

# 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 :  
: FINAL DECISION AND ORDER  
CHRISTOPHER M. KANIA, D.D.S., :  
RESPONDENT. :  
ORDER 0000 822

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[Division of Enforcement Case # 08 DEN 15]

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

Christopher M. Kania, D.D.S.  
600 York Street  
Manitowoc, WI, 54220

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

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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Christopher M. Kania, D.D.S., (DOB December 29, 1969) is duly licensed as dentist in the state of Wisconsin (license # 4763). This license was first granted on January 4, 1996.
2. Respondent's most recent address on file with the Wisconsin Dentistry Examining Board is 600 York Street, Manitowoc, WI, 54220.

3. Between May of 1996 and October, 2008, Respondent and his wife owned and operated the Necedah Family Dental Clinic located in Necedah, Wisconsin.

4. In the summer of 2007, Respondent discovered that his wife was having an affair. Upon this discovery, he experienced an emotional breakdown and slapped his wife. Respondent's wife then filed for divorce in July of 2007.

5. As a result of the collapse of his marriage and emotional crisis, Respondent turned to cocaine and alcohol to self medicate. On August 27, 2007, Respondent underwent mental health evaluation, and tested positive for cocaine. He was discharged on August 30, 2007. He was subsequently treated by a mental health counselor related to these issues between September of 2007 and May of 2008.

6. Also as a result of the events which occurred as a result of his breakdown, on May 1, 2008, Respondent was convicted of misdemeanor domestic abuse violations under Wis. Stat. §§ 940.225(3m), 940.19(1), 940.19(1), 947.01(1) and 813.12(8).

7. Respondent has fully paid all restitution and costs, and has fully served his imposed sentence as a result of these convictions.

8. The circumstances of the convictions substantially relate to the practice of dentistry.

9. Respondent has been employed as a dentist for low income and uninsured patients at Healthy Teeth and Healthy Community in Manitowoc since July of 2010. Respondent has also worked through Burlington Health Care Providers to provide mobile, low cost dental services in the Manitowoc County schools to help the underserved without dental insurance.

10. Respondent is currently receiving mental health and alcohol and drug counseling through Tamarack Behavior Health Center, Deborah Peterman, M.S.W., and has a full treatment plan in place; he attends AA meetings 2-3 times per week; he is voluntarily enrolled with FirstLab Services Alcohol and Drug Screening Program; his current employer is aware of this matter, the proposed impairment order, and fully supports the Respondent's continued employment as a dentist.

#### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 447.07 and authority to enter into this stipulated resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent's criminal conduct constitutes unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(15) and Wis. Stat. § 470.07(3)(e).

3. Respondent's possession and consumption of cocaine in violation of Wis. Stat. ch. 961 constitutes unprofessional conduct in violation of Wis. Admin. Code § DE 5.02(23).

ORDER

IT IS ORDERED that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

SUSPENSION

- A.1. The license of Christopher M. Kania, D.D.S., to practice as a dentist in the state of Wisconsin is **SUSPENDED** for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of licensure to the Department Monitor within fourteen (14) days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active practice for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4, for return of full licensure. At the Board's discretion, the 5-year period may be started anew for every substantial violation of any provision of Sections C or D of this Order.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension shall be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
  - (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is

appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

#### CONDITIONS AND LIMITATIONS

The license to practice dentistry of Respondent is LIMITED as set forth in Wis. Stat. § 448.02(3)(e), and as follows:

##### Treatment Required

- C.1. Respondent shall enter into, and shall continue, in both a mental health treatment program and a drug and alcohol treatment program with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than once weekly for the first year of the stayed suspension. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

##### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress

of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

#### AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but not less than one meeting per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), and all mood-altering or psychoactive substances, except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

#### Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program – including any positive test for

any controlled substance or alcohol - is a substantial violation of this Order. The requirements shall include:

- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends, and holidays.
  - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than 48 times per year, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

#### Practice Limitations

##### Controlled substances orders; DEA registration

- C.19. Respondent may work as a dentist or other health care provider in a setting in which Respondent has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.

##### Reporting Required

- C.20. It is the Responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order,
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel where Respondent is engaged in the practiced of dentistry as defined at Wis. Stat. § 447.01(8).
- C.22. Respondent shall arrange for agreement by his employer or practice partner(s) to immediately report to the Board and to the Treater any condition of Respondent that may constitute a violation of this Order or a danger to the public.
- C.23. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

## MISCELLANEOUS

### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817

### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

### Change of Treater or Approved Program by Board

- D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

### Petitions for Modification of Limitations or Termination of Order

- D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.



Costs of Compliance

D.5. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

D.6. Respondent shall pay costs of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) to the Department of Regulation and Licensing, within two years of this Order. In the event Respondent fails to pay costs as ordered, Respondent's license to practice as a dentist in Wisconsin, (license # 4763) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

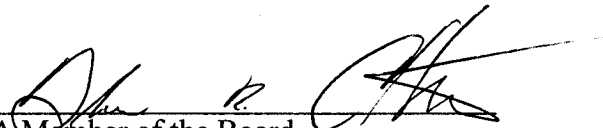
Additional Discipline

D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 447.07.

Dated at Madison, Wisconsin this 4 day of May, 2011.

Wisconsin Dentistry Examining Board

By:

  
A Member of the Board