

BEFORE THE KANSAS DENTAL BOARD

KANSAS DENTAL BOARD

In the Matter of)	
)	
DENNIS W. JONES, D.D.S.)	Case No. 10-100
<u>Kansas License No. 5128</u>)	

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Dennis W. Jones, D.D.S. (the "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, _____

2. The Board is the Kansas agency vested with the authority, pursuant to K.S.A. 74-1404 and K.S.A. 74-1406, to carry out and enforce the provisions of the Kansas Dental Law, K.S.A. 65-1401 *et seq.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas license to practice dentistry.

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 his Kansas license number 5128. 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 committed an act or acts in violation of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

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 September 22, 2010, the Board received a complaint from B.E., one of Respondent's patients. The complaint alleged that during an appointment on February 17, 2010, B.E. complained to Respondent of pain in tooth #3. Respondent did not take x-rays of the complained area; instead, Respondent prescribed antibiotics and scheduled B.E. for a return check-up and cleaning. The fact that Respondent prescribed an antibiotic for B.E. shows that Respondent suspected an infection; however, B.E.'s patient record does not note an infection.

B. Two (2) weeks later, B.E. returned for her check-up on March 2, 2010 at Respondent's office, and a periapical x-ray was taken of the complained area. The x-ray showed an evident periapical infection involving one or more root apices. However, Respondent's treatment notes for March 2, 2010 do not indicate the diagnosis of a chronic infection. Respondent scheduled B.E. for a six (6) month hygiene appointment and told B.E. her tooth should get better if she continued the antibiotics.

C. B.E.'s pain became increasingly worse and after seeing another dentist on August 5, 2010, it was discovered that B.E. had a large abscess on tooth #3.

The Board further finds and concludes that the aforesaid conduct is grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1436(b), K.S.A. 65-1436(a)(17), K.S.A. 65-1436(a)(3), as further defined in K.S.A. 65-1436(c)(2).

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

A. FINE. Respondent agrees to the Board entering, and the Board does hereby enter a final agency order requiring the Respondent to pay to the Board, within ten (10) days of the effective date of the Board's order, an administrative fine in the amount of One Thousand Dollars (\$1,000.00).

B. CONTINUING EDUCATION. Respondent agrees to the Board entering, and the Board does hereby enter a final agency order requiring the Respondent to successfully complete within six (6) months of the effective date of the Board's order eight (8) hours of continuing education courses, approved by an Investigation Committee Member, in the field of record keeping and diagnosis or treatment planning. It is the responsibility of the Respondent to identify the course and submit it for approval in time to successfully complete it within the ^{6 month} ninety (90)-day period.

C. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must, and the Board further orders the Respondent to:

1. Comply fully with this Stipulation and Consent Order; and
2. Comply fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

7. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney 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 the proposal of settlement 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 further waives any objection to the Board members' consideration of this Stipulation and Consent Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

8. The stipulations and orders contained herein shall not become binding until this Stipulation and Consent Order is approved and entered by the Board. The Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

9. The Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it. The Respondent further agrees that the Kansas Dental Act, K.S.A. 65-1421 *et seq.*, is constitutional on its face and as applied in this case.

10. This stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

11. 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 and the Act for Judicial Review and Civil Enforcement of Agency Action.

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against him to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order.

12. The Respondent acknowledges that he enters into this Stipulation and Consent Order freely 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 are unconscionable, arbitrary or capricious.

13. Time is of the essence to this Stipulation and Consent Order. 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.

14. 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.

15. 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.

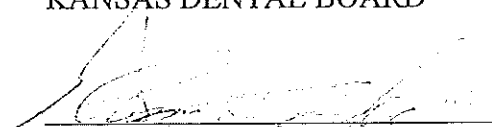
16. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's President or the President's authorized representative.

17. 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 Act for Judicial Review and Civil Enforcement of Agency Actions, 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 waives those rights.

ENTERED AND EFFECTIVE this 6th day of May, 2010.2011

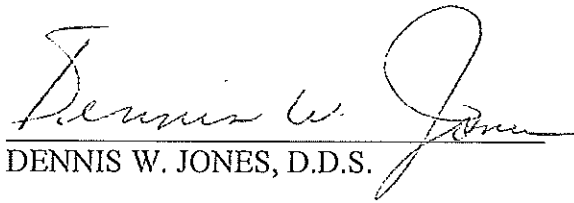
KANSAS DENTAL BOARD

By:


~~DENISE MAUS, RDH~~
President

Glenn Hemberger, DDS

AGREED AND APPROVED BY:


DENNIS W. JONES, D.D.S.

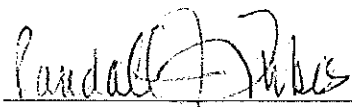
February 15, 2011
Date

RICHARD DARNALL, D.D.S.
Investigation Member

Date

Respondent's Attorney's Name & Address

Date


Randall J. Forbes #09089
FRIEDEN, UNREIN, FORBES & BIGGS LLP
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Topeka, Kansas 66603
TEL: (785) 354-1100
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Attorney for the Kansas Dental Board

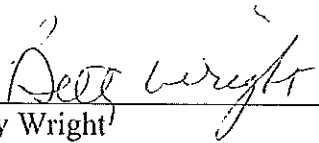
2.25.11
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **STIPULATION AND CONSENT ORDER** was served by depositing same in the United States mail, postage prepaid, this 10th day of May, 2011, addressed to:

Randall J Forbes, P.A.
FRIEDEN, UNREIN, FORBES & BIGGS, L.L.P.
555 S. Kansas Ave, Suite 303
Topeka, KS 66603

Denise Jones, DDS
1717 E 13th Street North
Wichita, KS 67214



Betty Wright
Executive Director
KANSAS DENTAL BOARD