

B. Lane Hensley

BEFORE THE KANSAS DENTAL BOARD
OF THE STATE OF KANSAS

FILED

JUL 23 2012

In the Matter of)
)
Charlotte Turner-Williams, DDS)
Kansas License No. 60019)
_____)

KANSAS DENTAL BOARD

Case Nos. 08-102, 09-43 & 10-101

OAH No. 12DB0004

Pursuant to Chapter 77

INITIAL ORDER

This matter comes on for hearing upon the Petition for Discipline issued by the Kansas Dental Board (petitioner) alleging that Charlotte Turner-Williams, DDS (respondent) has violated provisions of the Kansas Dental Practices Act as defined at Kansas Statutes Annotated (K.S.A.) 65-1464.

A formal hearing of this matter was held on May 10, 2012.

Thereafter, the parties were given an opportunity to file proposed findings of fact and conclusions of law. This matter is now ripe for Initial Order.

Findings of Fact

1. The respondent was issued License No. 60019 by the petitioner.
2. The respondent practices dentistry in Wichita, Kansas.
3. On or about September 24, 2010, a complaint was filed with the petitioner by B.W., a patient of the respondent. B.W. had made payment to the respondent in the amount of \$540.00 for dentures. This was following the extraction of B.W.'s teeth in February of 2010.
4. Notwithstanding requests and complaints by B.W., the respondent failed to provide dentures to B.W. until November 5, 2010.
5. The respondent used the \$540.00 that B.W. paid her for the respondent's office expenses.
6. B.W. was expected to pay the full bill for her dentures at the time the dentures were delivered to B.W. No rational or logical reason was given by the respondent for her

failure to provide B.W. with the dentures sooner than eight months after the respondent received \$540.00 for the dentures.

7. UniCare Health Plan of Kansas, Inc. (UniCare) and the Kansas Medical Assistance Program (KMAP) provide medical assistance to low income individuals. Each of these entities complained to the petitioner that the respondent appeared to be inappropriately prescribing controlled substances.
8. The petitioner investigated the complaints by UniCare and the KMAP and utilized Dr. Steven L. Johnson, a licensed dentist with more than 31 years of experience, to evaluate the complaints.
9. Dr. Johnson testified that the respondent prescribed controlled substances excessively, inappropriately, and did not identify the presenting problem, but merely prescribed pain medications. Dr. Johnson concluded that the respondent excessively, improperly, and inappropriately prescribed controlled substances to Patients S.W., G.H., and D.H.
10. The respondent's activity of prescribing controlled substances was also subject to review by Dr. Carol Ann Bowers Johnson, a medical doctor. Dr. Bowers Johnson concluded that with Patients S.W., G.H., and D.H., the respondent's prescribing of a controlled substance was inappropriate.
11. The respondent agrees that Patient S.W. manipulated the respondent to provide excessive amounts of hydrocodone and oxycodone over a ten-month period. She also agrees that she excessively and inappropriately prescribed controlled substances to Patients G.H. and D.H.
12. The respondent has also issued prescriptions for Percocet, Oxycontin, and Darvocet for patients. These prescriptions were not to treat dental conditions, but rather for medical conditions. Of particular concern is the respondent's action in prescribing a controlled substance for Patient D.H. for a medical condition when D.H.'s medical doctor refused. Nevertheless, the respondent wrote a prescription for the medication.
13. The KMAP reviewed six of the respondent's patient charts and determined that the respondent prescribed narcotics to patients based merely on telephone requests, without seeing or examining them. The KMAP found that the respondent issued prescriptions on 10 separate occasions to Patients D.R., C.J., L.T., and B.B., simply based upon telephone requests, with no examination.
14. During the petitioner's investigation of the various complaints concerning the respondent, requests were made by the petitioner to the respondent for responses from the respondent. On September 30, 2010, the petitioner requested information from the respondent concerning B.W.'s complaint concerning the dentures. The respondent failed to respond to this request within 10 days. On October 23, 2010, the

respondent acknowledged that B.W.'s complaint was legitimate but failed to provide the petitioner with the information as requested by the petitioner, including the patient record and medical, financial, and insurance information.

