

## 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

THOMAS J. MCCARTHY, D.D.S.,  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
:  
: **ORDER 0008324**

---

Division of Legal Services and Compliance Case No. 21 DEN 095

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

Thomas J. McCarthy, D.D.S.  
Milwaukee, WI 53222

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 Thomas J. McCarthy, D.D.S., (Year of Birth 1948) is licensed in the state of Wisconsin as a dentist, having license number 5001433-15, first issued on March 11, 1975 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 Milwaukee, Wisconsin 53222.

Prior Discipline

2. On May 2, 2001, the Board issued Order Number LS0105021DEN, which reprimanded Respondent for employing an unlicensed or uncertified person to practice dentistry.

### Current Discipline

3. At all times relevant to this proceeding, Respondent practiced as a dentist at a clinic he owned located in Brookfield, Wisconsin (Clinic).

4. On July 29, 2021, the Department received a complaint that Respondent failed to correctly submit prior authorization to Medicare for Patient A's dentures which caused Medicare to deny Patient A's claim.<sup>1</sup>

5. As part of the Department's investigation, Respondent was requested to provide evidence that he completed the required 30 continuing education credit hours for the 2019-2021 biennium. Respondent was unable to produce evidence that he was in compliance as required by Wis. Admin. Code § DE 13.03.

6. Respondent informed the Department that he closed the Clinic in August 2020 and retired from the practice of dentistry as of the end of 2021. Respondent has offered to surrender his dentistry license in lieu of other formal discipline.

7. 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).

### ORDER

1. The attached Stipulation is accepted.

2. The SURRENDER by Respondent of his license to practice dentistry in the state of Wisconsin (license no. 5001433-15), as well as his right to renew such license, is accepted.

3. In the event Respondent petitions the Board for reinstatement of his license to practice dentistry in the state of Wisconsin or applies for another credential in the state of Wisconsin under Wis. Stat. chs. 440 through 480, Respondent shall pay the costs of this matter in the amount of \$600.00, before any petition or application for a credential will be considered by the applicable board or Department.

4. In the event Respondent petitions the Board for reinstatement as a dentist, the Board may enter an order denying such application without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license granted shall be in the sole discretion of the Board and such decision is not reviewable.

---

<sup>1</sup> After investigating, the Department determined the underlying allegations did not warrant further action.


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

WISCONSIN DENTISTRY EXAMINING BOARD

By:  Date 1/4/2023  
A Member of the Board

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

THOMAS J. MCCARTHY, D.D.S.,  
RESPONDENT.

:  
:  
:  
:  
:

STIPULATION

ORDER 0008324

---

Division of Legal Services and Compliance Case No. 21 DEN 095

Respondent Thomas J. McCarthy, 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. Respondent is represented by Attorney Erik Monson.

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

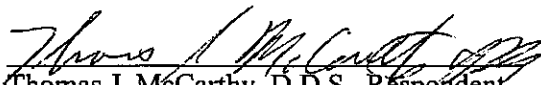
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.

  
Thomas J. McCarthy, D.D.S., Respondent  
Milwaukee, WI 53222  
License No. 5001433-15

11-17-22  
Date

  
Erik H. Monson, Attorney for Respondent  
Coyne, Schultz, Becker & Bauer, S.C.  
150 E. Gilman St., Ste. 1000  
Madison, WI 53703

11-15-22  
Date

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

11/28/22  
Date