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Before The
State Of Wisconsin
DENTISTRY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings
Against **FREDERICK G. KRIEMELMEYER**,
D.D.S., Respondent

FINAL DECISION AND ORDER

Order No. **0003616**

Division of Legal Services and Compliance Case No. 14 DEN 024

The State of Wisconsin, Dentistry Examining Board, 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, Dentistry Examining Board.

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 7 day of JANUARY, 2014.

A handwritten signature in black ink, appearing to be "R. C. M.", written over a horizontal line.

Member
Dentistry Examining Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against **FREDERICK G. KRIEMELMEYER,**
D.D.S., Respondent

PROPOSED DECISION AND ORDER
DHA Case No. SPS-14-0068

0003616

Division of Legal Services and Compliance Case No. 14 DEN 024

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

Wisconsin Dentistry Examining Board
P.O. Box 8366
Madison, WI 53708-8368

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

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), filed a Complaint against Respondent Frederick G. Kriemelmeyer, D.D.S., alleging, among other things, that Respondent engaged in or offered to practice dentistry without a current license, 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 Complaint to Respondent's 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 2.14 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 an administrative injunction against Respondent is being issued in *In the Matter of a Petition for an Administrative Injunction Against Frederick G. Kriemelmeyer*, Case No. SPS-14-0069.

FINDINGS OF FACT

Facts Related to the Alleged Violation

Findings of Fact 1-17 are taken from the Division's Complaint filed against Respondent.

1. Respondent Frederick G. Kriemelmeyer, D.D.S. (D.O.B. March 18, 1949), was formerly licensed in the State of Wisconsin to practice dentistry, having license number 5001378-15. This license was first issued on July 19, 1974 and expired as of October 1, 2013. Pursuant to Wis. Stat. § 440.08(3), Respondent has the right to renew his license upon payment of a fee at any time before October 1, 2018.

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. On July 2, 2008, the Wisconsin Dentistry Examining Board (Board) revoked Respondent's license to practice dentistry in the State of Wisconsin for having been convicted of a crime, the circumstances of which substantially relate to the practice of dentistry. Respondent was convicted of several felony counts of income tax fraud related to his dentistry practice.

4. On or about August 11, 2010, Respondent petitioned the Board to reinstate his license to practice dentistry.

5. On December 17, 2010, the Board denied Respondent's petition and ordered that Respondent's license be automatically reinstated upon satisfactory proof that:

- a. Respondent had either satisfied his tax obligation to the Wisconsin Department of Revenue or had set up a payment plan, satisfactory to the Wisconsin Department of Revenue; and
- b. Respondent successfully complete a mock board examination conducted by Marquette University School of Dentistry.

6. On or about April 27, 2011, Respondent provided proof satisfactory to the Department that he had satisfied the requirements set forth in the Board's December 17, 2010 Order.

7. On May 10, 2011, Respondent renewed his license to practice dentistry. This license expired on October 1, 2013, and has not been renewed since.

8. On or about March 28, 2014, the Department received a report that Respondent was practicing dentistry with an expired license.

9. On April 3, 2014, the Department sent Respondent a letter requesting his written response to the allegation set forth in the report.

10. On April 8, 2014, Respondent faxed to the Department a document captioned, "One People's Public Trust Courtesy Notice," which failed to address the allegation set forth in the Department's letter. Although difficult to understand, the "Courtesy Notice" seemed to convey that Respondent does not consent to the proceedings initiated against him and, furthermore, that the Department must cease and desist all "unlawful and illegal" actions against him.

11. On June 16, 2014, a Department investigator telephoned Respondent's office and asked to speak to him.

12. Respondent refused to speak with the investigator.

13. Despite the Department's previous written request for information, Respondent, through a staff member, said he wanted all communication reduced to writing.

14. The investigator expressed the urgency of the matter and asked several times to speak directly with Respondent. The investigator explained the allegation that Respondent was practicing dentistry without a license.

15. Respondent, through a staff member, continued to refuse to talk to the investigator.

16. In a follow-up telephone call, the investigator asked Respondent if he could provide an answer as to whether or not he intends to renew his license. Respondent stated, "I could, but whether I will is a different question."

