

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 :
 : FINAL DECISION AND ORDER
DONALD A. KRAUT, D.D.S., :
RESPONDENT. :

0004799

Division of Legal Services and Compliance Case No. 14 DEN 098

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

Donald A. Kraut, D.D.S.
2325 E. Johnson St.
Madison, WI 53704

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 Donald A. Kraut, D.D.S., DOB July 20, 1958, is licensed in the state of Wisconsin to practice dentistry, having license number 5782-15, first issued on November 3, 2004 and current through September 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2325 East Johnson Street, Madison, Wisconsin 53704.

2. At all times relevant to this proceeding, Respondent co-owned and worked as a dentist at a clinic, located in Madison, Wisconsin.

3. On November 26, 2014, Department investigators conducted an inspection of Respondent's clinic.

4. During the inspection, investigators discovered the child of Respondent's employee in the office's lab. The child had his ungloved hands in, and was playing with denture compound materials. The materials in which the child played were not separate from materials that would be used for patients.

5. A review of the patient records revealed the following:

Patient J.D.

6. On August 19, 2014, Respondent provided treatment to Patient J.D., DOB December 26, 1950.

7. Patient J.D.'s treatment plan called for the extraction of teeth #'s 1, 4-11, 13-14, 16, and 18-30 for the placement of dentures.

8. Respondent documented that he administered 3 cc of 2% lidocaine, 1:100,000 EPI and 4 cc of 3% carbocaine, 1:100,000 EPI.

9. During the procedure, Patient J.D.'s blood pressure was documented as follows:

- a. at 10:20 a.m., 170/139
- b. at 11:05 a.m., 190/117
- c. at 11:15 a.m., 216/131
- d. at 11:25 a.m., 217/131
- e. at 11:30 a.m., 79/43
- f. at 11:40 a.m., 56/31
- g. at 11:50 a.m., 179/107

10. At 11:15 a.m., Respondent documented that Patient J.D. stated "I'm shaking in my stomach and my heart hurts and I'm dizzy." It is also noted that Patient J.D. looked "ashen."

11. Due to Patient J.D.'s high blood pressure, Respondent extracted only #'s 19-30.

12. Respondent documented that "post-op directions given to Pt & partner. Pt to go to medical (ER) doctor today to be seen for high blood pressure. Pt. to call us & bring us letter re: need (possible) for blood pressure medication & when he can return for extractions."

13. Respondent failed to provide written instructions regarding follow-up care in Patient J.D.'s treatment record.

14. A review of Patient J.D.'s treatment record from the Monroe Emergency room revealed that Respondent's blood pressure had returned to normal, but he had excessive bleeding.

15. If Respondent's documentation of the amount of anesthetics administered was accurate, the amount was insufficient to address the procedures performed.

16. Respondent, by failing to immediately seek emergency medical attention for Patient J.D. and by failing to control the bleeding, practiced in a manner below professional standards in the practice of dentistry. In doing so, Respondent created an unacceptable risk that Patient J.D. would suffer a stroke, cardiac event or seizures.

Patient M.L.

17. On August 28, 2014, Patient M.L., DOB April 16, 1951, presented to Respondent for extraction of teeth #'s 6-12. Patient M.L. arrived with an elevated blood pressure.

18. Respondent documented that Patient M.L. had been seen by her regular physician and that her blood pressure was within normal limits.

19. It is documented in Patient M.L.'s treatment record that Respondent insisted on doing the treatment.

20. During treatment, Patient M.L.'s blood pressure readings were as follows:

- a. at 10:45 a.m., 176/114
- b. at 11:05 a.m., 204/158
- c. at 11:15 a.m., 210/160
- d. at 11:25 a.m., 211/164
- e. at 11:30 a.m., 210/131
- f. at 11:35 a.m., 212/125

21. Respondent, by continuing with procedures when Patient M.L.'s blood pressure was dangerously high, practiced below the standard of minimal competence in dentistry. In doing so, Respondent created the unacceptable risk that Patient M.L. would suffer a cardiac event, stroke or seizures.

Patient V.S.

22. On September 18, 2014, Respondent extracted teeth #'s 4-6, 9-13, 17 and 18 and placed a denture for Patient V.S., DOB November 11, 1937.

23. Respondent's treatment record for Patient V.S. lacked a procedure note.

24. The records of Patient V.S.'s procedure did not indicate the amount or type of anesthesia Respondent administered during the procedure.

Patient S.D.

25. According to a patient invoice, on September 23, 2014, Respondent saw Patient S.D., DOB October 30, 1961, and extracted teeth #'s 3, 8-10, 13, and 19-26.

