

BEFORE THE KANSAS DENTAL BOARD
OF THE STATE OF KANSAS

FILED
JUN 24 2009
KANSAS DENTAL BOARD

In the Matter of)
)
Glenn R. Duckworth, DDS)
)
Kansas License Number 4324)
)
Pursuant to Chapter 77)

Case No.: 08-135

OAH No.: 09DB0001

INITIAL ORDER

Statement of Case

On March 25, 2009, this matter was scheduled for a prehearing conference. On that date, the Respondent, Glenn R. Duckworth, DDS, failed to appear and at the request of the Kansas Dental Board (hereinafter Petitioner) a Notice of Proposed Default Order and Proposed Default Order was issued.

Thereafter, no requests to vacate the Proposed Default Order were made and therefore it has become final.

During the prehearing conference of this matter, the Petitioner moved for the imposition of sanctions as set forth in the Petition for Disciplinary Action.

Findings of Fact

1. Glenn R. Duckworth, DDS, is licensed by the Petitioner to practice dentistry in the state of Kansas, having been issued License No. 4324.
2. The Petitioner received information and attempted to conduct an investigation to determine whether there were reasonable grounds to believe that the Respondent had committed acts in violation of K.S.A. 65-1436(a)(19).
3. On or about October 7, 2008, the Petitioner received a written complaint against the Respondent from one of the Respondent's patients. The patient furnished the Petitioner with written authorization for release of all information, records, files, or documents pertaining to the patient in the Respondent's possession or control.
4. Thereafter, on October 24, 2008, the Petitioner provided the Respondent with a copy of the patient's complaint and requested that the Respondent "provide a written response to the allegations within ten (10) days from the

date of receipt of this letter as well as a complete copy of the patient's records including all medical, financial, and insurance information."

5. Thereafter, on December 11, 2008, the Respondent informed the Executive Director of the Petitioner that he was ill but would respond to the Petitioner's request the week of December 15, 2008.
6. The Petitioner did not receive the information from the Respondent and on December 30, 2008, the Petitioner renewed its request for the information and requested that the information be provided within ten days from December 30, 2008.
7. The Respondent has failed to provide the requested information to the Petitioner and has provided no written explanation for his actions.

Applicable Law

1. K.S.A. 65-1436(a)(10) provides as follows:
 - (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:
 - (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;
2. K.S.A. 65-1436(a)(19) provides as follows:
 - (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:

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

3. K.S.A. 65-1436(b) provides as follows:

(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.

4. K.S.A. 65-1436(d) provides as follows:

(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.

Conclusions of Law

1. The Respondent has failed to furnish the Petitioner information legally requested by the Petitioner and therefore is in violation of K.S.A. 65-1436(a)(19).
2. The Petitioner has attempted to investigate whether there has been a violation of K.S.A. 65-1436(a)(10) that might justify the imposition of action against the Respondent, but because of the Respondent's failure to comply with the request from the Petitioner, the Petitioner cannot do so.
3. In light of the Respondent's failure to comply with the request of the Petitioner and in light of the possible violation of K.S.A. 65-1436(a)(10), the Respondent's license is hereby immediately suspended with such suspension continuing until further order of the Petitioner. Further, said suspension shall not be lifted or otherwise modified until the Respondent provides the documentation requested by the Petitioner.
4. In light of the Respondent's violations of K.S.A. 65-1436(a)(19), a fine of \$1,500.00 is hereby imposed. The fine is to be paid within 30 days from the date of this order.

IT IS SO ORDERED.

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: Executive Director, Kansas Dental Board, 900SW Jackson, Room 564-S, Topeka, Kansas 66612.



Edward J. Gaschler, Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On April 9, 2009, I mailed by U.S. mail, a copy of this initial order to:

Glenn R. Duckworth, DDS
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Wichita, KS 67203

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Betty Wright
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Kansas Dental Board
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M. Addie
Staff Person
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On April 9 and June 24, 2009, I mailed by U.S. mail, a copy of this initial order to:

Glenn R. Duckworth, DDS
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