

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

JOSEPH D. UKER, D.D.S.,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0006788

Division of Legal Services and Compliance Case No. 18 DEN 070

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

Joseph D. Uker, D.D.S.
La Crosse, WI 54601

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 Joseph D. Uker, D.D.S., (DOB xx/xx/1983) is licensed in the state of Wisconsin to practice dentistry, having license number 6868-15, first issued on May 15, 2012, and current through September 30, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in La Crosse, Wisconsin.

2. Between August 1, 2012 and May 18, 2018, Respondent was employed as a dentist at dental clinic (Clinic), located in La Crosse, Wisconsin.

3. On July 27, 2018, Respondent self-reported to the Board that he had entered an inpatient substance abuse program and was not actively working as a dentist. He stated that he

had not provided patient care while impaired and he entered the program voluntarily. His intention was to resume the practice of dentistry after treatment.

4. On July 31, 2018, a former co-worker from the Clinic reported to the Department that after Respondent's departure, on June 28, 2018, a voicemail from Respondent's cell phone was left at the Clinic. The voicemail indicated that Respondent was attempting to purchase \$3,000.00 worth of cocaine.

5. In an internal investigation prompted by the voicemail, Clinic staff reported having had confronted Respondent in April 2018 regarding suspicions he had been using nitrous oxide for personal use after hours. Respondent admitted at that time he had been using the nitrous oxide and agreed to stop.

6. Respondent stated that at the time of the voicemail, he had been on a trip to Malawi, Africa and was unaware of any calls made to the Clinic from his cell phone.

7. Upon his return from Africa, Respondent voluntarily sought treatment for substance abuse issues at a well-reputed treatment center (Center) on July 16, 2018. Respondent was admitted for one month of inpatient treatment.

8. Pursuant to a valid release, the Department obtained Respondent's treatment records from the Center. These records document Respondent's drug use, the call/voicemail left at the Clinic, as well as Respondent's psychiatric and drug related hospitalizations.

9. On August 17, 2018, Respondent was discharged from inpatient treatment at the Center.

10. On September 22, 2018, Respondent was readmitted to the Center after a polysubstance relapse. He was discharged on September 27, 2018.

11. On January 14, 2019, Respondent sought inpatient treatment at a different facility and was an inpatient for 77 days, followed by three months in a sober men's home. He reports sobriety since that time.

12. Respondent had not worked since departing the Clinic on May 18, 2018 but reports a new job scheduled to begin on February 17, 2020. He states that this new opportunity is aware of his substance abuse issues and recovery and are supportive.

13. 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, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(6), by administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in Wis. Stat. § 961.01(4), other than in the course of legitimate practice, or as otherwise prohibited by law.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § DE 5.02(20), by violating, or aiding and abetting the violation of any law substantially related to the practice of dentistry.

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 447.07(3)(f).

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. The license to practice dentistry issued to Respondent (license number 6868-15) is LIMITED as follows:

a. For a period of at least two (2) years from the date of this Order:

- i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
- ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends, and holidays.
 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.

- iii. Respondent shall abstain from all personal use of alcohol.
- iv. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed, or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- vi. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that he may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)v.
- vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- viii. If any urine, blood, sweat, fingernail, hair, saliva, or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

- ix. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- x. Respondent shall provide his dentistry employer with a copy of this Order before engaging in any dentistry employment. Respondent shall provide the Department Monitor with written acknowledgment from each dentistry employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.
- xi. Respondent shall not work as a dentist or other health care provider in a setting in which Respondent has access to controlled substances. Respondent shall provide the Department Monitor with written acknowledgment from each dentistry employer that Respondent does not have access to controlled substances. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each dentistry employer.

4. The Board or its designee may, without hearing, suspend Respondent's dentistry license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision. The Board or its designee may, in conjunction with the suspension, prohibit Respondent from seeking termination of the suspension for a specified period of time.

5. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee.

6. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

7. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$507.00.

8. Any requests, documents 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

You may also submit this information online via DSPS' Monitoring Case Management System,
here:

<https://dpsmonitoring.wi.gov>

9. In the event that Respondent violates any term of this Order, Respondent's license (no. 6868-15) to practice dentistry in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN DENTISTRY EXAMINING BOARD

by: Matthew Bistancic A
A Member of the Board

5/6/2020
Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOSEPH D. UKER, D.D.S.,
RESPONDENT.

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STIPULATION
ORDER 0006786

Division of Legal Services and Compliance Case No. 18 DEN 070

Respondent Joseph D. Uker, 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.

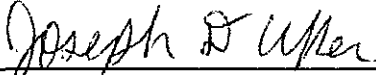
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

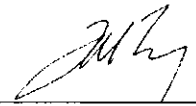
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Joseph D. Uker, D.D.S., Respondent
La Crosse, WI 54601
License no. 6868-15

3-25-2020
Date



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

3/31/2020
Date