

BEFORE THE KANSAS DENTAL BOARD

FILED
FEB 12 2010
KANSAS DENTAL BOARD

In the Matter of)
)
BRENT R. JONES, D.D.S.)
Kansas License No. 7033)
_____)

Case No. 08-100

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board ("Board") and Brent R. Jones, D.D.S. ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Respondent is represented herein by his attorney, J. Philip Davidson of Hinkle Elkouri Law Firm L.L.C., 2000 Epic Center, 301 North Main Street, Wichita, Kansas 67202-4820.

2. The Kansas Dental Board ("Board") is the duly constituted and acting agency of the State of Kansas authorized to administer and enforce the provisions of the Kansas Dental Practices Act, which is codified in article 14 of chapter 65 and article 14 of chapter 74 of the Kansas Statutes Annotated and amendments thereto ("KDPA" or "Act"). Pursuant to applicable provisions of the KDPA and the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* ("KAPA"), whenever it is established that a licensee has committed any of the acts described in K.S.A. 65-1436(a), the Board may revoke, suspend and/or limit the licensee's Kansas license to practice dentistry and/or assess a civil fine against the licensee in an amount not in excess of \$10,000.00. See K.S.A. 65-1436(b), 65-1436(d) and 65-1449.

3. The Respondent is presently entitled to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued him Kansas license number 7033. At all times relevant hereto, the Respondent has held a current license to engage in the practice of dentistry in the State of Kansas.

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has engaged in conduct which is grounds for disciplinary action under the provisions of K.S.A. 65-1436(b) and/or 65-1436(d).

5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded and passed, the Board finds, that:

A. On or about May 30, 2007, the Respondent treated Patient S.B. by performing restorations for teeth #8 and #9. The restorations were $\frac{3}{4}$ crowns and not full coverage crowns. The Respondent subsequently submitted a claim seeking payment for this work to Patient S.B.'s dental insurance company. The claim incorrectly identified and miscoded, for billing purposes, the $\frac{3}{4}$ crowns as full crowns.

B. On or about August 10, 2007, the Respondent received and retained payment from Patient S.B.'s dental insurance company ("insurance company") for performing full crowns for teeth #8 and #9.

6. Based on the conduct set forth in Paragraph 5 above, the petition in this case seeks appropriate disciplinary action against the Respondent and/or his Kansas License based on the alleged violation of K.S.A. 65-1436(a)(1) and/or 65-1436(a)(16). While the Respondent acknowledges that his claim for payment to the insurance company miscoded the restorations for Patient S. B. as full crowns instead of $\frac{3}{4}$ crowns, the Respondent expressly denies that he

engaged in any conduct which violates any provision of the KDPA, including K.S.A. 65-1436(a)(1) and/or 65-1436(a)(16). Moreover, the Respondent states that this coding error was neither knowingly nor intentionally committed, that such miscoding was not committed with any intent to deceive or for the purpose of obtaining the payment of money or anything of value from the insurance company to which the Respondent was not entitled, that such miscoding did not deceive the insurance company, and that this coding error did not result in any overpayment to the Respondent for the restoration work at issue herein.

7. The Board and the Respondent each understand, stipulate and agree that professional disciplinary actions may be lawfully resolved through the use of stipulations and consent agreements without a formal hearing or completion of the adjudicative process. *See, e.g.,* K.S.A. 77-505. The parties further expressly stipulate and agree that this disciplinary action should be resolved by settlement, without a formal hearing or completion of the adjudicative process, in accordance with the terms and conditions of this Stipulation and Consent Order.

8. The Respondent agrees and consents, and the Board finds and concludes, that the following disposition is just and appropriate under the circumstances:

A. ADMINISTRATIVE FINE. The Respondent agrees, and the Board further orders the Respondent, to pay to the Board, within ten (10) days of the effective date of this Stipulation and Consent Order, an administrative fine in the amount of One Thousand Dollars (\$1,000).

B. OTHER REQUIREMENTS. The Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must, and the Board further orders the Respondent to fully comply with the terms and conditions of this Stipulation and Consent Order, the provisions of the Kansas Dental Practices Act, the Board's rules and regulations

applicable to the practice of dentistry in this State, and all state and federal laws applicable to Kansas dentists.

9. The Respondent stipulates and agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorneys regarding the complaint which led to this disciplinary action, the investigation of the complaint and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board as part of the presentation and consideration of a settlement proposal in the form of this Stipulation and Consent Order, with or without the presence of the Respondent or his attorney. In the event that this Stipulation and Consent Order is not accepted and approved by the Board, the Respondent hereby knowingly, intelligently and voluntarily waives: (a) any objection to the receipt and/or consideration of this Stipulation and Consent Order and/or the information mentioned in the preceding sentence by the Board or any member thereof; (b) any right to seek the disqualification of the Board or any member thereof based on or as a result of the receipt and/or consideration of said document and information; and (c) any claim that the constitution and/or laws of the United States and/or the State of Kansas, including principles of due process of law that would be or arguably might be otherwise applicable, prohibits further participation in this action by the Board and/or any member thereof based on or as a result of the receipt and/or consideration said document and information.

