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Before The
State Of Wisconsin
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

In the Matter of a Petition for an Administrative
Injunction Involving **FREDERICK G.**
KRIEMELMEYER, Respondent

FINAL DECISION AND ORDER

Order No. **0003610**

Division of Legal Services and Compliance Case No. 14 UNL 060

The State of Wisconsin, Department of Safety and Professional Services, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Safety and Professional Services.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 29th day of December, 2014.

A handwritten signature in black ink, appearing to read "Michael J. Berndt".

Michael J. Berndt
Chief Legal Counsel
Department of Safety and Professional Services



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of a Petition for an Administrative
Injunction Involving **FREDERICK G.**
KRIEMELMEYER, Respondent

PROPOSED DECISION AND ORDER
DHA Case No. SPS-14-0069

0003610

Division of Legal Services and Compliance Case No. 14 UNL 060

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Frederick G. Kriemelmeyer
319 Main Street, Suite 400
La Crosse, WI 54601

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by

Attorney Al Rohmeyer
Department of Safety and Professional Services
Division of Legal Services and Compliance
P. O. Box 7190
Madison, WI 53707-7190

Michael J. Berndt
Chief Legal Counsel
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PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), filed a Petition for an Administrative Injunction against Respondent Frederick G. Kriemelmeyer alleging that Respondent engaged in the practice of dentistry without a credential in violation of Wis. Stat. § 447.03(1). The Division served Respondent on September 9, 2014, by sending a copy of the Notice of Hearing and Petition for an Administrative Injunction to his last known address. Following the 20-day period in which to file an Answer to the Complaint, the undersigned Administrative Law Judge (ALJ) held a prehearing conference on October 13, 2014, at which Respondent refused to appear.

The Division moved for default pursuant to Wis. Admin. Code § SPS 3.13 and Wis. Admin. Code § HA 1.07(3)(c), on grounds that Respondent had failed to file an Answer and failed to appear at the prehearing conference. The ALJ found Respondent to be in default, and on October 13, 2014, issued a Notice of Default against Respondent, requiring the Division to file a recommended proposed decision no later than October 23, 2014. The Division filed its recommended proposed decision on October 23, 2014.

A companion case involving disciplinary proceedings against Respondent is being issued in *In the Matter of Disciplinary Proceedings Against Frederick G. Kriemelmeyer, DDS, DHA* Case No. SPS-14-0068.

FINDINGS OF FACT

Facts Related to Unlicensed Practice

Findings of Fact 1-3 are taken from the Division's Petition for an Administrative Injunction against Respondent.¹

1. Respondent Frederick G. Kriemelmeyer was licensed in the State of Wisconsin to practice dentistry, license number 5110378-15. This license was first issued on July 19, 1974 and expired on October 1, 2013.

2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 319 Main Street, Suite 400, La Crosse, Wisconsin 54601.

3. Respondent has engaged in the practice of dentistry without a credential in violation of Wis. Stat. § 447.03(1).

Findings of Fact 4-6 are taken from Finding of Fact No. 17 in the companion case, *In the Matter of Disciplinary Proceedings Against Frederick G. Kriemelmeyer, DDS, DHA* Case No. SPS-14-0068, of which official notice is taken.

4. On or about December 27, 2013, January 2, 2014, and March 17, 2014, Respondent sought reimbursement from an insurance company for dental services he rendered on December 23, 2013 and March 17, 2014.

5. Respondent's name, signature, and license number appears on the claim forms as evidence that he was authorized to practice dentistry in the State of Wisconsin.

6. As of August 21, 2014, Respondent maintained an active website, <http://www.frederickkriemelmeyer.com>, in which he advertises that he is available to perform dental services.

¹ The Division's recommended proposed decision contains proposed facts which the Division claims are set forth in its Petition, but which do not actually appear there.

Facts Related to Default

7. On September 9, 2014, the Notice of Hearing and Petition for Administrative Injunction were served on Respondent by both certified and regular mail, consistent with Wis. Admin. Code § SPS 3.07. The Notice of Hearing informed Respondent that he was required to file an Answer to the Petition within 20 days, failing which he would be found to be in default, and a special order could be entered against him enjoining him from the continuation of practice or use of a title. The Notice of Hearing also informed Respondent that if a special order were entered and he violated the order, he could be required to forfeit not more than \$10,000 for each offense.

8. On September 29, 2014, the ALJ issued a Notice of Telephone Prehearing Conference setting an October 13, 2014 prehearing telephone conference. The Notice instructed Respondent to provide the ALJ with a telephone number at which he could be reached for the prehearing conference no later than October 8, 2014. The Notice informed Respondent that his failure to appear for the prehearing conference could result in default judgment being entered against him. Respondent failed to provide a telephone number, either before or after the due date.

9. On October 3 and 6, 2014, respectively, Respondent filed identical documents, presumably, one for each pending case against him, entitled, "Courtesy Notice," which, although largely incomprehensible, generally objected to the ALJ's authority over this matter.

10. At the prehearing conference, the Division provided a telephone number for Respondent, whereby the ALJ contacted him at what appeared to be his office. In his conversation with the ALJ, Respondent:

- a. indicated that he did not consent to these proceedings and that his October 3 and October 6, 2014 filings represented all that he wished to say in these matters;
- b. asked the ALJ to inform him which "bonding agency" she had so that the bonding agency could "indemnify" Respondent for these proceedings;
- c. told the ALJ he would not talk to anyone else; and
- d. refused to speak further about the case, despite the ALJ's admonition that if he failed to participate in the proceedings, a default judgment would be entered.