17. The Department's further investigation of the report revealed the following:

- a. 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, 2014 and March 17, 2014.
- b. Respondent's name, signature, and license number appear on the claim forms as evidence that he was authorized to practice dentistry in the state of Wisconsin.
- c. 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.

Facts Related to Default

18. On September 9, 2014, the Notice of Hearing and Complaint in this matter were served on Respondent by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08(1). The Notice of Hearing informed Respondent that he was required to file an Answer to the Complaint within 20 days, failing which he would be found to be in default, and a default judgment could be entered against him on the basis of the Complaint and other evidence. The Notice of Hearing also stated that, as a result of a default judgment, the Wisconsin Dentistry Examining Board could take disciplinary action against Respondent and impose the costs of the investigation, prosecution and decision of this matter, without further notice or hearing.

19. 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.

20. 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.

21. 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.

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

23. The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 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.

24. The ALJ granted the Division's motion.

25. 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 objected to the proceedings against him on nonsensical grounds. 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 Complaint, 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 Complaint but that these documents did not meet the requirements established in Wis. Admin. Code § SPS 2.09. 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. As a result of the resulting default from his failure to appear, an order may be entered against him on the basis of the Complaint. *See* Wis. Admin. Code § 2.14; Wis. Admin. Code § HA 1.07(3).

Violations

The Board has jurisdiction in this matter pursuant to Wis. Stat. § 447.07(3). 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. Moreover, unless a person is licensed to practice dentistry, that person may not "[i]nform 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." Wis. Stat. § 447.03(1)(c).

Wisconsin Stat. § 447.07(3)(a) further states that the Board may:

make investigations and conduct hearings in regard to any alleged action of any dentist if . . . it has reason to believe is engaged in or has engaged in the practice of dentistry . . . in this state, and may, on its own motion, or upon complaint in writing, reprimand any dentist . . . which is licensed . . . under this chapter or deny, limit, suspend or revoke his license if it finds that the dentist has done any of the following:

(a) Engaged in unprofessional conduct.

The phrase “unprofessional conduct” as used in Wis. Stat. § 447.07(3)(a), includes:

- a. “Obtaining or attempting to obtain any compensation by fraud,” Wis. Admin. Code § DE 5.02(8);
- b. “Violating any provision of ch. 447, Stats., or any valid rule of the board,” Wis. Admin. Code § DE 5.02(16);
- c. “After a request by the board, failing to cooperate in a timely manner with the board’s investigation of complaints filed against the licensee,” Wis. Admin. Code § DE 5.02(25);

Respondent’s license to practice dentistry expired on October 1, 2013, and has not been renewed since. Following the expiration of his license, 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, 2014, and March 17, 2014. Respondent’s name, signature, and license number appear on the claim forms as evidence that he was authorized to practice dentistry in the state of Wisconsin. 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.

When the Department received information in March of 2014 that Respondent was practicing dentistry with an expired license, the Department attempted on several occasions to obtain information from Respondent about the situation but Respondent repeatedly refused to cooperate, refusing to speak with the Department or provide the requested information regarding the complaint against him.

Respondent violated Wis. Stat. § 447.03(1)(a) in that he practiced or offered to practice dentistry without a current license, and violated Wis. Stat. § 447.07(1)(c) by informing the public directly or indirectly orally, in writing or printing, or by drawings, demonstrations, signs, pictures or other means that he can perform or will attempt to perform dental services of any kind. In addition, Respondent’s conduct constituted unprofessional conduct in that Respondent: obtained or attempted to obtain compensation by fraud, in violation of Wis. Admin. Code § DE 5.02(8); violated provisions of Chapter 447 of the Wisconsin Statutes and valid rules of the Board, in violation of Wis. Admin. Code § DE 5.02(16); and failed to cooperate in a timely manner with the Board’s investigation after a request by the Board, in violation of Wis. Admin. Code § DE 5.02(25).¹

Accordingly, Respondent is subject to discipline pursuant to Wis. Stat. § 447.07(3).

