

## 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

MICHAEL KOWALSKI, D.D.S.,  
RESPONDENT.

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FINAL DECISION AND ORDER

0004326

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Division of Legal Services and Compliance Case No. 14 DEN 092

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

Michael Kowalski, D.D.S.  
811 Grandview Blvd.  
Waukesha, WI 53188

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

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

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Dentistry Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Michael Kowalski, D.D.S., (dob September 8, 1954) is licensed in the state of Wisconsin to practice dentistry, having license number 2506-15, first issued on June 16, 1980 and current through September 30, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 811 Grandview Boulevard, Waukesha, Wisconsin 53188.

2. At all times relevant to this proceeding, Respondent was employed as a dentist at a clinic located in Waukesha, Wisconsin.

3. Between July 12, 2006 and April 24, 2014, Respondent provided treatment to Patient A.
4. After the initial examination, Respondent informed Patient A that she had periodontal problems and recommended treatment by a periodontist. Patient A refused and elected to have multiple cleanings to preserve the teeth.
5. On multiple occasions between June 25, 2007 and July 16, 2013, Respondent documented that Patient A's periodontal condition was "same," "consistent with charting," "perio-check same," and "same as charting."
6. Respondent's documentation of the examinations fell below the minimal standard for record-keeping in the practice of dentistry, which requires documentation of specific findings.
7. In multiple instances, x-rays of Patient A's teeth depicted caries needing treatment, but Respondent waited approximately three years before providing the treatment. Respondent did not document any reason for not addressing the caries.
8. Respondent now explains that he did not treat the caries earlier because he "did not consider it ethical to restore the teeth that are ready to be extracted."
9. Respondent failed to document that Patient A insisted on fillings rather than extractions, that Patient A was in pain due to decay, and that he informed Patient A of treatment options before she decided to wait for treatment.
10. On February 24, 2015, Respondent admitted that his hygienist does all the charting and that writing "same" for the periodontal condition is not adequate.
11. Respondent failed to ensure that Patient A's treatment records were complete and accurate.
12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Dentistry Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 447.07, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. By the conduct described in the Findings of Fact, Michael Kowalski, D.D.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(5), by practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist or dental hygienist which harms or could have harmed a patient.
3. As a result of the above violations, Michael Kowalski, D.D.S., is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a), (f) and (h).

## ORDER

1. The attached Stipulation is accepted.
2. Respondent Michael Kowalski, D.D.S., is REPRIMANDED.
3. The license to practice dentistry issued to Michael Kowalski, D.D.S., (license number 2506-15) is LIMITED as follows:
  - a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete four (4) hours of education on the topic of documentation and recordkeeping and four (4) hours of education on the topic of informed consent offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
  - b. Any education completed pursuant to this Order shall be taken in-person. Education such as a webinar, online, or self-study course shall not be approved.
  - c. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
  - d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. Within ninety (90) days from the date of this Order, Michael Kowalski, D.D.S., shall pay COSTS of this matter in the amount of \$471.00.
5. Request for approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

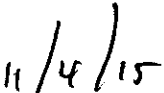
6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of

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 costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 2506-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs and has submitted proof of successful completion of the ordered education.

7. This Order is effective on the date of its signing.

WISCONSIN DENTISTRY EXAMINING BOARD

by:   
A Member of the Board

  
Date

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MICHAEL KOWALSKI, D.D.S.,  
RESPONDENT.

STIPULATION

0004326

Division of Legal Services and Compliance Case No. 14 DEN 092

Respondent Michael Kowalski, D.D.S., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

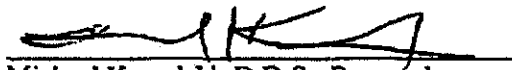
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
  - the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
  - the right to confront and cross-examine the witnesses against Respondent;
  - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
  - the right to testify on Respondent's own behalf;
  - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
  - the right to petition for rehearing; and
  - all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Patrick Sullivan.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Dentistry Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

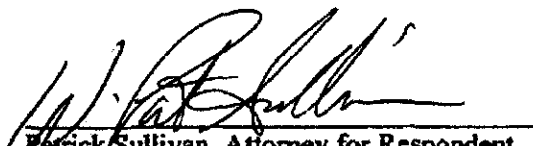
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

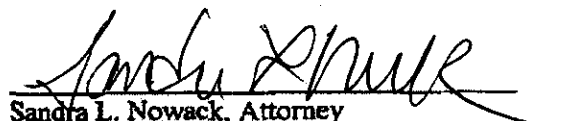
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Michael Kowalski, D.D.S., Respondent  
811 Grandview Blvd.  
Waukesha, WI 53188  
License no. 2506-15

10/16/15  
Date

  
Patrick Sullivan, Attorney for Respondent  
Siesennop & Sullivan  
200 N. Jefferson St.  
Milwaukee, WI 53202

10/20/15  
Date

  
Sandra L. Nowack, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190  
Tel. (608) 266-8098  
Fax (608) 266-2264  
[sandra.nowack@wisconsin.gov](mailto:sandra.nowack@wisconsin.gov)

10/20/15  
Date