

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
THOMAS J. HUGHES, D.D.S., : FINAL DECISION AND ORDER
RESPONDENT. :
 : **0004455**

Division of Legal Services and Compliance Case No. 14 DEN 049

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

Thomas J. Hughes, D.D.S.
201 W. Amelia Street
P.O. Box 600
Cassville, WI 53806-0600

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 Thomas J. Hughes, D.D.S., (dob January 6, 1954) is licensed in the state of Wisconsin to practice dentistry, having license number 2567-15, first issued on July 10, 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 201 West Amelia Street, P.O. Box 600, Cassville, Wisconsin 53806-0600.

2. At all times relevant to this proceeding, Respondent owned and practiced at a clinic located in Cassville, Wisconsin.

3. On August 19, 2009, Patient A, a minor, presented to Respondent for orthodontic care. Patient A's #6 and #11 were exposed and had brackets.
4. On August 25, 2009, Respondent took radiographs and models for an orthodontic evaluation.
5. Respondent indicated Patient A's case was severe due to impacted canines, crowding, deep bite and the need for total patient cooperation during all phases of treatment.
6. Approximately midway through Patient A's treatment plan, Respondent diagnosed #11 fused to the bone, preventing eruption and orthodontic movement.
7. Between November 11, 2009 and August 8, 2012, Respondent made numerous unsuccessful attempts to pull #11 into Patient A's arch by widening the space, attaching a button and power-thread from button to arch.
8. On August 15, 2012, Respondent attempted to "wiggle" #11 to get it to move into place.
9. As a result of wiggling #11, the tooth fractured and the crown came off, which required the rest of the tooth to be surgically extracted.
10. Respondent failed to take a radiograph closer to the time he attempted to "wiggle" #11 and relied on outdated radiographs for diagnosis.
11. Patient A's last radiograph (panoramic) was taken on June 22, 2010.
12. There is no evidence in Patient A's treatment record that Respondent obtained an informed consent to perform the surgical extraction of #11.
13. Respondent, who was not an orthodontic or surgical specialist, failed to refer Patient A to an orthodontic or surgical specialist when it was apparent that this particular case was severe.
14. Respondent failed to take a relevant history of Patient A's previous dental care when she presented with #6 and #11 having brackets and with impacted upper canines.
15. Under the circumstances of this case and given its complexity, Respondent should have consulted with a specialist, should have obtained an x-ray before manipulating the tooth, should have obtained and documented informed consent indicating that the patient understood that it was a complex case and should have documented a thorough history.
16. Respondent believed his experience level was sufficient to undertake the case independently and denies wrong-doing. For purposes of conservation of resources, and to resolve 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, Thomas J. Hughes, D.D.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(1), by engaging in any practice which constitutes a substantial danger to a patient's health.

3. By the conduct described in the Findings of Fact, Thomas J. Hughes, D.D.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(2), by practicing or attempting to practice when unable to do so with reasonable skill.

4. As a result of the above violations, Thomas J. Hughes, 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 Thomas J. Hughes, D.D.S., is REPRIMANDED.
3. The license to practice dentistry issued to Thomas J. Hughes, D.D.S., (license number 2567-15) 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 record keeping; four (4) hours of education on the topic of informed consent; and four (4) hours of education on the topic of patient assessment offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
 - b. All education completed pursuant to this Order shall be taken in-person. Education, such as webinar, online, or self-study 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.
 - d. 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.

- e. This limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that Respondent has successfully completed all of the ordered education.
4. The license to practice dentistry issued to Thomas J. Hughes, D.D.S., (license number 2567-15) is further LIMITED as follows:
- a. Respondent shall perform surgical orthodontic only in consultation with an orthodontist and oral surgeon. For the purposes of this order, "surgical orthodontic" means: the correction of occlusal abnormalities by the surgical repositioning of segments of the mandible or maxillae containing one to several teeth; or the bodily repositioning of entire jaws to improve function and esthetics.
 - b. This limitation may be removed after a period of six (6) months AND with Respondent providing proof acceptable to the Board or its designee that he is competent to care for orthodontic patients.
 - c. Acceptable proof shall include the following:
 - i. An assessment by a third-party evaluator who has been preapproved by the Board or its designee, and which results in a written report concluding that Respondent is competent to safely and reliably provide orthodontic treatment.
 - ii. Respondent shall submit to the Department Monitor a written request for preapproval of the evaluator. The request for approval shall be accompanied by the evaluator's curriculum vitae and a letter from the evaluator confirming that he or she has read this Order and agrees to undertake the duties as set out in this paragraph. An assessment obtained without preapproval of the evaluator will NOT be accepted.
 - iii. The evaluator shall be actively engaged in the practice of dentistry and orthodontics and shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed evaluator's ability to render a fair and unbiased report to the Department.
 - iv. The Board or its designee has the full and final authority to approve or reject a proposed evaluator. This decision shall be based on an exercise in discretion and is not reviewable. Approval shall not unreasonably be withheld.
 - v. In evaluating Respondent's competency, the evaluator shall also randomly select and review the charts of at least five (5) patients that have presented to Respondent for orthodontic care, including one (1) patient that required surgery, and who are current patients.

The chart review shall thoroughly assess whether Respondent is practicing within the standard of minimal competence including for documentation.

- vi. The evaluator shall, along with the chart review, directly observe care Respondent provides to the same five (5) orthodontic patients.
- vii. The evaluator may request other tests, reviews or observed practice as the evaluator deems helpful to a reliable assessment.
- viii. In the event the evaluator determines that Respondent is not then competent to provide orthodontic care, the evaluator shall document the basis for the opinion and relevant recommendations.
- ix. In the event the evaluator concludes that Respondent is competent to provide orthodontic care with limitations, the Board may modify these limitations accordingly.
- x. Respondent is responsible for any and all costs associated with the services of the evaluator and attendant evaluations, courses, tests, etc.

5. Within ninety (90) days from the date of this Order, Thomas J. Hughes, D.D.S., shall pay COSTS of this matter in the amount of \$850.00.

6. Any requests or reports, 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

7. 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 the Board or its designee determines that Respondent provided orthodontic care as prohibited by this order, failed to timely submit payment of costs as ordered or failed to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 2567-15) 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.

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

WISCONSIN DENTISTRY EXAMINING BOARD

by: 

A Member of the Board

1-6-16

Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS J. HUGHES, D.D.S.,
RESPONDENT.

STIPULATION

0004455

Division of Legal Services and Compliance Case No. 14 DEN 049

Respondent Thomas J. Hughes, 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.

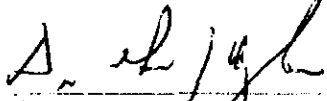
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Dentistry Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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.

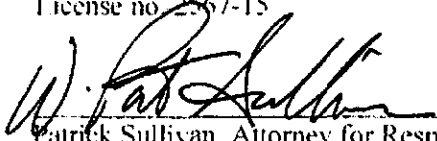
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



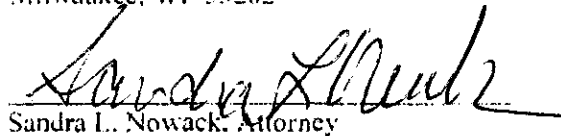
Thomas J. Hughes, Respondent
201 W. Amelia Street
P.O. Box 600
Cassville, WI 53806-0600
License no. 2567-15

12-22-15
Date



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

12/22/15
Date



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