

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

ROBERT A. DWYER, D.D.S.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:
:

2023 DEN 0007:71

Division of Legal Services and Compliance Case No. 20 DEN 124

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

Robert A. Dwyer, D.D.S.
De Pere, WI 54115

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 Robert A. Dwyer, D.D.S., (Year of Birth 1953) is licensed in the state of Wisconsin to practice dentistry, having license number 2268-15, first issued on June 18, 1979, and current through September 30, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in De Pere, Wisconsin 54115.

2. At all times relevant to this proceeding, Respondent practiced dentistry at a tribal health center in Hobart, Wisconsin (Center).

3. On December 2, 2020, Patient A called the Center and indicated her crown came off on the lower left.

4. On December 3, 2020, Patient A was scheduled for an appointment with Respondent to evaluate the crown and recement it, if needed.

5. On December 9, 2020, Patient A presented to Respondent for a limited oral evaluation and reported no pain or sensitivity. Panoramic films were taken, as well as bitewings of Patient A's left side. Respondent charted that he reviewed the x-ray and that Patient A had lost crown #18. Respondent recemented the crown, checked for occlusion, contacts, and margins, and advised Patient A that long-term retention may be problematic given that "prep was very short and tapered."

6. On December 10, 2020, Respondent appended the chart by adding "second review of x-rays shows radiolucency around roots tooth 18. Please advise patient that if symptoms occur notify clinic."

7. On that same day, the Center's office manager called Patient A to inform her there was a suspicious area by the roots of the tooth with the recemented crown and that if she has any pain, or if a pimple forms on the gum near the tooth, to call for reevaluation. Patient A told the office manager she "did have a pimple in that area a few weeks ago but it popped and went away." The office manager charted that "DDS was advised of the information the pt gave regarding the pimple...."

8. Respondent failed to diagnose the radiolucency during the December 9, 2020 appointment and, after discovering it on x-ray and being advised about Patient A's report of a pimple, did not recommend that Patient A return to the Center as soon as possible to treat it.

9. 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(3) 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 practiced in a manner which substantially departed from the standard of care ordinarily exercised by a dentist which harms or could have harmed a patient, within the meaning of Wis. Admin. Code § DE 5.02(5).

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 447.07(3)(a) and (h), and Wis. Admin. Code Ch. DE 5.

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Respondent's license to practice dentistry in the state of Wisconsin (license number 2268-15) is LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at his own expense, successfully complete a total of eight (8) hours of continuing education on the topics of managing oral infections and endodontic emergencies offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
- b. 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. 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, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- c. 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.
- d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$735.00.

5. 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://dspsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license (number 2268-15), 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.

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

WISCONSIN DENTISTRY EXAMINING BOARD

By: Shahida Gwani
A Member of the Board

Date 3 November 2021

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT A. DWYER, D.D.S.,
RESPONDENT.

STIPULATION

ORDER 0007171

Division of Legal Services and Compliance Case No. 20 DEN 124

Respondent Robert A. Dwyer, 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.



Robert A. Dwyer, D.D.S., Respondent
De Pere, WI 54115
License No. 2268-15

10/11/2021
Date



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

10/11/2021
Date