

BEFORE THE KANSAS DENTAL BOARD

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KANSAS DENTAL BOARD

In the Matter of)
)
JULIE K. KOHLER, R.D.H.)
Kansas License No. 1493)

Case No. 07-97

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Julie K. Kohler, R.D.H. (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 her 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 dental hygiene.

3. The Respondent is presently entitled to engage in the practice of dental hygiene in the State of Kansas by reason of the Board having issued her Kansas license number 1493. At all times relevant hereto, the Respondent has held a current license to engage in the practice of dental hygiene 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.*

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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 October 8, 2003, Respondent entered into an informal consent agreement entitled "Settlement Agreement between The Missouri Dental Board and Julie K. Kohler" (hereinafter "Missouri Settlement Agreement"), which agreement placed Respondent's Missouri license to practice dental hygiene on probation for a period of three (3) years. The Missouri Settlement Agreement also required the Respondent to take and pass the Missouri Dental Board's designated jurisprudence examination prior to October 8, 2006, the end of the disciplinary period. (A true and correct copy of the Missouri Settlement Agreement is attached hereto and incorporated herein as Exhibit A).

B. On or about May 3, 2007, the Missouri Dental Board issued a disciplinary order entitled "Findings of Fact, Conclusions of Law, and Disciplinary Order" (hereinafter "Missouri Disciplinary Order") against Respondent's license to practice dental hygiene in the State of Missouri because the Respondent failed to take and pass the Missouri Dental Board's designated jurisprudence examination prior to October 8, 2006, the end of the disciplinary period specified in the Missouri Settlement Agreement. As a result, the Respondent's Missouri license to practice dental hygiene was placed on probation for a period of one (1) year. (A true and correct copy of the Missouri Disciplinary Order is attached hereto and incorporated herein as Exhibit B).

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) and K.S.A. 65-1436(a)(18).

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

A. PROBATION. Respondent hereby agrees and consents to the Board entering an order placing her license to practice dental hygiene in the State of Kansas, and the Board further orders that Respondent's license to practice dental hygiene in the State of Kansas shall be placed, on probation for a period of one (1) year from the effective date to the Stipulation and Consent Order contemplated hereby.

B. VERIFICATION OF CONTINUING EDUCATION RECORDS. Respondent hereby agrees and consents, and the Board further orders the Respondent, to provide the Board, prior to license renewal in 2007, with evidence of completion of the continuing education hours reported in her 2005 Continuing Education Record, a true and correct copy of which is attached hereto and incorporated herein as Exhibit C, and with evidence of completion of thirty (30) hours of continuing education that has been or may be reported in her 2007 Continuing Education Record.

C. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order she 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 her 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 she has the following rights:

- A. To have formal notice of charges served upon her;
- 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 her 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 she enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of her choosing. The Respondent further acknowledges that she has read this Stipulation and Consent Order in its entirety, that she understands its legal consequences and that she 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 her. 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. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1125 Probation of License."

B. Basis For Action: "39 – License Revocation, Suspension or Other Disciplinary Action Taken by a Federal, State or Local Licensing Authority."

18. The Respondent acknowledges that she has been advised by the Board that she 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.

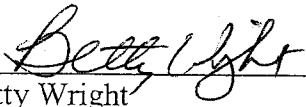
ENTERED AND EFFECTIVE this 15th day of February, 2008.

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 4th day of February, 2008, addressed to:

Randall J. Forbes
FRIEDEN & FORBES
555 S. Kansas Avenue, Suite 303
Topeka, KS 66603

Julie K. Kohler, R.D.H.
P.O. Box 16291
Little Rock, Arkansas 72231



Betty Wright
Executive Director
KANSAS DENTAL BOARD

BEFORE THE STATE DENTAL BOARD
STATE OF MISSOURI

MISSOURI DENTAL BOARD)

Petitioner,)

Case No. DB-07-25

v.)

JULIE KOHLER, R.D.H.)

Respondent.)

FINDINGS OF FACT. CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

On or about October 8, 2003, the Missouri Dental Board and Respondent, Julie K. Kohler, R.D.H, entered into an informal consent agreement entitled settlement agreement, placing Respondent, Julie K. Kohler's license on probation for a period of three years. On December 12, 2006 a complaint was filed alleging Respondent had violated certain terms and conditions of the settlement agreement. A hearing was originally set for January 13, 2007, but later continued. The Board held a hearing in this matter on April 21, 2007 to determine whether Respondent had violated the settlement agreement, and what action, if any, the Board should take if Respondent had, in fact, violated the settlement agreement.

Respondent appeared in person and was not represented by counsel. The Board was represented by private attorney Nanci Wisdom. Assistant Attorney General Amy Brandis acted as legal advisor to the Board. Evidence was adduced, exhibits were received, and the matter was taken under advisement. The Board issues the following order:

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FINDINGS OF FACT

1. The Missouri Dental Board ("Board") is an agency of the state of Missouri created and established pursuant to § 332.031, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 332, RSMo.