11. The ALJ reconvened the prehearing conference with the Division's attorney as the sole party participant.

12. The Division moved for default pursuant to Wis. Admin. Code § SPS 3.13 and Wis. Admin. Code § HA 1.07(3)(c) based on Respondent's failure to file an Answer and failure to appear at the prehearing conference.

13. The ALJ granted the Division's motion.

14. On October 13, 2014, the ALJ issued a Notice of Default and ordered the Division to file no later than October 23, 2014 its recommended proposed decision and order in this matter. On October 20 and October 22, 2014, Respondent filed identical documents entitled, "Declaration of Rejection Without Dishonor By I Am," which were again nonsensical and objected to the proceedings against him. On October 23, 2014, the Division filed its proposed decision and order.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the October 13, 2014 Notice of Default and Order, Respondent is in default for failure to appear at the October 13, 2014 prehearing conference. Based on the Division's representation at the conference that Respondent had also failed to file an Answer the Petition, the Notice further concluded that Respondent was in default for failure to file an Answer. However, in the Division's October 23, 2014 submissions, the Division clarifies that Respondent filed various documents in response to the Petition but that these documents did not meet the requirements established in Wis. Admin. Code § SPS 3.08. The Division asserts that it received a document on September 19, 2014, captioned, "Declaration of Rejection Without Dishonor By I Am," and another on September 25, 2014, captioned, "Courtesy Notice." The Division has excerpted portions of the documents in its recommended proposed decision but has not provided the ALJ with copies of these documents. From the excerpted portions, it appears that the documents generally object to the authority of the Department or Board over Respondent.

Because copies of these documents have not been provided for my review, I rescind the portion of the Notice of Default and Order which finds Respondent to be in default on grounds of failure to file an Answer and instead determine him to be in default based only on his failure to appear at the prehearing conference. As a result of the resulting default from his failure to appear, an order may be entered against him on the basis of the Petition. *See* Wis. Admin. Code § 3.13; Wis. Admin. Code § HA 1.07(3).

Injunction

Wisconsin Stat. § 440.21(2) provides that if, after holding a public hearing,² the Department determines that a person has engaged in a practice or used a title without a credential required under Wis. Stat. chs. 440 to 480, the Department may issue a special order enjoining the person from the continuation of the practice or use of the title.

Pursuant to Wis. Stat. § 447.03(1)(a), no person may practice or offer to practice dentistry unless that person is licensed to practice dentistry. Wisconsin Stat. § 447.01(8)(am) defines

² Respondent waived his right to a hearing by refusing to appear at the prehearing conference at which such a hearing could have been scheduled.

dentistry as “the examination, evaluation, diagnosis, prevention, or treatment, including surgery, of diseases, disorders, or conditions of the human oral cavity or its adjacent or associated tissues and structures, or of the maxillofacial area, and their impact on the human body.” Respondent’s license to practice dentistry expired on October 1, 2013. Nevertheless, he continued to engage in the practice of dentistry after that date, in violation of Wis. Stat. § 447.03(1)(a).³

Accordingly, Respondent should be enjoined from engaging in the unlicensed practice of dentistry and from holding himself out as one authorized to practice dentistry. Enjoining Respondent from practicing dentistry without a credential is necessary to protect the health, safety or welfare of the public from someone who is unlicensed to practice and who evidently believes he is not subject to the requirements governing his profession.

ORDER

Accordingly, IT IS HEREBY ORDERED that unless and until Respondent Frederick G. Kriemelmeyer is properly licensed by the Wisconsin Dentistry Examining Board, he is enjoined and prohibited from the practice of dentistry in the State of Wisconsin and from holding himself out as one so authorized. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. *See* Wis. Stat. § 440.21(4)(a).

IT IS FURTHER ORDERED that unless and until Respondent is properly licensed by the Wisconsin Dentistry Examining Board, Respondent is enjoined and prohibited from informing the public directly or indirectly in any language, orally, in writing or printing, or by drawings, demonstrations, signs, pictures or other means that he is authorized to perform or will attempt to perform dental services of any kind. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. *See* Wis. Stat. § 440.21(4)(a).

IT IS FURTHER ORDERED that if the Department determines that there is probable cause to believe that Respondent has violated any terms of this administrative injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

IT IS FURTHER ORDERED that the terms of this Order are effective the date the final decision and order is signed by the Department.

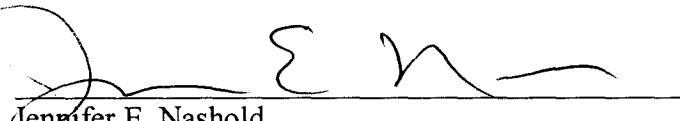
³ The Division alleges in its recommended proposed decision and order that Respondent also violated Wis. Stat. § 447.03(1)(c) which prohibits an unlicensed person from “[i]nform[ing] the public directly or indirectly in any language, orally, in writing or printing, or by drawings, demonstrations, signs, pictures or other means that he or she can perform or will attempt to perform dental services of any kind.” This allegation was not contained in the Petition in this matter and will not be considered for purposes of this proceeding, although it is addressed in the companion case.

IT IS FURTHER ORDERED that the above-captioned matter is closed as to Respondent Frederick G. Kriemelmeyer.

Dated at Madison, Wisconsin on this 5th day of November, 2014.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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By:


Jennifer E. Nashold
Administrative Law Judge