26. Patient S.D.'s treatment record fell below the standard of minimal competence in dentistry because the records did not include:

- a. an indication of the teeth that were extracted (the teeth were identified in billing records);
- b. the amount and type of anesthesia administered during the extractions; or
- c. any indication of written instructions regarding post-operation care or follow-up instructions.

Patient J.W.

27. On August 16, 2014, Respondent provided treatment to Patient J.W., DOB August 23, 1933.

28. Patient J.W.'s treatment record fell below the standard of minimal competence in dentistry because the records did not include:

- a. any indication of the teeth that were extracted;
- b. the amount and type of anesthesia administered during the extractions; or
- c. any indication of written instructions regarding post-operation care or follow-up instructions.

Patient L.M.

29. On May 16, 2014, Respondent extracted Patient L.M.'s teeth #'s 2-14, 20-27 and 32. Patient L.M.'s date of birth is May 14, 1953.

30. Respondent's procedure note did not indicate the amount or type of anesthesia administered during the procedure.

31. On May 23, 2014, Patient L.M. returned to the clinic for irritation in the area of teeth #'s 10 and 11.

32. Respondent documented that he removed excess bone and he administered anesthesia "lido (2)."

33. Respondent did not complete a procedure note and did not indicate the amount of anesthesia administered during the procedure.

34. Respondent did not document any notes or written instructions regarding post-operation care or follow-up instructions.

35. On March 18, 2016, Respondent successfully completed six (6) hours of continuing education entitled, "Medical Emergency Management: A Dental Team Approach," provided by the University of Minnesota School of Dentistry.

36. On April 14, 2016, Respondent successfully completed three (3) hours of continuing education on the topic of recordkeeping entitled "Spring Recordkeeping Workshop for the Dental Team," provided by the University of Minnesota School of Dentistry.

37. Respondent denies wrong-doing, however, in resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order. Respondent further explains that he provides all patients with the same post-operation care or follow-up instructions and he therefore did not understand that he needed to document them or include copies in each patient's file.

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, Donald A. Kraut, 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 the health, welfare or safety of a patient or the public.

3. By the conduct described in the Findings of Fact, Donald A. Kraut, 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.

4. As a result of the above violations, Donald A. Kraut, 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 Donald A. Kraut, D.D.S., is REPRIMANDED.
3. The license to practice dentistry issued to Donald A. Kraut, D.D.S., (license number 5782-15) is LIMITED as follows:
 - a. On October 8, 2016, Respondent shall successfully complete continuing education entitled, "Exposure Control, Infection Control & Health Safety in Dental Practice: A 2016 Update," to be provided by The University of Minnesota School of Dentistry.

- b. Within seven (7) days of completing the continuing education course entitled, "Exposure Control, Infection Control & Health Safety in Dental Practice: A 2016 Update," Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- c. In the event Respondent fails to successfully complete the continuing education course entitled, "Exposure Control, Infection Control & Health Safety in Dental Practice: A 2016 Update," Respondent shall, not later than November 30, 2016, complete 4 hours of continuing education on the topic of infection control, as preapproved by the Board or its designee.
- d. On August 20 and 21, 2016, Respondent shall successfully complete fourteen (14) hours of education by attending the "16th Annual Oral and Maxillofacial Surgery Review," sponsored by the University of Minnesota. on the topic of risk management prior to extraction surgery
- e. Within seven (7) days of completing the continuing education course entitled, "16th Annual Oral and Maxillofacial Surgery Review," Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- f. In the event Respondent fails to attend the "16th Annual Oral and Maxillofacial Surgery Review," Respondent shall, not later than November 30, 2016, complete 8 hours of continuing education on the topic risk management prior to extraction surgery, offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course.
- g. All education completed pursuant to this Order shall be taken in-person. Education, such as webinar, online, or self-study shall not be approved.
- h. 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.
- i. None of the education listed in paragraphs 35 and 36 in the Findings of Fact, the education listed in paragraph 3 in the Order or completed pursuant to this limitation 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.
- j. 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.

- k. The Board accepts the continuing education identified in paragraphs 35 and 36 in the Findings of Fact in lieu of continuing education the Board would have otherwise ordered.