2. Respondent, Julie K. Kohler, R.D.H., is licensed by the Board as a registered dental hygienist, License No. 002036. Respondent's Missouri license was at all times herein relevant, current and active.

3. On or about October 8, 2003, the Missouri Dental Board and Respondent, Julie K. Kohler, R.D.H., entered into an informal consent agreement entitled settlement agreement, placing Respondent, Julie K. Kohler's license on probation for a period of three years.

4. According to the settlement agreement, Respondent was required to take and pass the Board's designated jurisprudence examination prior to October 8, 2006, the end of the disciplinary period.

5. Respondent failed to take and pass the Board's jurisprudence examination prior to the end of the disciplinary period.

6. Respondent did take and pass the jurisprudence exam on October 11, 2006.

CONCLUSIONS OF LAW

7. The Board has jurisdiction to render discipline against the license and certificate of registration of Respondent under the provisions of Chapter 332 and previous

Order of the Board entered as set forth herein. § 621.110RSMo and *State Board of Registration for the Healing Arts v. Masters*, 512 S.W.2d 150 (Mo. App. 1974).

8. That the actions of Respondent as stated in the Findings of Fact give grounds to the Board to impose discipline, including revocation of Respondent's license and certificate, suspension up to three years of said license and certificate, probation up to five years of said license and certificate, or a combination of suspension and probation. See § 332.321.3 and § 621.110 RSMo.

9. That the actions of Respondent as set forth herein constitute violations of the terms and conditions of her probation, in particular the following terms:

- a. Respondent failed to take and pass the Board's jurisprudence examination prior to the end of the disciplinary period.

DECISION AND DISCIPLINARY ORDER

Pursuant to the above Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED that Respondent's license, License No. 002036, is hereby placed on probation for a period of one (1) year. The following shall be the terms and conditions of the probation:

I. GENERAL REQUIREMENTS:

1. Respondent shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
2. Respondent shall submit reports to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102, stating truthfully whether she has complied

with all the terms and conditions of this Order by no later than January 1 and July 1 during each year of the disciplinary period.

3. Respondent shall keep the Missouri Dental Board apprised at all times; in writing, of her current work and home addresses and telephone numbers during the period of probation prescribed herein. Respondent shall inform the Board within ten days of any change of home or work address and home or work telephone number.
4. Respondent shall not violate any provisions of Chapter 332 RSMo or by whatever number the Dental Practice Act shall be known; all applicable federal and state drug laws, rules and regulations; and all federal and state criminal laws; nor shall Respondent violate any rule or regulation adopted or promulgated by the Missouri Dental Board pursuant thereto.
5. During the disciplinary period, Respondent shall timely renew her license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain her license in a current and active state.
6. If at any time during the disciplinary period, Licensee removes herself from the state of Missouri, ceases to be currently licensed under the provisions of Chapter 332, or fails to advise the Board of her current place of business and residence, the time of her absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo.

7. During the disciplinary period, Respondent shall accept and comply with unannounced visits from the Board's representatives to monitor her compliance with the terms and conditions of this Settlement Agreement.
8. If Respondent fails to comply with the terms of this Order, in any respect, the Board may impose such additional or other discipline that it deems appropriate.
9. This Order does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Respondent not specifically mentioned in this document.
10. Respondent shall inform all employers for whom she practices dental hygiene of her licensure status and provide a copy of this document to her employer upon employment.

If the Missouri Dental Board, in its sole discretion, determines upon a proper showing that Respondent violated a term or condition of her probation as set forth herein, or has otherwise failed to comply with the provisions of Chapter 332, RSMo, which violation would be actionable in a proceeding before the Board as provided by 20 C.S.R. 2110-2.160, before the Administrative Hearing Commission, or in a circuit court, the Missouri Dental Board may elect to pursue any lawful remedies or procedures afforded to it and is not bound by the type of, nor the duration of discipline specified in this document in its election of remedies concerning such violation.

No additional order shall be entered by this Board pursuant to the preceding paragraph of this Order without notice and opportunity for hearing before this Board as a contested case in accordance with the provisions of Chapter 536, RSMo. If any alleged violation of this Order occurred during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it either during the disciplinary period, or so soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Licensee agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

This Order becomes effective 15 (fifteen) days after the date of the Order.

It is so Ordered on this 3rd day of May, 2007

MISSOURI DENTAL BOARD

BY: Sharlene Rimiller
Sharlene Rimiller, Executive Director

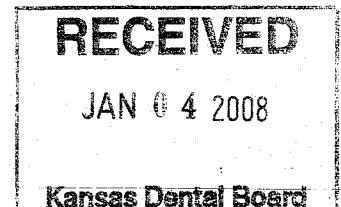


SETTLEMENT AGREEMENT BETWEEN
THE MISSOURI DENTAL BOARD AND JULIE K. KOHLER

Come now Julie K. Kohler ("Licensee") and the Missouri Dental Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a dental hygienist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

Licensee acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her, the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against her and, subsequently, the right to a disciplinary hearing before the Board at which time she may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her license. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to her.



