

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

OLEKSII GUDYM, D.D.S.,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0007575

Division of Legal Services and Compliance Case No. 21 DEN 045

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

Oleksii Gudym, D.D.S.
Green Bay, WI 54301

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 Oleksii Gudym, D.D.S., (Year of Birth 1990) is licensed in the state of Wisconsin to practice dentistry, having license number 1002444-15, first issued on September 21, 2020, 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 Green Bay, Wisconsin 54301.

2. At all times relevant to this proceeding, Respondent was employed as a dentist at a clinic in Green Bay, Wisconsin (Clinic).

3. On March 18, 2021, Patient A (an 87-year-old female) presented to the Clinic from a nursing home for two fillings and one extraction.

4. Patient A had an active power of attorney (POA) since 2017 due to cognitive impairment concerns and her doctor's opinion that she cannot make complex medical decisions for herself.

5. On March 18, 2021, Respondent completed a full upper and lower extraction of Patient A's teeth, pulling a total of 25 teeth, instead of the planned two fillings and one extraction.

6. Prior to proceeding with the full upper and lower extraction of Patient A's teeth, Respondent did not inquire as to whether Patient A had a POA, nor did Respondent contact the POA or nursing home to discuss the drastic change in treatment plan or Patient A's ability to consent to such treatment.

7. Respondent told the Department that the treatment plan for Patient A was changed due to the condition of Patient A's teeth, and that Patient A seemed of sound mind and consented to the change.

8. Respondent's charting with regard to Patient A's March 18, 2021, appointment was insufficient as follows:

- a. The initial reason for the appointment (two fillings and one extraction) and Respondent's change in treatment plan is not referenced anywhere in Respondent's note.
- b. Patient A's medical history form and other forms were only partially completed and unsigned, and missing crucial information such as anticoagulant history and presence of heart murmur, for example.
- c. Patient A's consent form was incomplete, including failure to identify the teeth to be extracted.

9. X-rays taken on March 18, 2021, were not diagnostic due to extremely poor quality.

10. The standard of care required that Respondent inquire about a POA before proceeding with treatment, in light of Patient A's age and infirmity and the fact she presented to the Clinic from a nursing home.

11. The standard of care required that Respondent document the original treatment plan, obtain diagnostic x-rays, document his assessment and decision to change the treatment plan, and consult with Patient A and her POA before extracting 25 of Patient A's teeth in one appointment.

12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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 violated 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, Respondent violated 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 or dental hygienist which harms or could have harmed a patient.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent's license to practice dentistry in the state of Wisconsin (license number 1002444-15) is **SUSPENDED** for thirty (30) days from the date of this Order.
3. Respondent's license to practice dentistry in the state of Wisconsin (license number 1002444-15) is **LIMITED** as follows:
 - a. Within thirty (30) 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 fifteen (15) days of 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 or other summary of qualifications and a letter from the mentor confirming that he or she has read this Final Decision and Order and agrees to undertake the duties of a mentoring dentist as set out in this Order.
 - c. The mentoring dentist shall be actively engaged in the practice of dentistry and shall not have any personal 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 monitoring liaison 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 monitoring liaison may approve or direct a change in the mentoring dentist for any of the following reasons: the mentoring dentist is unable to carry out the responsibilities set out in this order; the mentoring dentist requests the change; the mentoring dentist concludes that Respondent cannot safely and reliably engage in the practice of dentistry; or the mentoring dentist fails to meet any requirement of this order.

- e. Subsequent to the suspension referenced in paragraph 2 above, the mentoring dentist shall meet with Respondent at least once monthly. During each meeting the mentoring dentist shall review ten (10) randomly selected case files of patients Respondent has seen in the preceding month. The mentoring dentist shall offer feedback and direction to Respondent for the purposes of ensuring that Respondent provides dental care, prescribes medications, maintains patient health care records, and completes treatment planning to a level of minimal competence.
 - f. Respondent shall follow the guidance and recommendations of the mentoring dentist.
 - g. 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 monitoring liaison. These discretionary determinations are not reviewable.
 - h. Respondent shall meet monthly with the mentoring dentist for at least twenty-four (24) months. The mentoring dentist shall file quarterly reports with the Department Monitor at the address below. The reports shall specifically address the topics identified subparagraph (e) above. It is Respondent's responsibility to ensure these reports are submitted when due.
 - i. The mentoring dentist shall immediately report, in writing, any unprofessional conduct, incompetent practice, serious gap in knowledge, or suspected violation of this Order to the Department Monitor.
 - j. After the timely submission of at least eight (8) consecutive favorable quarterly reports, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board for modification or termination of any part of this limitation. The Board or its monitoring liaison shall modify or remove the terms of this limitation after Respondent petitions the Board, and the Board or its monitoring liaison determines that Respondent is in compliance with the requirements of this Order and doing so does not create an unacceptable risk to patients or the public. Whether to modify the terms of this limitation is in the sole discretion of the Board or its monitoring liaison and is not reviewable.
 - k. Respondent is responsible for all costs associated with the mentoring dentist.
4. Respondent's license to practice dentistry in the state of Wisconsin (license number 1002444-15) is further LIMITED as follows:
- a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete twenty four (24) hours of education on the topic of treating the elderly population; twelve (12) hours of education on the topic of documentation and medical history taking; and twelve (12) hours of education on the topic of

communication with patients, offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.

- 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 Respondent.
- c. 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.
- d. 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.
- e. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- f. 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.

5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$895.00.

6. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

7. In the event Respondent violates any term of this Order, Respondent's license (license number 1002444-15), or Respondent's right to renew his license, 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.

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

WISCONSIN DENTISTRY EXAMINING BOARD

By:  Date 1 September 2021
A Member of the Board

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

OLEKSHI GUDYM, D.D.S.,
RESPONDENT.

STIPULATION

ORDER 0007575

Division of Legal Services and Compliance Case No. 21 DEN 045

Respondent Oleskii Gudym, 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.

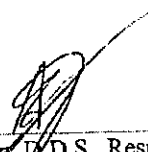
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

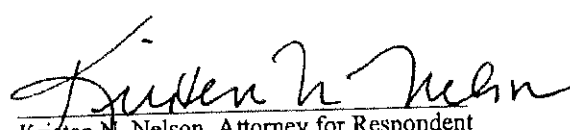
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.




Oleksii Gudym, D.D.S., Respondent
Green Bay, WI 84301
License No. 1002444-15

08/11/2021
Date



Kristen N. Nelson, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown, LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, Wisconsin 53202

8/12/21
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

08/16/21
Date