15. On October 28, 2010, the petitioner again requested information concerning B.W. This information was to be provided to the petitioner within 10 days. The respondent did not respond within 10 days. It was not until after the Petition for Disciplinary Action was filed that the respondent complied with the request for B.W.'s patient records.
16. On October 31, 2011, the petitioner requested information from the respondent within 10 days regarding the complaint received by the KMAP. This request went unanswered. Thereafter, on November 23, 2011, the petitioner again requested the respondent provide the information within 15 days. The information was not submitted to the petitioner until on or about January 25, 2012.
17. The respondent filed an application to renew her Kansas dental license on December 8, 2008. In this application, the respondent stated that she had completed the required 60 hours of continuing education from a time period of December 1, 2006 through December 1, 2008. However, a review of the respondent's continuing education records shows that she did not complete the required 60 hours; she had only completed 32 hours.

Applicable Law

1. K.S.A. 65-1436 provides, in part:

Grounds for refusal to issue license or for action against license of dentist or dental hygienist; disciplinary action by board; notice and hearing; professionally incompetent defined; physical or mental examination. (a) The Kansas dental board may refuse to issue the license provided for in this act, or may take any of the actions with respect to any dental or dental hygiene license as set forth in subsection (b), whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that any applicant for a dental or dental hygiene license or any licensed dentist or dental hygienist practicing in the state of Kansas has:

- (1) Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value;
- . . .
- (3) been determined by the board to be professionally incompetent;

. . .

(10) prescribed, dispensed, administered or distributed a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity outside the scope of practice of dentistry or in a manner that impairs the health and safety of an individual;

. . .

(19) failed to furnish the board, or its investigators or representatives any information legally requested by the board; or

. . .

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

- (1) Revoke the license.
- (2) Suspend the license for such period of time as may be determined by the board.
- (3) Restrict the right of the licensee to practice by imposing limitations upon dental or dental hygiene procedures which may be performed, categories of dental disease which may be treated or types of patients which may be treated by the dentist or dental hygienist. Such restrictions shall continue for such period of time as may be determined by the board, and the board may require the licensee to provide additional evidence at hearing before lifting such restrictions.
- (4) Grant a period of probation during which the imposition of one or more of the actions described in subsections (b)(1) through (b)(3) will be stayed subject to such conditions as may be imposed by the board including a requirement that the dentist or dental hygienist refrain from any course of conduct which may result in further violation of the dental

practice act or the dentist or dental hygienist complete additional or remedial instruction. The violation of any provision of the dental practice act or failure to meet any condition imposed by the board as set forth in the order of the board will result in immediate termination of the period of probation and imposition of such other action as has been taken by the board.

- (c) As used in this section, "professionally incompetent" means:
 - (1) One or more instances involving failure to adhere to the applicable standard of dental or dental hygienist care to a degree which constitutes gross negligence, as determined by the board;
 - (2) repeated instances involving failure to adhere to the applicable standard of dental or dental hygienist care to a degree which constitutes ordinary negligence, as determined by the board; or
 - (3) a pattern of dental or dental hygienist practice or other behavior which demonstrates a manifest incapacity or incompetence to practice dentistry.
- (d) In addition to or in lieu of one or more of the actions described in subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444, and amendments thereto, the board may assess a fine not in excess of \$10,000 against a licensee. All fines collected pursuant to this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and of the amount so remitted, an amount equal to the board's actual costs related to fine assessment and enforcement under this subsection, as certified by the president of the board to the state treasurer, shall be credited to the dental board fee fund and the balance shall be credited to the state general fund.
- (e) The board, upon its own motion or upon the request of any licensee who is a party to a licensure action, may require a physical or mental examination, or both, of such licensee either prior to a hearing to be held as a part of a licensure action or prior to the termination of any period of suspension or the termination of any restrictions imposed upon the licensee as provided in subsection (b).

2. K.A.R. 71-4-1(a) provides:

Each licensee shall submit to the board, with the license renewal application, a current "basic cardiac life support for the health care

provider” certificate from the American heart association or a current certificate deemed equivalent by the board from a provider approved by the board. The continuing education hours for either certificate may be applied to the continuing education requirement specified in subsection (b). Any dentist licensee who holds a specialist certificate may consider these continuing education hours as pertaining to that licensee's specialty hour requirement.

3. K.S.A. 65-1431(f) provides:
 - (1) Any license granted under authority of this act shall automatically be canceled if the holder thereof fails to apply for and obtain renewal prior to March 1 of the year following the December in which a renewal application is due.
 - (2) Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, prior to February 1, by submitting to the board the required renewal application, payment of the biennial renewal fee and proof that such licensee has satisfactorily completed a program of continuing education required by the board. Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, between February 1 and March 1, by submitting to the board the required renewal application, payment of the biennial renewal fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and regulations by the board and proof that such licensee has satisfactorily completed a program of continuing education required by the board. The penalty fee in effect immediately prior to the effective date of this act shall continue in effect until rules and regulations establishing a penalty fee under this section become effective.

