy at least once a week.

3) Have his therapist file quarterly reports with IPP on October 15, 2006, and January 15, April 15 and July 15, 2007.

4) Attend a 12-step program twice a week.

5) Submit random drug screens.

b. Results of the random drug screens were:

1) Positive on June 8 and September 10 and 17, 2007 for cocaine which Respondent used in violation of Wis. Stat. ch. 961.

2) Positive on 65 tests from September 7, 2006 through October 18, 2007, for the active ingredient in marijuana which Respondent used in violation of Wis. Stat. ch. 961.

c. The only report from Respondent's therapist was dated August 2, 2007.

d. Respondent attended no 12-step programs during the time he was in IPP.

e. Respondent was meeting individually with his therapist, an AODA counselor, but the therapist reported only 9 meetings instead of the 13 meetings required.

f. Respondent did not tell his therapist about his drug use which was continuing through the time of treatment, except to tell him of 3 failed drug screens and that he had stopped using marijuana at the time of the August 2007 report.

g. On September 20, 2007, Respondent was removed from IPP based upon his substantial violations of the Agreement.

11. Respondent, by obtaining and using controlled substances other than in the course of legitimate practice and as otherwise prohibited by law as set out above, has committed unprofessional conduct, as defined by Wis. Adm. Code § DE 5.02(6) and (20) and is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a) and (L).

12. Despite his attempts at treatment, Respondent continues to illegally use controlled substances. Despite Respondent's continuing illegal use of controlled substances, Respondent continues to treat dental patients.

### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 447.07 and has authority to summarily suspend Respondent's license to practice dentistry in the State of Wisconsin, pursuant to Wis. Stat. § 227.53(3) and Wis. Adm. Code ch. RL 6.

2. Notice has been given to Respondent as required by Wis. Adm. Code § RL 6.05.

3. There is probable cause to believe that Respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license to practice dentistry.

### ORDER

IT IS ORDERED that the license of Thomas J. Radke, D.D.S., to practice dentistry in the state of Wisconsin is summarily suspended, effective immediately upon Respondent receiving actual notice of this summary suspension order or upon service of this summary suspension order upon Respondent or his attorney under Wis. Adm. Code § RL 6.06(3), whichever is sooner.

IT IS FURTHER ORDERED that this Order continues to be in effect until the effective date of a final order and decision in the pending disciplinary proceeding against Respondent, unless otherwise ordered by the Board.

IT IS FURTHER ORDERED that Respondent is hereby notified of his right, pursuant to Wis. Adm. Code § RL 6.09, to request a hearing to show cause why this summary suspension order should not be continued and is further notified that any request for a hearing to show cause should be filed with the Dentistry Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

IT IS FURTHER ORDERED that in the event that Respondent requests a hearing to show cause why the summary suspension should not be continued, that hearing shall be scheduled to be heard on a date within 20 days of receipt by the Board of Respondent's request for hearing, unless Respondent requests or agrees to a later time for the hearing.

Dated at Madison, Wisconsin this 7th day of November, 2007.

Wisconsin Dentistry Examining Board

By: Lori R. Barbeau DDS  
A Member of the Board