10. Except as provided in Paragraph 9 above, the stipulations and orders contained herein shall not become binding until this Stipulation and Consent Order is approved by the Board and entered as an order of the Board evidenced by the signature of the President or other authorized representative of the Board. The Respondent acknowledges that the approval of the

Board's attorney shall neither constitute the approval of the Board nor obligate the Board to approve this Stipulation and Consent Order.

11. The Respondent stipulates and agrees that this Stipulation and Consent Order is in conformity with all applicable requirements of Kansas and federal law and that the Board is authorized to enter into it. The Respondent further agrees that the Kansas Dental Practices Act is constitutional on its face and as applied in this case.

12. This Stipulation and Consent Order constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. This Stipulation and Consent Order shall also be governed by and interpreted in accordance with the laws of the State of Kansas.

13. The Respondent acknowledges that he has the following rights:

- A. To have formal notice of charges served upon him;
- B. To file a response to the charges;
- C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

- D. To take advantage of all applicable provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The Respondent knowingly, intelligently and voluntarily waives these rights as part of the consideration for this Stipulation and Consent Order, including the Board's agreement to limit disciplinary action in this case to the specific provisions set forth herein. In further consideration hereof, the Respondent also knowingly, intelligently and voluntarily waives his

rights to seek administrative reconsideration or judicial review or to otherwise contest this Stipulation and Consent Order in direct or collateral proceedings of any kind.

14. The Respondent expressly acknowledges, stipulates and agrees that he enters into this Stipulation and Consent Order knowingly, intelligently and voluntarily after consultation with counsel of his choosing. The Respondent further acknowledges that he has read this Stipulation and Consent Order in its entirety, that he understands its legal consequences and that he agrees that none of its terms or conditions are individually or collectively unconscionable, arbitrary, capricious or unreasonable.

15. Time is of the essence to this Stipulation and Consent Order. The Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Consent Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Consent Order.

16. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Consent Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Consent Order shall be given full force and effect.

17. Upon execution by all parties and entry as an order by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

18. This Stipulation and Consent Order shall be effective immediately upon approval by the Board and entry as an order of the Board evidenced by the signature of the President or other authorized representative of the Board following such agency action.

19. The Respondent acknowledges that he has been advised by the Board that he would have the right within 15 days after service of this Stipulation and Consent Order to file a petition for reconsideration with the Board and the right within 30 days after service of the Stipulation and Consent Order to file a petition for judicial review in the District Court of Shawnee County, Kansas, in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*, and to serve such a petition for judicial review on the Kansas Dental Board by serving Betty Wright, its Executive Director, at 900 SW Jackson, Room 564-S, Topeka, KS 66612. The Respondent hereby knowingly, intelligently and voluntarily waives those rights.

ENTERED AND EFFECTIVE this 12th day of February,
2010.

KANSAS DENTAL BOARD

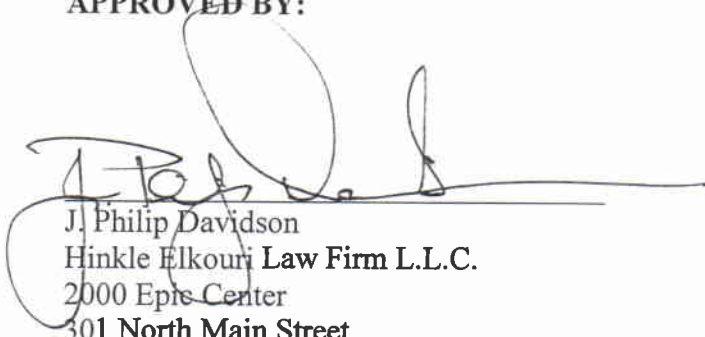
By: Jane A. Criser RDH
RICHARD DARNALL, D.D.S.
President

AGREED TO AND APPROVED BY:

Brent R. Jones
Brent R. Jones, D.D.S.
Respondent

12-29-2009
Date

APPROVED BY:



J. Philip Davidson
Hinkle Elkouri Law Firm L.L.C.
2000 Epic Center
301 North Main Street
Wichita, Kansas 67202-4820
Counsel for Respondent

1/6/10
Date



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*Disciplinary Counsel for the
Kansas Dental Board*

January 11, 2010
Date

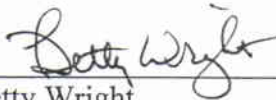
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing **STIPULATION AND CONSENT ORDER** was served by depositing same in the United States mail, postage prepaid, this 16th day of February, 2010, addressed to:

Randall J Forbes, P.A.
FRIEDEN & FORBES
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Topeka, KS 66603

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Wichita, KS 67202-4820

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Tonganoxie, KS 66086



Betty Wright
Executive Director
KANSAS DENTAL BOARD