

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
DAVID J. BROWN, D.D.S., :
RESPONDENT. :
 : **0005008**

Division of Legal Services and Compliance Cases 15 DEN 029

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

David J. Brown, D.D.S.
107 South 3rd Avenue
Edgar, WI 54426

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 David J. Brown, D.D.S., DOB June 16, 1957, is licensed in the state of Wisconsin to practice dentistry, having license number 5318-15, first issued on March 6, 2001 and current through September 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 107 South 3rd Avenue, Edgar, Wisconsin 54426.

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

3. On October 29, 2012, Patient A saw Respondent the first time for extractions and dentures.

4. Respondent was aware that Patient A had a complex medical history including chronic pain, for which Patient A was prescribed daily opiates over a period of years.

5. In correspondence with the Department, Respondent expressed frustration that Patient A requested more pain medications than the average patient and believed that Patient A was also a "chronic marijuana user." Respondent believed that Patient A was more sensitive to pain than other patients.

6. Between November 1, 2014 and December 30, 2014, Respondent prescribed Patient A at least 180 tablets of hydrocodone/acetaminophen 7.5/325.

7. During the same period, another health care professional prescribed Patient A at least 260 tablets of hydrocodone/acetaminophen 5/325.

8. According to the Wisconsin Court System's Circuit Court Access, a searchable online website that discloses circuit court records, Patient A, in 1996 and 2007, had misdemeanor convictions including possession of drug paraphernalia, third offense operating with a BAC of .08 or more, and possession of tetrahydrocannabinol (THC).

9. Respondent did not consult or otherwise coordinate with Patient A's other health care providers.

10. Respondent did not document all prescribing in the patient health care records and acknowledges that his records were only partially legible.

11. In the circumstances of this case, a reasonable dentist would have consulted with other prescribers to monitor the total amount of opiates prescribed to Patient A, would have more fully investigated Patient A's history of addiction, or would have declined to prescribe additional opiates.

12. In failing to coordinate with other prescribers, in prescribing large amounts of scheduled drugs to a patient he suspected was drug dependent, and in failing to clearly document prescribing Respondent created the unacceptable risk that Patient A would suffer an overdose of opiate medications and/or that his dependence would become more severe.

13. In December 2014 Patient A developed an infection and Respondent provided no follow up care.

14. 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, David J. Brown, D.D.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(5), by prescribing controlled substances beyond the amount justified by legitimate medical need.

3. As a result of the above violations, David J. Brown, D.D.S., is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a).

ORDER

1. The attached Stipulation is accepted.
2. Respondent David J. Brown, D.D.S., is REPRIMANDED.
3. The license of David J. Brown, D.D.S. to engage in the practice of dentistry in the state of Wisconsin is hereby LIMITED to require remedial education as follows:

a. Within six months of the date of this Order, Respondent shall successfully complete 12 hours of remedial education on the subject of prescribing controlled substances. The course(s) must be pre-approved by the Board's designee. Successful completion requires that Respondent take and pass any exam offered for the course(s). Courses taken without preapproval may NOT be used to satisfy the remedial education requirements of this Order.

b. Within thirty days of completion of preapproved remedial education, Respondent shall submit proof of successful completion in the form of verification from the institution or organization that provided the education.

c. None of the remedial 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.

d. The Department shall remove this limitation from Respondent's license when Respondent has satisfied the Board's designee that Respondent has successfully completed the preapproved education.

4. The license of David J. Brown, D.D.S. to engage in the practice of dentistry in the state of Wisconsin is hereby LIMITED to prohibit Respondent from prescribing controlled substances to any one patient for more than 30 days in any 365 day period.

5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,114.92.

6. Requests for preapproval of proposed remedial education, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent 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 8935, Madison, WI 53708-8935
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 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 the costs as ordered, prescribes controlled substances as prohibited by this order or in violation of any law, or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 5318-15) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs and completion of the education, or as otherwise deemed appropriate by the Board or its designee.

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

WISCONSIN DENTISTRY EXAMINING BOARD

by:



A Member of the Board

11-2-16

Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID J. BROWN, D.D.S.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005008

Division of Legal Services and Compliance Case No. 15 DEN 029

Respondent David J. Brown, 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.

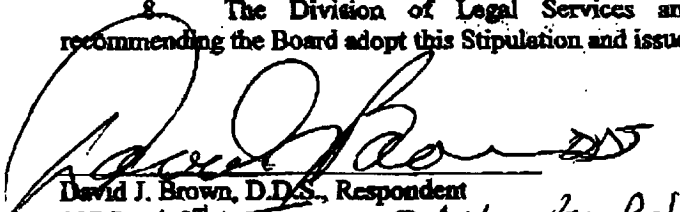
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.


David J. Brown, D.D.S., Respondent
107 South 3rd Avenue 2777 Milwaukee Rd
Edgar, WI 54426 Beloit, WI 53511
License no. 5318-15

8/29/2016
Date


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

8/31/16
Date