Conclusions of Law

1. The respondent failed to provide the petitioner with B.W.'s patient records when requested. No valid reason has been given by the respondent for the failure to provide the records. Similarly, when the petitioner requested the respondent respond to the complaint made by the KMAP, the respondent failed to timely respond. Again, the respondent gives no valid reason for her failure to comply.
2. The respondent, by failing to provide the requested information to the petitioner, is in violation of K.S.A. 65-1436(a)(19) as alleged in Count I of the petitioner's Petition for Disciplinary Action and, therefore, is subject to discipline.

3. The respondent repeatedly prescribed controlled substances to her patients in a manner that was excessive, inappropriate, and outside the scope of the standard of care in the practice of dentistry. The respondent acknowledged that she prescribed medications in an improper manner. This constitutes a violation of K.S.A. 65-1436(a)(10) as alleged in Count II of the petitioner's Petition for Disciplinary Action and subjects the respondent to discipline.
4. In attempting to renew her application, the respondent certified to the petitioner that she had completed 60 hours of continuing education during a two-year period. This was a misrepresentation by the respondent in that the respondent knew that she had not completed 60 hours of continuing education.
5. Based upon the respondent's misrepresenting to the petitioner that she had completed her continuing education hours, the respondent has violated K.S.A. 65-1436(a)(1) as alleged in Count III of the petitioner's Petition for Disciplinary Action by obtaining a license through misrepresentation. This subjects the respondent to discipline.
6. K.S.A. 65-1431 requires that licensees obtain the required continuing education in order to renew their dental license. The respondent did not receive the required continuing education as she purported and, therefore, her license is subject to cancelation.
7. The respondent's failure to provide the dentures for B.W. for over eight months, as well as her pattern of practice in regard to other patients in her practice, evidences that the respondent has practiced in a professionally incompetent manner. Thus, the respondent is in violation of K.S.A. 65-1436(a)(3) as alleged in Count V of the petitioner's Petition for Disciplinary Action and is subject to discipline.

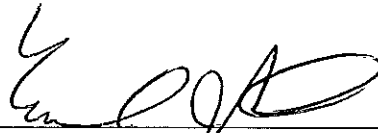
Conclusion

1. Based upon the respondent's excessive, inappropriate, and improper prescribing of controlled substances, the dental license of the respondent is hereby restricted pursuant to K.S.A. 65-1436(b)(3) in that the respondent is hereby prohibited from prescribing any controlled substances under federal and/or state law. This restriction shall continue indefinitely until removed by the petitioner upon a showing by the respondent that she is professionally competent to prescribe controlled substances under federal and/or state law.
2. It is further ordered that for the respondent's violation of Counts I, II, III, and V of the petitioner's Petition for Disciplinary Action, the respondent is assessed a fine of \$500.00 for each of these counts, with a total administrative fine of \$2,000.00. The \$2,000.00 fine assessed is to be paid within 30 days from the date of this order.

IT IS SO ORDERED.

NOTICE REGARDING REVIEW

Pursuant to K.S.A. 77-527, either party may appeal this Initial Order. A petition for review must be filed within 15 days from the date of this Initial Order. Failure to timely request review may preclude further judicial review. If neither party requests a review, this Initial Order becomes final and binding on the 30th day following its mailing. Petitions for review shall be mailed or personally delivered to: B. Lane Hemsley, Executive Director, Kansas Dental Board, 900 SW Jackson, Room 564-S, Topeka, Kansas 66612-1230.



Edward J. Gaschler
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, KS 66612
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On July 20, 2012, I mailed a copy of this document to:

Charlotte Turner-Williams, DDS
2010 E. 21st St.
Wichita, KS 67214

Mark G. Ayesh
Attorney at Law
8100 E. 22nd St. N.
Bldg. #2300, Ste. 2
Wichita, KS 67226

Randall J. Forbes
Attorney at Law
555 S. Kansas Ave., Ste. 303
Topeka, KS 66603
Telephone: 785-354-1100

B. Lane Hemsley
Executive Director
Kansas Dental Board
900 SW Jackson, Room 564-S
Topeka, KS 66612-1230
Telephone: 785-296-4690

M Dodds

Staff Person
Office of Administrative Hearings