

# 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 DISCIPLINARY  
PROCEEDINGS AGAINST**

**JANET KRAHENBUHL,  
RESPONDENT.**

**ORDER FOR DECLARATORY  
RULING**

**ORDER 0000713**

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Division of Enforcement Cases #05 DEN 58/60/63, 06 DEN 79/97

TO: Janet Krahenbuhl  
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The Dentistry Examining Board considered this matter at its meetings on November 3, 2010 and March 2, 2011.

**BACKGROUND**

The State of Wisconsin is investigating the Respondent, a licensed Dental Hygienist, for multiple allegations of unprofessional conduct. There are five cases open for investigation. The State alleges the following facts to be true.

1. Respondent Janet A. Krahenbuhl (dob 6/23/57), was at all times relevant to the facts set forth herein, a dental hygienist licensed in the State of Wisconsin pursuant to license #1002441, first granted on 9/19/78. She has never been licensed in any other jurisdiction. At all times material to the matters set forth below, Respondent was the office manager of a dental practice known as "Advanced Smile Care Center" and was responsible for the daily business operations of the practice.

2. On 3/1/05, patient J.B. came to Respondent's office to obtain a copy of her radiographs, for the purpose of transferring her care to another dentist. J.B. was required to sign a document entitled "Release and request to inspect or copy protected health information in the dental office." In fact, this document purported to release Respondent and her staff, including the treating dentist, from any liability for any negligence or other civil liability, in exchange for \$35 which is recited to have been paid to the patient. In fact, no such payment was made to the patient, nor were the radiographs transmitted to the subsequent treating dentist, as requested, although the patient signed the document.

3. On 3/7/05, the same patient telephoned Respondent's office and requested that the clinical notes ("chart") also be transferred to her new dentist. She was again required to come to the office and sign another copy of the same form, which again recited that the patient was being paid \$35 to release all liability for any negligence or other civil liability. In fact, no such payment was made, although the patient signed the document.

4. On or about 3/24/05, Respondent received a communication from patient K.G., on behalf of herself, her husband, and her two children, all of whom had been seen as patients at the practice, that their insurance had changed and that copies of her records and x-rays should be prepared for their new dentist. Respondent prepared forms identical to those described above, which recited that each patient was being paid \$40 to release all liability for any negligence or other civil liability. In fact, no such payment was made, or credited to the account(s), although the adult patients signed the documents on behalf of themselves and their children.

5. The Board subsequently received a report which was filed by K.G. and/or J.G. with the Wisconsin Department of Agriculture, Trade, and Consumer Protection, regarding the business practices of Respondent. In response to this information, the Board opened an investigation, and, on 8/29/06, requested the patient health care records of each of the four members of the family, pursuant to Wis. Stat. § 146.82(2)(a)5. In response to this, Respondent retained counsel who contacted K.G. and J.G., and, on behalf of Respondent, offered to refund the monies paid for all dental services, in exchange for which, they would agree to, among other things, the following:

As a condition of the aforesaid promise [sic] payment, one or more of the Releasing Parties shall forthwith withdraw any complaint she, he (or they) has (have) made to the Wisconsin Departments [sic] of Agriculture Trade and Consumer Protection (DATC") for [sic] Regulation and Licensing ("DRL") regarding the Released matters, as true [sic] in making any future complaint concerning such matters or refuse to provide any testimony thereon to the DATC or DRL.

The document also provided that if K.G. violated the agreement, including by providing information to the Board through the Department of Regulation & Licensing, she would repay any sums refunded to her, with interest.

6. Respondent further caused or authorized her attorney to engage in a series of obstructionist and legally frivolous letters to the Board's investigator, and the former patients, and failed to provide the requested charts until 7/24/08, 23 months after they were first requested. When they were provided, they did not include all documents within the records: omitted were the purported releases which the patients (or the parents, on behalf of the patients who were minors) had signed, relating to the charts.

7. On 8/1/06, patient S.B., a woman born in 1963, came to Respondent's office for the purpose of obtaining a copy of her patient health care record. As a condition of releasing them, Respondent required her to sign a document entitled "Release and request to inspect or copy protected health information in the dental office." In fact, this document purported to release Respondent and her staff, including the treating dentist, from any liability for any negligence or other civil liability, in exchange for \$40 ["waived"] which is recited to have been paid to the patient. Following the signing of this document, Respondent continued to refuse to provide the patient with a copy of her records, and provided her only with the account ledger and radiographs, and instead sent the clinical notes only to a designated dentist.

8. With respect to the matters set forth in pars 2, 3, 4, and 7, above, Respondent represented to the Board that before 3/26/06, the owner of the practice was her husband, a licensed dentist (whose license has since been revoked), and that he had provided her with the form to use for the purpose of releasing dental records to patients; this form was devised by a person who is a dentist-attorney licensed in other states, but not licensed in Wisconsin. Respondent further represented to the Board that the use of this form has been abandoned, and that a form drafted by a Wisconsin-licensed attorney is now in use in the practice.

9. Respondent has, at all times, denied that any of the above actions constituted unprofessional conduct for a dental hygienist, if, in fact, the actions occurred as stated.

10. After being informed that she was under investigation, and after extensive negotiations with one of the Board's prosecuting attorneys, Respondent tendered the following, dated July 1, 2010:

Enclosed is my license to practice as a dental hygienist in the State of Wisconsin ("the License"). I hereby voluntarily surrender the License, effective immediately. I relinquish all claims to the privileges and benefits of the License from this date forward.

The Respondent has attempted to voluntarily surrender her license to practice dental hygiene in the state of Wisconsin. The Respondent has petitioned the Dentistry Examining Board for a Declaratory Ruling seeking a ruling that the Dentistry Examining Board does not claim the authority to: (i) delay the effective date of a voluntary surrender by Janet Krahenbuhl of her hygienist license until the DEB votes to accept such surrender; (ii) accept such surrender subject to the unilateral imposition by the DEB of conditions of acceptance; or (iii) reject said surrender.

Based upon all the information of record, the Board finds and orders the following:

#### **CONCLUSIONS OF LAW AND ORDER**

**NOW, THEREFORE,** the Dentistry Examining Board holds as follows. The Dentistry Examining Board does not claim the authority to: (1) delay the effective date of a voluntary surrender by Janet Krahenbuhl of her hygienist license until the DEB votes to accept such surrender; (2) accept such surrender subject to the unilateral imposition by the DEB of conditions of acceptance; or (3) reject said surrender.

**NOW, THEREFORE, IT IS HEREBY ORDERED** as follows:

(1) The Dentistry Examining Board accepts the surrender of the license to practice as a dental hygienist in the state of Wisconsin as of July 1, 2010, when such license was originally surrendered. The Respondent's right to practice as a dental hygienist in the state of Wisconsin is terminated.

(2) Such surrender shall forever terminate the Respondent's right to renew such license.

(3) The voluntary surrender of the dental hygiene license does not deprive the state of the right to continue its investigation related to past acts by the Respondent.

Dated this 14<sup>th</sup> day of March, 2011.

Dentistry Examining Board

By: Blane R. Christman  
Blane R. Christman, DDS, Chair *MMH*