¹In its Complaint, the Division alleged a violation of Wis. Admin. Code § DE 5.02(26), which prohibits a licensee from practicing under an expired certificate of registration. However, the Division appears to have abandoned that allegation, as it is not addressed in its recommended proposed decision. Moreover, although applicable, the Division has not alleged a violation of Wis. Stat. § 447.07(3)(f) or (i), which prohibits licensees from “[v]iolat[ing] [chapter 447] or any federal or state statute or rule which relates to the practice of dentistry,” and from “[o]btain[ing] or attempt[ing] to obtain compensation by fraud or deceit,” respectively. As a result, I do not address these provisions.

Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends that Respondent's right to renew his expired license be revoked. The Division's recommended discipline is appropriate.

Respondent has repeatedly and flagrantly denied the Board's authority over his practice of dentistry. Laws pertaining to regulation of the profession of dentistry are intended to protect the public by ensuring that dentists in this state practice competently and do not present unacceptable risks of harm to patients. Because Respondent refuses to recognize the Board's authority and indicates that he will not comply with the Board's rules, the Board cannot assure any health care consumer that Respondent's practice is competent and safe.

The necessity of revocation is further supported by Respondent's history of prior discipline and his claims of not being subject to the jurisdiction and laws of the United States or the State of Wisconsin. In *In the Matter of Disciplinary Proceedings Against Frederick G. Kriemelmeyer, DDS*, Order No. LS0801182DEN (July 2, 2008), the Board revoked Respondent's license to practice dentistry in the state of Wisconsin because he was convicted of several felony counts of income tax fraud related to his dentistry practice. A copy of that decision can be found at <https://online.drl.wi.gov/decisions/2008/ls0801182den-00077304.pdf>.² In that case and in the instant case, Respondent holds himself out as not being subject to the jurisdiction of the United States government or of any government entity.

Revocation of Respondent's right to renew his expired license is necessary to ensure that the public is on notice that Respondent is not authorized to practice dentistry and that his practice may not conform to the standards of minimal competence.

Costs

The Department has the authority to assess costs pursuant to Wis. Stat. § 440.22. The factors to be considered in assessing full costs are: (1) the number of counts charged, contested, and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by

²The Division also asserts that Respondent had an additional disciplinary action taken against him in Order No. LS9712052DEN (DLCS Case No. 97DEN130). The Division states that in that case, Respondent's application for renewal of his license to practice dentistry in the State of Wisconsin was denied because Respondent refused to provide his social security number on his application. Instead of providing his social security number, the Division states that Respondent wrote, "Religious Objection." The Division asserts that Respondent filed a timely request for a hearing on the denial based on the contention that: (1) a social security number is the "mark of the beast" as described in the Book of Revelations; and (2) he has a first amendment right to decline to provide a social security number in conjunction with his request for renewal. The Division has not provided this tribunal with a copy of that Order and I am unable to locate it on the Department's website. Therefore, it is not considered in imposing discipline and costs in this matter.

the parties; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, Order No. LS0802183CHI (Aug. 14, 2008).

I agree with the Division's recommendation that full costs of these proceedings be imposed on Respondent. Multiple violations were asserted and proven in this matter and there is no indication that any factual findings or legal conclusions were unnecessarily investigated or litigated. Respondent has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. In addition, Respondent has been disciplined on two prior occasions and has failed to cooperate in this particular proceeding. Finally, the Department is a "program revenue" agency, and its operating costs are funded by the revenue received from other license holders. Therefore, fairness dictates that Respondent, and not fellow members of the dentistry profession, be held responsible for the costs of his unprofessional conduct.

ORDER

Accordingly, IT IS ORDERED that Respondent Frederick G. Kriemelmeyer's right to renew his expired license to practice dentistry in the State of Wisconsin (license number 5001378-15), is REVOKED, and Respondent is on notice that he may not engage in the practice of dentistry in the State of Wisconsin, nor may he hold himself out as one authorized to do so.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and mailed or otherwise delivered to:

**Department Monitor
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190**

IT IS FURTHER ORDERED that the terms of this Order are effective the date the Final Decision and Order is signed by the Board.

IT IS FURTHER ORDERED that the above-captioned matter be and hereby is closed as to Respondent Frederick G. Kriemelmeyer, D.D.S.

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