Professional Mentor

4. The license to practice dentistry issued to Donald A. Kraut, D.D.S., (license number 5782-15) is further LIMITED as follows:

- a. Within ninety (90) days from the date of this Order, Respondent shall engage the services of a professional mentor who is licensed to practice dentistry in the state of Wisconsin, and who has not been disciplined by the Board.
- b. Within thirty (30) days from the date of this Order, Respondent shall submit to the Department Monitor at the address below a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she has read this Order and agrees to undertake the duties of a professional mentor as set out in this paragraph.
- c. The professional mentor shall be actively engaged in the practice of dentistry and shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department.
- d. The Board's designee has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Board's designee may, for good cause, approve or direct a change in the professional mentor at any time.
- e. Every month, for a period of 24 months, the mentor shall visit and inspect Respondent's dentistry practice, for the purposes of determining whether or not Respondent is maintaining the practice site consistent with standards of the dentistry profession.
- f. During each monthly visit, the mentor shall randomly select and review the charts of at least five (5) patients that have presented to Respondent in the preceding month. The chart review shall thoroughly assess whether Respondent is competently assessing patients for surgical procedures, otherwise practicing dentistry to a standard of minimal competence, and is maintaining patient records in compliance with the rules and regulations of the profession.
- g. The professional mentor shall offer feedback and direction to Respondent for the purposes of assisting Respondent in improving the condition of the practice site, quality of care provided to patients, proper assessment of risk in

procedures performed, and record-keeping. Respondent shall follow the guidance of the mentoring dentist. Whether or not guidance of the mentoring dentist is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Board's designee. These discretionary determinations are not reviewable.

- h. The mentor shall submit written and thorough quarterly reports identifying the number of charts reviewed in the previous quarter, summarizing the quality of care Respondent provided to patients, whether Respondent's records appropriately document procedures performed, medications administered and informed consent. The mentor shall immediately notify the Department Monitor of any concern with Respondent's practice. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- i. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- j. After the timely submission of eight (8) consecutive quarterly mentor reports, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board or its designee for modification or termination of any part of this limitation. Whether to modify the terms of this limitation is in the sole discretion of the Board or its designee and is not reviewable.
- k. Respondent is responsible for any and all costs associated with the services of the professional mentor.

5. The license to practice dentistry issued to Donald A. Kraut, D.D.S., (license number 5782-15) is further LIMITED to require third-party inspections of Respondent's dental practices as follows:

- a. No later than ninety (90) days from the date of this Order, and twice annually thereafter, for a period of three (3) 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.
- e. Respondent shall comply with any and all recommendations of the third-party inspections within a time-frame and otherwise 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 six (6) 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 he offers to practice dentistry, at any time and without prior notice. This limitation is permanent.

6. Within ninety (90) days from the date of this Order, Donald A. Kraut, D.D.S., shall pay COSTS of this matter in the amount of \$4,760.81.

7. Request for approval of a mentor, approval of a third-party inspector, approval of courses, proof of successful course completion, submission of reports, any correspondence pertaining to this Order, 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

8. 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 obtain a professional mentor as ordered, fails to comply with the mentor's guidance, fails to comply with third-party inspections, fails to timely submit reports, 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. 5782-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the mentor's guidance, third-party inspections, payment of costs and has submitted proof of successful completion of the ordered education.

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

WISCONSIN DENTISTRY EXAMINING BOARD

by: 
A Member of the Board

7-6-16
Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DONALD A. KRAUT, D.D.S.,
RESPONDENT.

STIPULATION

0004799

Division of Legal Services and Compliance Case No. 14 DEN 098

Respondent Donald A. Kraut, D.D.S., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

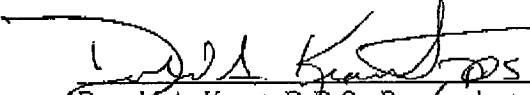
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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 Linda Meagher.
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.

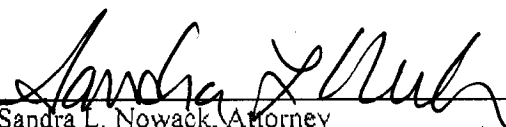
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Donald A. Kraut, D.D.S., Respondent
2325 E. Johnson St.
Madison, WI 53704
License no. 5782-15

5-17-16
Date

Linda Meagher, Attorney for Respondent
Gass Weber Mullins, LLC
309 N. Water St., Ste. 700
Milwaukee, WI 53202

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

5/18/16
Date

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.

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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.

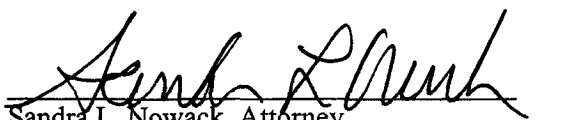
Donald A. Kraut, D.D.S., Respondent
2325 E. Johnson St.
Madison, WI 53704
License no. 5782-15

Date



Linda Meagher, Attorney for Respondent
Gass Weber Mullins, LLC
309 N. Water St., Ste. 700
Milwaukee, WI 53202

5-18-2016
Date



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5/19/16
Date