Licensee acknowledges that she has received a copy of the draft complaint, the investigative report, and other documents relied upon by the Board in determining there was cause to discipline her license.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 002036, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 332, RSMo 2000.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Dental Board ("Board") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 332, RSMo 2000.
2. Respondent ("Licensee") was issued a certificate of registration as a dental hygienist by the Board, numbered 002036. Licensee's Missouri certificate of registration ("license") is and was, at all times relevant herein, current and active.
3. On or about September 26, 2002, Licensee swore and affirmed in an Application to Renew, under penalty of law, that she had completed fifty-two hours of continuing education ("C.E.") between December 1, 1999 and November 30, 2002, and submitted her Application to Renew her license to the Board.
4. Relying on the representations in the application, the Board renewed Licensee's license.
5. On or about February 19, 2003, the Board audited Licensee's continuing education hours pursuant to 4 C.S.R. § 110-2.240(2) (Nov. 2002), which states in pertinent part:

(A) . . . The board may conduct an audit of licensees to verify compliance with the continuing education requirement.

6. Licensee submitted to Board auditors acceptable documentation of only thirty-six hours of continuing education.

7. To renew her license, Licensee has a duty to obtain a minimum of forty-five hours of approved continuing education relevant to the practice of dentistry during each continuing education reporting period, pursuant to 4 C.S.R. § 110-2.240 (July 2000), which states in pertinent part:

(1) Definitions.

(B) Time block – A three (3)-year time period with starting dates of December 1, 1993 through November 30, 1996; December 1, 1996 through November 30, 1999; December 1, 1999 through November 30, 2002 and repeating in sequence from that date.

(2) The board shall not issue a renewal of a . . . dental hygiene license unless the licensee completes and reports (on forms provided by the board) a total of . . . forty-five (45) hours of continuing dental education . . . at the conclusion of each time block[.]

and § 332.261, RSMo 2000, which states in pertinent part:

4. The board shall not renew any certificate of registration of any hygienist unless the licensee shall provide satisfactory evidence that he has completed forty-five hours of continuing education within a three year period.

8. Licensee's failure to obtain the required forty-five credits is a violation of 4 C.S.R. § 110-2.240 (July 2000), and § 332.261, RSMo 2000.

9. Cause exists for the Board to take disciplinary action against Licensee's license under § 332.321, RSMo 2000, which provides, in relevant part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

...
(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

...
(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;
...

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000:

The terms of discipline shall include that the dental hygienist license be placed on PROBATION for a period of three years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of dental hygiene under Chapter 332, RSMo, provided she adheres to all of the terms of this Settlement Agreement.

General Requirements

1. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.

2. Licensee shall keep the Board apprized of her current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.

3. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RSMo 2000; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.

4. During the disciplinary period, Licensee shall timely renew her license and timely pay all fees required for licensing and comply with all other Board requirements necessary to maintain Licensee's license in a current and active state.

5. If at any time during the disciplinary period, Licensee removes herself from the state of Missouri, ceases to be currently licensed under the provisions of Chapter 332, RSMo 2000, or fails to advise the Board of her current place of business and residence, the time of her absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo 2000.

6. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo 2000, by Licensee not specifically mentioned in this document.

Requirements Regarding Continuing Education

7. Licensee shall obtain at least twenty-two hours of continuing education which are in addition to the continuing education hours required for licensure renewal by the Board. The courses must be provided by Missouri Dental Board approved sponsors. The additional hours of continuing

education must be obtained by November 30, 2004. Licensee shall provide the Board with proof of attendance from the sponsor of the program no later than thirty days after attending the course. Failure to obtain the required additional continuing education hours and/or submit the required documentation to the Board will result in a violation of the terms of discipline.

Jurisprudence Examination

8. Licensee shall take and pass the Board's designated jurisprudence examination prior to the end of the disciplinary period. Licensee shall contact the Board office to request a current law packet and permission to sit for the jurisprudence examination no less than thirty days prior to the date she desires to take the examination. Licensee shall submit the required examination fee to the Board prior to taking the examination. Failure to take and pass the examination during the disciplinary period shall constitute a violation of this Settlement Agreement.

LICENSEE AS EVIDENCED BY THE INITIALS ON THE APPROPRIATE LINE

_____ REQUESTS

JK _____ DOES NOT REQUEST

THE ADMINISTRATIVE HEARING COMMISSION TO DETERMINE IF THE FACTS SET FORTH HEREIN ARE GROUNDS FOR DISCIPLINING LICENSEE'S LICENSE AS A DENTAL HYGIENIST.

If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to

by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

If Licensee has not requested review by the Administrative Hearing Commission, the agreement goes in to effect fifteen days after the document is signed by the Executive Director.

LICENSEE

BOARD

Julie K. Kohler
Julie K. Kohler

Sharlene Rimiller
Sharlene Rimiller
Executive Director
Missouri Dental Board

Date 10-3-03

Date 10-8-03

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