

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
)
ERIC J. WISDOM, D.D.S.)
Kansas License No. 5188)
_____)

Case Nos. 10-11, 10-31, 10-92

OAH No. 12DB0005

FILED

FEB 05 2013

STIPULATION AND CONSENT ORDER

KANSAS DENTAL BOARD

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

1. The Board is represented herein by its attorneys, Randall J. Forbes and Kevin M. Fowler of Frieden, Unrein & Forbes, LLP, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. Respondent is represented herein by his attorney, Mark W. Stafford, Holbrook & Osborn, P.A., 107 S.W. 6th Avenue, Suite 210, Topeka, Kansas 66603.

2. The Board is the Kansas state agency vested with authority to carry out and enforce 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 K.S.A. 65-1401 *et seq.*, and any amendments or supplements thereto. *See* K.S.A. 65-1464. Pursuant to applicable provisions of the Kansas Dental Practices Act, including K.S.A. 65-1436(b) and 65-1436(d), and the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Board is authorized to revoke, suspend or restrict a Kansas license to practice dentistry and/or to impose a fine against a licensed Kansas dentist in an amount not in excess of \$10,000.

3. Respondent is presently authorized to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued him Kansas license number 5188. At all times

relevant hereto, 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 Respondent has committed an act or acts in violation of K.S.A. 65-1436(a) as set forth in the Board's Amended Petition for Disciplinary Action and that such alleged conduct may be grounds for disciplinary action under the provisions of K.S.A. 65-1436(b) and/or 65-1436(d). However, Respondent denies the allegations set forth in the Board's Amended Petition for Disciplinary Action and Respondent's execution of this Stipulation and Consent Order shall not constitute nor be construed as an admission of any such grounds for disciplinary action.

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

A. ADMINISTRATIVE FINE. Respondent agrees, and the Board further orders Respondent, to pay to the Board, within ten (10) days of the effective date of the Final Agency Order contemplated hereby, an administrative fine in the amount of Three Thousand Five Hundred Dollars (\$3,500).

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

i. For a period of one year from the effective date of the Final Agency Order contemplated hereby, to submit to the Board, through its Executive Director, a written report every three months which reflects whether Respondent has or has not

STIPULATION AND CONSENT ORDER

performed any interproximal enamel reduction procedure on any patient during the reporting period and, if so, to identify the name of every such patient;

ii. To comply fully with the Stipulation and Agreed Order Withdrawing Emergency Order approved by Respondent on March 29, 2011 and entered by the Board on April 11, 2011 in Case No. 10-92;

iii. To comply fully with this Stipulation and Consent Order; and

iv. To comply fully with the Kansas Dental Practices Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

6. 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 Respondent or his attorney. In the event that this Stipulation and Consent Order is not accepted and approved by the Board, 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.

7. The stipulations and orders contained herein shall not become binding until this Stipulation and Consent Order is approved and entered by the Board as a Final Agency Order. Respondent acknowledges that the approval of the Board's attorney shall not constitute the

STIPULATION AND CONSENT ORDER

Matter of Eric J. Wisdom, D.D.S., Case Nos. 10-11, 10-31, 10-92 & OAH No. 12DB0005

approval of the Board or bind the Board to approve this Stipulation and Consent Order or otherwise enter a Final Agency Order based on this Stipulation and Consent Order.

8. Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and that the Board has jurisdiction to approve this Stipulation and Consent Order and to enter its Final Agency Order based on such Stipulation and Consent Order. Respondent further agrees that the Kansas Dental Practices Act is constitutional on its face and as applied in this case.

9. This Stipulation and Consent Order 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.

10. 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 Procedure Act, K.S.A. 77-501 *et seq.*, and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

Respondent freely waives these rights and acknowledges that said waiver is made knowingly and voluntarily after consultation with his own attorney and in consideration of the Board's agreement to limit the disciplinary action taken against him to the matters provided for herein. Respondent further waives any and all rights he has or might otherwise have to seek

STIPULATION AND CONSENT ORDER

administrative review or reconsideration, to appeal or seek judicial review or to otherwise contest this Stipulation and Consent Order, the Final Agency Order contemplated hereby or any term or condition thereof.

11. Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of his choosing. 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, unreasonable, arbitrary or capricious.

12. 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.

13. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event that any term, condition or provision of this Stipulation and Consent Order is determined to be invalid or unenforceable by any court of competent jurisdiction, it shall be severed and the remaining terms, conditions and provisions of this Stipulation and Consent Order shall be given full force and effect.

