

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

KIRK D. ALMENDINGER, D.D.S.,
RESPONDENT.

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FINAL DECISION AND ORDER

0004797

Division of Legal Services and Compliance Case 15 DEN 092

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

Kirk D. Almendinger, D.D.S.
P.O. Box 766
St. Croix Falls, WI 54024

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 Kirk D. Almendinger, D.D.S., DOB June 11, 1956, is licensed in the state of Wisconsin to practice dentistry, having license number 2923-15, first issued on May 4, 1982 and current through September 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is P.O. Box 766, St. Croix Falls, Wisconsin 54024.

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

3. On January 14, 2016, a Department investigator conducted an inspection of Respondent's clinic.

4. During the inspection the following discrepancies were discovered:

- a. Respondent performed dental services with ungloved hands;
- b. large quantities of dead insects were observed in the light fixtures;
- c. in one exam room near a trash can there was dried blood, iodine and other material splattered on the outside and inside of the door;
- d. "clean" instruments were stored unwrapped inside a drawer;
- e. an exam room floor had visible debris and dirt on it;
- f. the storage unit, radiators and pipes in exam rooms were dusty and contained cobwebs;
- g. Respondent's prescription pad was out and accessible to patients; and
- h. a handwritten schedule listing patient names for the day and a brief description of services to be performed was posted on a wall in clear view of patients.

5. Respondent acknowledged that the condition of his clinic was not acceptable and that there were occasions in the past that he did not wear gloves while providing treatment to patients, but he is changing his practices.

6. 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, Kirk D. Almendinger, 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 which harms or could have harmed a patient.

3. As a result of the above violations, Kirk D. Almendinger, D.D.S., is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a) and (f).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Kirk D. Almendinger, D.D.S., is REPRIMANDED.

3. The license to practice dentistry in the state of Wisconsin issued to Kirk D. Almendinger, D.D.S., (license number 2923-15), is LIMITED as follows:

- a. Within sixty (60) days from the date of this Order, and every six months thereafter, for a period of at least two (2) years, Respondent shall have a third-party inspection of all areas of any site at which Respondent offers to practice dentistry, including non-clinical areas, sterilization areas and laboratories. The purpose of the inspections is to assess Respondent's compliance with standard precautions as described in the Centers for Disease Control and Prevention's (CDC) Guidelines for Infection Control in Dental Health Care Settings.
- b. Respondent is responsible for obtaining preapproval of the third-party inspector from the Board or its designee.
- c. An acceptable inspector will, at a minimum, be a licensed dentist, hygienist or other health care professional with demonstrated knowledge of requirements of the CDC guidelines for dental practices. The inspector shall have no prior or current personal or professional relationship with Respondent.
- d. Respondent shall insure that, within fourteen (14) days of each inspection, the third-party inspector submits written reports of the inspector's findings to the Department Monitor at the address below.
- e. Respondent shall comply with any and all recommendations of the third-party inspections within a time-frame and to the satisfaction of the Board or its designee.
- f. Respondent is responsible for all costs associated with the third-party inspections.
- g. Except as provided in subparagraph h, this limitation shall be removed when the Board or its designee, in an exercise of discretion, determines that Respondent has undergone four (4) consecutive satisfactory inspections.
- h. Respondent shall permit any representative of the Board or the Division of Legal Services and Compliance to perform an inspection of all portions of any site at which Respondent offers to practice dentistry, at any time and without prior notice. This limitation is permanent.

4. Within ninety (90) days from the date of this Order, Kirk D. Almendinger, D.D.S., shall pay COSTS of this matter in the amount of \$800.00.

5. Any request, reports 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:

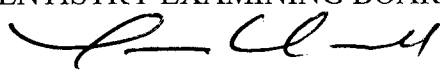
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 obtain an inspection within sixty (60) days from the date of this Order, fails to obtain third-party inspections every six months, fails to timely comply with any and all recommendations of the third-party inspections, fails to timely submit inspection reports, fails at any time to allow the Board's representatives to inspect the premises, or fails to timely submit payment of costs as ordered, Respondent's license (no. 2923-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has obtained a third-party inspection, obtained two third-party inspections per year, complied with any and all recommendations of the third-party inspections, submitted inspection reports and complied with payment of costs.

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

KIRK D. ALMENDINGER, D.D.S.,
RESPONDENT.

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STIPULATION

0004797

Division of Legal Services and Compliance Case No. 15 DEN 092

Respondent Kirk D. Almendinger, 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.

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.

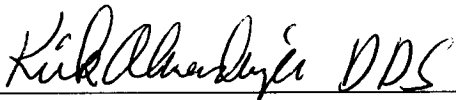
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

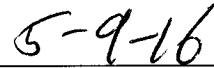
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

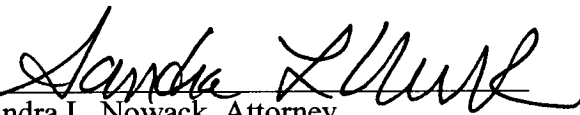
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



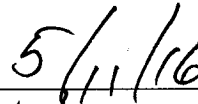
Kirk D. Almendinger, D.D.S., Respondent
P.O. Box 766
St. Croix Falls, WI 54024
License no. 2923-15



Date



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Division of Legal Services and Compliance
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sandra.nowack@wisconsin.gov



Date