

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	FINAL DECISION AND ORDER
MARK J. KORTEBEIN, D.D.S.,	:	FOR REMEDIAL EDUCATION
LICENSEE.	:	

ORDER 0007460

Division of Legal Services and Compliance Case No. 19 DEN 021

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

Mark J. Kortebein, D.D.S.
Mequon, WI 53092

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. Mark J. Kortebein, D.D.S. (Licensee), (DOB xx/xx/1960) is licensed in the state of Wisconsin to practice dentistry, having license number 4130-15, first issued on May 15, 1990, and current through September 30, 2021. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Mequon, Wisconsin 53092.

2. At all times relevant to this proceeding, Licensee practiced dentistry at a clinic located in Oak Creek, Wisconsin (Clinic).

3. On December 14, 2018, Patient A (a 24-year-old male) had an appointment with Licensee at the Clinic to have three (3) impacted wisdom teeth removed.

4. Licensee administered the following medications to Patient A during his oral surgery: 10 mg midazolam (Versed), 100 mcg fentanyl, 8 mg dexamethasone, 40 mg propofol, and 2 cc 0.9% sodium chloride. Patient A was also administered a reversal agent (1 cc Romazicon) to reverse the sedative effects of the midazolam.

5. The anesthesia record reflects that Licensee began administering anesthesia to Patient A at 10:12 a.m. and finished at 10:39 a.m. The anesthesia record for Patient A does not specify the time at which each of the aforementioned medications was administered.

6. Patient A was discharged to his mother at 11:01 a.m. after being assessed by the Licensee and his staff using a specific evaluation metric which is derived from the Aldrete Scoring System and involves evaluating Patient A's activity, respiration, consciousness and color. Patient A had voluntary movements of all limbs to command, was able to breathe deeply and cough, was assessed as fully awake and his color was pink.

7. Licensee provided verbal and written instructions to Patient A that he be accompanied by a responsible adult to drive him home and stay with him until he was sufficiently recovered to care for himself. He further instructed Patient A not to drive, operate complicated machinery or make important decisions. Respondent states that he provides the same instructions for all of his patients to whom he administers anesthesia.

8. Later that day, Patient A was taken to the hospital via EMS services and treated in the emergency room (ER). His parents reported that he had fallen twice while at home, was acting unusual and saying bizarre things after he returned home from having his wisdom teeth procedure. Patient A was discharged from the ER with a diagnosis of transient alteration of awareness and medication side effect (noted to be attributable to the narcotics given during his oral surgery).

9. A re-sedation window is the period of time after a reversal agent wears off, but before the sedative (midazolam) wears off, during which a patient can experience a recurrence of sedation symptoms. The timing of a re-sedation window can be calculated based on the amount of medication administered, the time administered, and the half-life of such medications.

10. Because the anesthesia record for Patient A does not provide details regarding the specific time that each of the medications were administered, including the reversal agent, the time period of Patient A's re-sedation window cannot be calculated based on the information in the record. There is no documentation in Patient A's record to reflect the calculation of a re-sedation window by Licensee.

11. Licensee states that he did calculate and consider a re-sedation window when treating Patient A, as he does with all patients who are provided anesthesia. Licensee believes that the cause of Patient A's behavior was likely related to the narcotic medication he received and a reaction to the same, as opposed to a re-sedation window.

12. The investigation of this matter by the Division of Legal Services and Compliance was initiated when Patient A's mother filed a complaint regarding Respondent's care and treatment of Patient A.

13. This Final Decision and order for Remedial Education does not constitute professional discipline and the Board has made no finding that Licensee engaged in unprofessional conduct.

14. In resolution of this matter, Licensee 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, Licensee violated Wis. Admin. Code § DE 11.09(9) by failing to maintain an anesthesia record that documents all events related to the administration of the sedative or anesthetic agents, including a time-oriented anesthesia record that includes the date, names of all drugs administered, dosages, methods of administration and monitored physiological parameters. Specifically, Respondent failed to document in Patient A's anesthesia record the specific times each anesthesia medication and reversal agent was given.

ORDER

1. The attached Stipulation is accepted.

2. Within six (6) months of the date of this Order, Licensee shall at his own expense take and successfully complete four (4) hours of education on the topic of anesthesia, including anesthesia documentation, as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
- b. All education completed pursuant to this Order shall be taken in-person. The Board's monitoring liaison may approve course(s) to be taken via webinar, online, or otherwise remotely, in response to a request from Licensee.
- c. Licensee 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.
- d. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Licensee. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

- e. 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.


3. Request for approval of courses and proof of successful course completion shall be sent by Licensee 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

Licensee may also submit this information online at: <https://dspsmonitoring.wi.gov>.

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

WISCONSIN DENTISTRY EXAMINING BOARD

By: 
A Member of the Board

7 July 2021
Date

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

MARK J. KORTEBEIN, D.D.S.,
LICENSEE.

:
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:
:
STIPULATION

ORDER 0007460

Division of Legal Services and Compliance Case No. 19 DEN 021

Mark J. Kortebein, D.D.S., (Licensee) 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. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by Attorney Sean Gaynor.

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

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

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



Mark J. Kortebein, D.D.S., Licensee
Mequon, WI 53092
License No. 4130-15

6/15/21
Date



Sean Gaynor, Attorney for Licensee
Leib Knott Gaynor, LLC
219 N. Milwaukee St., Suite 710
Milwaukee, WI 53202

6/15/21
Date



Carley Peich Kiesling, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

06/15/2021
Date