

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF
THE LICENSE OF

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FRED T. TENUTA, DDS,
RESPONDENT.

FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION
LS0809033DEN

Division of Enforcement Case # 05DEN155

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Fred T. Tenuta, DDS
1225 75th St.
Kenosha, WI 53143

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Dentistry Examining Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Wisconsin Dentistry Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Fred T. Tenuta, DDS, date of birth 6/13/54, is duly licensed as a dentist in the state of Wisconsin, license # 2746-15. This license was first granted on 6/19/81.
2. Dr. Tenuta's most recent address on file with the Wisconsin Dentistry Examining Board is 1225 75th Street, Kenosha, Wisconsin 53143.
3. At all times relevant to this action, Dr. Tenuta was working as a dentist at 1225 75th Street in Kenosha, Wisconsin.
4. The Wisconsin Dentistry Examining Board received an informal complaint regarding issues of sanitation practices and procedures at Dr. Tenuta's dental office. The investigator from the Department of Regulation and Licensing, Division of Enforcement, made an unannounced visit to Dr. Tenuta's office on 4/23/08 and found him to be treating a patient while fully gowned, gloved and masked. Inspection of the facility found the office to be in compliance with sanitation practices and procedures except that during the discussion with Dr. Tenuta, Dr. Tenuta noted that he was using an older model handpiece that could not be heat sterilized. The FDA recommends use of heat sterilized handpieces. Dr. Tenuta indicated his willingness to do whatever was necessary to comply with infection control recommendations, including replacement of his old handpieces with new hand pieces which can be heat sterilized.

CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 447.07(3), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).
2. The Wisconsin Dentistry Examining Board has the authority pursuant to Wis. Stat. § 440.22 to assess the costs of this proceeding against Fred T. Tenuta, DDS.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Fred T. Tenuta, DDS will within 90 days of the effective date of this Final Decision and Order take and satisfactorily complete 3.0 continuing education hours of courses in infection control. The continuing education courses taken in satisfaction of this requirement will be pre-approved by the Wisconsin Dentistry Examining Board or its designee. Fred T. Tenuta, DDS will attend each course taken in whole or in part in satisfaction of this requirement in its entirety. Fred T. Tenuta will be responsible for paying all costs associated with satisfying this continuing education requirement.
2. Fred T. Tenuta, DDS, in full satisfaction of the requirements of paragraph 1 above, may elect to attend the 3.0 credit hour course entitled, "For Dentists & Their Staff: So ... What's New in Infection Control?" presented by Dr. Harold Edelman on either 9/11/08 or 9/12/08. A copy of the brochure describing this course is attached hereto and incorporated herein.
3. Fred T. Tenuta, DDS will within 30 days of completion of the required continuing education courses provide evidence satisfactory to the Wisconsin Dentistry Examining Board that he has attended each of the approved courses in its entirety. This evidence will include:
 - a. Certification of attendance from the sponsoring organization; and
 - b. Affidavit given under oath by Fred T. Tenuta, DDS verifying that he has attended each of the approved courses in its entirety.
4. Fred T. Tenuta, DDS will within 10 days of the effective date of this Final Decision and Order replace all of

his existing handpieces that cannot be heat sterilized with handpieces that can be heat sterilized.

5. Fred T. Tenuta, DDS will, after acquiring the handpieces as required by paragraph 4 above, use only handpieces that have been properly heat sterilized.

IT IS FURTHER ORDERED that:

6. Fred T. Tenuta, DDS will, within 90 days from the date of this Order, pay costs of this proceeding in the amount of \$1,037.83. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Fred T. Tenuta's license. The Wisconsin Dentistry Examining Board in its discretion may in the alternative impose additional conditions and limitations or other discipline for a violation of any of the terms of this Order. In the event Fred T. Tenuta, DDS fails to timely comply with the order for continuing education Fred T. Tenuta's license #2746-15 SHALL BE SUSPENDED, without further notice or hearing, until Fred T. Tenuta, DDS has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

Wisconsin Dentistry Examining Board

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

9/3/08
Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF
THE LICENSE OF

FRED T. TENUTA, DDS,
RESPONDENT.

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STIPULATION
LS# _____

Division of Enforcement Case # 05DEN155

It is hereby stipulated between Fred T. Tenuta, DDS; and Gilbert C. Lubcke, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Fred T. Tenuta's licensure by the Division of Enforcement, case # 05DEN155. Fred T. Tenuta, DDS consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Fred T. Tenuta, DDS understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Fred T. Tenuta, DDS has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Fred T. Tenuta, DDS agrees to the adoption of the attached Final Decision and Order by the Wisconsin Dentistry Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Fred T. Tenuta, DDS waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Wisconsin Dentistry Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Fred T. Tenuta, DDS or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Fred T. Tenuta, DDS understands that the attorney or other agent for the Division of Enforcement or the case advisor, in responding to questions asked by the Board, may be required to provide information to the Board which may be construed by the Board as not weighing in favor of accepting this proposed Stipulation and Final Decision and Order. Fred T. Tenuta, DDS will not contend that any responses made by the attorney or other agent for the Division of Enforcement or by the case advisor in response to questions posed by the Board constitute a failure by the attorney or other agent for the Division of Enforcement or by the case advisor to speak in support of this agreement. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Fred T. Tenuta, DDS is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Fred T. Tenuta, DDS in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Fred T. Tenuta, DDS
1225 75th St.
Kenosha, WI 53143

Date

Gilbert C. Lubcke, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date