

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



### Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

#### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DSPS website:** An individual who believes that information on the website is inaccurate may contact [DSPS@wisconsin.gov](mailto:DSPS@wisconsin.gov)

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
CLARENCE E. KUSIK, D.D.S.,	:	
RESPONDENT.	:	<b>ORDER 0008144</b>

---

Division of Legal Services and Compliance Case No. 21 DEN 127

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

Clarence E. Kusik, D.D.S.  
Nashotah, WI 53058

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. Clarence E. Kusik, D.D.S. (Respondent), (Year of Birth 1943) is licensed in the state of Wisconsin to practice dentistry, having license number 5000432-15, first issued on June 15, 1967, 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 Nashotah, Wisconsin 53058.

2. At all times relevant to these matters, Respondent practiced dentistry at a clinic located in Okauchee, Wisconsin (Clinic).

3. On April 9, 2021, Patient A (male born in 1960) sought treatment from Respondent at the Clinic for an initial examination and root canal on tooth #10. Respondent took x-rays and

noted a large abscess in tooth #10. Respondent informed Patient A that a root canal may be unsuccessful and discussed treatment options including extraction. Patient A elected to proceed with root canal therapy.

4. On April 12, 2021, Patient A returned, and Respondent opened the canal of tooth #10 to promote healing and drainage of the abscess. Patient A returned on April 21, 2021, for a re-check at which time Respondent determined it was not draining. Respondent then used a reamer to clean and shape the root canal prior to filling, breaking the tip of the file off, into the canal, during the process. Respondent continued and filled the canal with gutta percha, fabricated a polycarbonate crown, and took a final x-ray.

5. On May 27, 2021, Patient A returned to the Clinic with pain and swelling. Respondent took x-rays which showed separation from the gutta percha, and referred him to an oral surgeon. Respondent's records did not describe the instrument separation in the canal or reflect that he informed Patient A of the separation. Radiographs taken of Patient A by Respondent reflect the presence of the broken instrument tip in the canal.

6. On December 2, 2021, the Division of Legal Services and Compliance requested Respondent provide documentation of his continuing education for the 2019-2021 biennium. Respondent did not complete any continuing education for the 2019-2021 biennium. Respondent asserted that it was his understanding that the continuing education requirements, related to his license, were suspended due to COVID-19.

7. The continuing education requirements found in Wis. Stat. ch. 447 and Wis. Admin. Code DE chs. 2 and 13 were not suspended or waived before, during, or after the COVID-19 pandemic.

8. 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 engaged in unprofessional conduct 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 within the meaning of Wis. Admin. Code § DE 5.02(5).

3. By the conduct described in the Findings of Fact, Respondent failed to comply with the requirement of completion of continuing education credit hours within the meaning of Wis. Admin. Code §§ DE 2.03(1)(c) and DE 13.03(1), and Wis. Stat. § 447.04(1)(b)2.

4. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct by violating a valid rule of the Dentistry Examining Board within the meaning of Wis. Admin. Code. § DE 5.02(16).

5. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 447.07(3)(f) and (h) and Wis. Admin. Code § DE 5.02(5).

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. The license issued to Respondent to practice dentistry in the state of Wisconsin (license no. 5000432-15), is LIMITED as follows:
  - a. Within six (6) months of the date of this Order, Respondent shall provide the Department Monitor with evidence sufficient to the Department Monitor and/or Board's monitoring liaison that Respondent has complied with the continuing education requirements found in Wis. Admin. Code § DE 13.01 and cardiopulmonary resuscitation requirements found in Wis. Stat. § 447.04(1)(b)2. and Wis. Admin. Code § DE 2.03(1)(c), for the 2019-2021 biennium.
  4. The license issued to Respondent is further LIMITED as follows:
    - a. Within six (6) months of the date of this Order, Respondent shall at his own expense, successfully complete two (2) hours of education on the topic of patient record keeping and two (2) hours of education on the topic of risk management offered by a provider pre-approved by the Board 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 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.
    - d. The Board 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.
5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$553.00.
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  
DPSMonitoring@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 (5000432-15), 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:   
A Member of the Board

09-07-2022  
Date

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

CLARENCE E. KUSIK, D.D.S.,  
RESPONDENT.

:  
:  
:  
:  
:

STIPULATION

**ORDER 0008'4'**

---

Division of Legal Services and Compliance Case No. 21 DEN 127

Clarence E. Kusik, D.D.S. (Respondent), 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. Respondent is represented by Attorney Ellison Hitt.

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

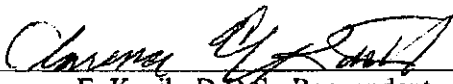
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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 or Respondent's attorney, 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.


9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Clarence E. Kusik, D.D.S., Respondent  
Nashotah, WI 53058  
License No. 5000432-15

7-6-22  
Date

  
Ellison Hitt, Attorney for Respondent  
Siesennop & Sullivan, LLP  
111 W. Pleasant St., Ste. 110  
Milwaukee, WI 53212

7/6/22  
Date

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

7/12/22  
Date