

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DALE P. FALK, D.D.S.  
RESPONDENT.

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FINAL DECISION AND ORDER

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ORDER 0000826

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Division of Enforcement Case #'s 09 DEN 087, 10 DEN 075 & 10 DEN 076

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

Dale P. Falk, D.D.S.  
W575 Highway 18  
Sullivan, WI 53178

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
Madison, WI 53708

Wisconsin Dentistry Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
Madison, WI 53708

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. Dale P. Falk, D.D.S. ("Respondent"), was born on March 17, 1954, and is licensed to practice as a dentist in the state of Wisconsin (license # 2284-15). This license was first granted on June 19, 1979.

2. Respondent's most recent address on file with the Wisconsin Dentistry Examining Board is W575 Highway 18, Sullivan, WI 53178.

3. At all times relevant to this case, Respondent worked as a dentist at his own clinic Dale P. Falk, DDS, LLC, in Sullivan, Wisconsin.

4. Respondent was previously disciplined by the Wisconsin Dentistry Examining Board. In September 2005, Respondent was disciplined for failing to remove all decay and installing defective restorations. Respondent was reprimanded and ordered to take additional continued education. Respondent failed to successfully complete the continued education as ordered, and his license was suspended in July 2006. Respondent's license was reinstated in full in July 2006, after successfully completing the continued education requirement.

Case No. 09 DEN 087

5. On March 3, 2009, patient MR, a female patient born on May 29, 1982, presented for a routine cleaning and examination. Respondent obtained a bitewing radiograph that showed deep dental caries in Patient MR's teeth #'s 4, 5, 12 and 13.

6. On May 19, 2009, Respondent commenced treatment on teeth #'s 12 and 13. Respondent excavated and restored the caries. At this time, Respondent failed to completely remove the decay prior to restoration.

7. On May 26, 2009, Respondent commenced treatment on teeth #'s 4 and 5. Respondent excavated and restored the caries. During this treatment, Respondent fused teeth #'s 4 and 5 with the restoration.

8. On July 14, 2009, patient MR presented to another dentist, and it was determined that she would require root canals and crowns on teeth #'s 12 and 13, and re-work of the restorations provided by the Respondent on teeth #'s 4 and 5.

9. Respondent's failure to fully excavate the deep caries in teeth #'s 12 and 13 created an unacceptable risk that there would be a progression of the dental caries resulting in increased loss of tooth structure with weakening of the tooth jeopardizing the stability of the subsequently placed restorations and that the dental caries would invade the pulp chamber of the tooth necessitating additional dental procedures including root canal therapy.

10. Respondent's fusion of teeth #'s 4 and 5 with the restoration created an unacceptable risk that the patient would be unable to clean between her teeth, resulting in decay and/or the potential loss of bone structure and ultimate loss of the involved teeth.

11. Respondent's treatment of patient MR deviated from standard practice and minimum competence in general dentistry.

Case No. 10 DEN 075

12. During the investigation of Division of Enforcement Case No. 09 DEN 087, the Department became aware of an additional complaint involving the Respondent and his dentistry procedures.

13. On May 11, 2010, a female patient CF, date of birth March 1, 1994, presented for a routine dental cleaning and examination. Respondent's examination included bitewing radiographs, cleaning, examination and diagnoses of three dental caries.

14. Respondent failed to floss or scrape patient's CF's teeth during the cleaning, instead administering a brief brushing and polishing that was completed in approximately ten minutes. The entire appointment was completed in approximately twenty minutes.

15. Given the age of the patient, a minimally competent dental cleaning, examination and diagnosis would require at least 30 minutes. Respondent's cleaning, examination and diagnosis deviated from standard practice and minimum competence in general dentistry.

#### Case No. 10 Den 076

16. During the investigation of Division of Enforcement Case No. 10 DEN 075, the Department became aware of an additional complaint involving the Respondent and his dentistry procedures.

17. On March 2, 2009, a female patient CP, date of birth February 13, 1978, and her husband, patient SP, date of birth May 5, 1977, presented to Respondent for routine dental cleaning and examination.

18. Respondent's examination of patients CP and SP included bitewing radiographs cleaning, examination and diagnoses of dental caries.

19. Respondent failed to floss or scrape patients' teeth during these cleanings, instead administering a brief brushing and polishing that was completed in approximately three minutes.

20. On May 6, 2009, patients CP and SP presented to Respondent for excavation and restoration of the dental caries diagnosed on March 2, 2009. Respondent's treatment was completed in approximately 10 minutes for each patient.

21. Given the age of the patients, a minimally competent adult dental cleaning, examination and diagnosis would require at least 30 minutes. A minimally competent excavation and restoration of dental caries would require in excess of 10 minutes. Respondent's examination and treatment deviated from standard practice and minimum competence in general dentistry.

#### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board had jurisdiction to act in this matter pursuant to Wis. Stat. § 447.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct described in paragraphs 5-11 above, was unprofessional conduct in violation of Wis. Admin. Code. § DE 5.02(5) in that he practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist and which harmed or could have harmed the patient.

3. Respondent's conduct described in paragraphs 12-21 above, was unprofessional conduct in violation of Wis. Admin. Code. § DE 5.02(5) in that he practiced or attempted to practice when unable to do so with reasonable skill and safety to patients.

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Dale P. Falk, D.D.S., is hereby REPRIMANDED.

IT IS FURTHER ORDERED, effective the date of this Order, Respondent's license to practice dentistry in the state of Wisconsin is LIMITED under the following terms and conditions:

2. Respondent will not engage in the practice of dentistry related to performing the excavation or restoration of dental caries unless and until he successfully completes the clinical portion of the Central Region Dentistry Examination, Part 5 Restorative Section, through Central Regional Dental Testing Services, Inc., including taking and passing all examinations, **OR IN THE ALTERNATIVE**, clinical coursework in restoration and excavation through Marquette University School of Dentistry, including taking and passing all examinations, and also including an operative examination. The following additional terms shall apply to the Examination program:

- (a) Respondent shall locate and have the Board or its designee pre-approve the Examination program.
- (b) Within 30 days after Respondent has successfully completed the Examination, Respondent shall submit to the Board or its designee proof of his attendance and that he has successfully completed and passed the Examination, including the operative portion.
- (c) The Limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that he has successfully completed and passed the Examination, including the operative and clinical portions.
- (d) 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 one hundred and eighty (180) days from the date of this Order, pay costs of this proceeding in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

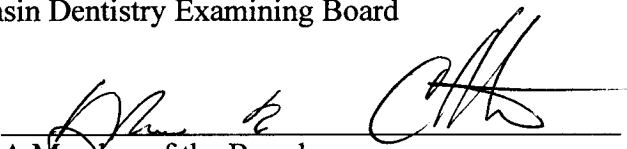
Department Monitor  
Division of Enforcement  
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P.O. Box 8935  
Madison, WI 53708-8935  
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4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety 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 (#2284-15) 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

5/4/2011