14. Upon execution by all parties, approval by the Board and entry as a Final Agency Order of the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

STIPULATION AND CONSENT ORDER

Matter of Eric J. Wisdom, D.D.S., Case Nos. 10-11, 10-31, 10-92 & OAH No. 12DB0005

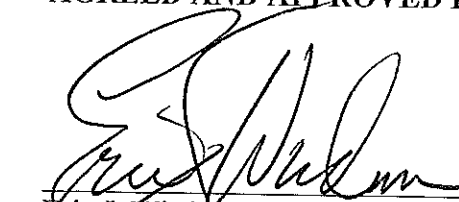
15. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made a Final Agency Order of the Board upon the signature of the Board's President or the President's authorized representative.

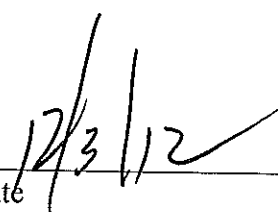
16. Respondent acknowledges that he has been advised by the Board that he would have the right within 15 days after service of this Stipulation and Consent Order and the attached Final Agency Order to file a petition for reconsideration with the Board in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, and the right within 30 days after service of the Stipulation and Consent Order and the attached Final Agency 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 B. Lane Hemsley, its Executive Director, at 900 SW Jackson, Room 564-S, Topeka, KS 66612. Respondent hereby knowingly and voluntarily waives those rights after consultation with his own attorney.

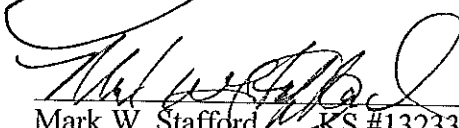
STIPULATION AND CONSENT ORDER

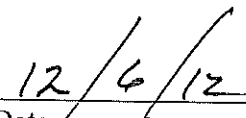
Matter of Eric J. Wisdom, D.D.S., Case Nos. 10-11, 10-31, 10-92 & OAH No. 12DB0005


AGREED AND APPROVED BY:

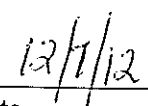

Eric J. Wisdom, D.D.S.
Respondent


Date


Mark W. Stafford, KS #13233
Holbrook & Osborn, P.A.
107 S.W. 6th Avenue, Suite 210
Topeka, Kansas 66603
Tel: (785) 232-6200
Fax: (785) 232-6205
Counsel for Respondent


Date


Randall J. Forbes, KS #09089
Kevin M. Fowler, KS #11227
Frieden, Unrein & Forbes, LLP
555 S. Kansas Avenue, Suite 303
Topeka, Kansas 66603
Tel: (785) 354-1100
Fax: (785) 354-1113
Counsel for the Kansas Dental Board


Date

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
ERIC J. WISDOM, D.D.S.)
Kansas License No. 5188)
_____)

Case Nos. 10-11, 10-31, 10-92


OAH No. 12DB0005

FINAL AGENCY ORDER

Upon motion duly made, seconded and passed, the Kansas Dental Board ("Board") hereby approves and accepts the within Stipulation and Consent Order and incorporates the terms, conditions and provisions thereof as the Final Agency Order of the Board.

ENTERED AND EFFECTIVE this 17 day of February, 2013.

KANSAS DENTAL BOARD

By: 
Glenn Hemberger, D.D.S.
President

STIPULATION AND CONSENT ORDER

Matter of Eric J. Wisdom, D.D.S., Case Nos. 10-11, 10-31, 10-92 & OAH No. 12DB0005

CERTIFICATE OF SERVICE

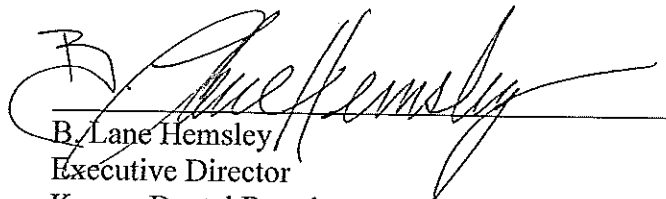
The undersigned hereby certifies that a genuine copy of the foregoing **STIPULATION AND CONSENT ORDER** and **FINAL AGENCY ORDER** was served by depositing same in the United States mail, postage prepaid, on this 5th day of February, 2013, properly addressed to:

Eric J. Wisdom, D.D.S.
1629 Poyntz Ave.
Manhattan, Kansas 66502

Mark W. Stafford
Holbrook & Osborn, P.A.
107 S.W. 6th Avenue, Suite 210
Topeka, Kansas 66603

Randall J. Forbes
Kevin M. Fowler
Frieden, Unrein & Forbes, LLP
555 S. Kansas Avenue, Suite 303
Topeka, KS 66603

Hon. Edward J. Gaschler
Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, Kansas 66612-1327


B. Lane Hemsley
Executive Director
Kansas Dental Board