

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
DERF A. SIMES, D.D.S. : FINAL DECISION AND ORDER
RESPONDENT. : ORDER 0000597

[Division of Enforcement Case #09 DEN 22]

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

Derf A. Simes, D.D.S.
1320 S. Green Bay Road
Racine, WI 53406

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 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. Derf A. Simes, D.D.S. ("Respondent") was born on July 2, 1955, and is licensed to practice dentistry in the state of Wisconsin pursuant to license number 3823-015. This license was first granted on July 13, 1987.

2. Respondent's most recent address on file with the Wisconsin Department of Regulation and Licensing is 1320 S. Green Bay Road, Racine, WI 53406.

3. At all times relevant to this proceeding, Respondent was working as a dentist at the Racine Dental Group in Green Bay, Wisconsin. Respondent is a general dentist.

4. On February 28, 2006, Patient LP saw Respondent for treatment of a tooth ache at tooth #3, her upper right first molar. Exam revealed gross decay with pupal involvement. Patient LP opted for extraction of the tooth. Respondent extracted tooth # 3. After the extraction, Respondent identified and informed Patient LP of a small sinus exposure. Respondent gave Patient LP post op instructions with sinus precautions and prescribed antibiotics.

5. On April 5, 2006, Patient LP returned with complaints of pain and swelling at the site of the extraction after she had sneezed. Respondent examined Patient LP and took a panoramic radiograph. No swelling or drainage were noted, and the panoramic radiograph was unremarkable. Respondent started Patient LP on another course of antibiotics. Patient LP was scheduled for a follow-up appointment on April 18, 2006, but Respondent instructed her to return sooner if the problem persisted or got worse.

6. On April 7, 2006, Patient LP went to see oral surgeon Dr. W on an urgent basis complaining of swelling and pain in her right cheek. Dr. W examined Patient LP and noted tissue breakdown. Dr. W marked swelling of the gingiva over the extraction site of tooth # 3 and tenderness over the right maxilla consistent with a cheek or sinus extension of the infection. On examination of the radiograph he took, Dr. W noted extensive bone breakdown but no remnant of tooth #3 at the extraction site.

7. Dr. W performed surgery on Patient LP and noted that "on dissecting toward the alveolus, the bone appears to be missing across the facial aspect of the site and there is a through-and-through defect up to the sinus and entering into the sinus, there was a remarkable release of purulent drainage consistent with an infection throughout the right sinus." Dr W. treated and repaired the extraction site.

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. Respondent's conduct of failing to properly diagnose and treat a sinus exposure in order to prevent subsequent infection as described in paragraph(s) 4, and 5, above, constitutes a violation of Wis. Admin. Code § DE 5.02(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Derf A. Simes, D.D.S., is hereby REPRIMANDED.

2. Respondent's license to practice dentistry is LIMITED by the condition that, within one hundred twenty (120) days from the date of this Order, Respondent shall obtain and successfully complete a minimum of three (3) hours of continuing education in the areas of oral surgery for general dentists/practitioners.

a). Respondent shall locate and have the Board or its designee pre-approve each educational program(s) prior to Respondent completing them.

b). Within 30 days after Respondent has completed each educational program(s), Respondent shall submit to the Board or its designee proof of his attendance and that he has successfully completed each educational program(s).

c). Respondent cannot apply these three hours of continuing education to the biennial continuing education requirements. If Respondent obtains more than three hours of continuing education to fulfill the requirements of this Order, then Respondent can use any of the hours of continuing education obtained in excess of three hours towards the biennial continuing education requirements.

d). The Limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that he has successfully completed all of the ordered continuing education.

e). For purposes of this Order, the Board's designee is the Department Monitor:

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

3. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of EIGHT HUNDRED DOLLARS (\$800.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

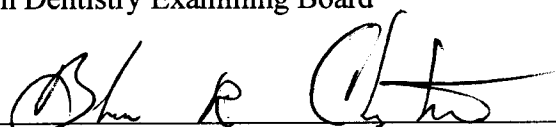
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4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit (payment of the costs or fails to comply with the ordered continuing education as set forth above, the Respondent's license (# 3823-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the payment of the costs or completion of the continuing education.

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

Wisconsin Dentistry Examining Board

By:


A Member of the Board


Date