

FILED

MAR 25 2013

KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter of the Licensure of:)	
)	Case Nos.: 07-119, 10-131 and
)	11-136
Ryan D. Louden, DM.D.)	
Kansas License No. 60014)	
_____)	

SUMMARY ORDER OF DENIAL

On or about November 2, 2012, Ryan D. Louden, D.M.D. ("Louden") applied for reinstatement of his dental license with the Kansas Dental Board ("Board"). With the premises duly considered, the Board enters the following Summary Order of Denial.

I. FINDINGS OF FACT

1. The Board previously issued Louden a license to practice dentistry in the state of Kansas in 2000.

FACTS COMMON TO CASE NO. 07-119

2. On or about September 20, 2007, the Board entered an "Emergency Agency Order" in Case No. 07-119, suspending the license of Louden indefinitely pursuant to K.S.A. 77-536 and K.S.A. 65-1449, specifically finding that:

1. On July 20, 2007, [Louden] prescribed Hydrocodone (Vicodin) 30 for a five-year-old child J.P., who was the child of D.P., a woman with whom the [Louden] reportedly had a romantic relationship. Prescribing this drug for a five-year-old child is below the applicable standard of care and was potentially impairing to the health and safety of the child. Although [Louden's] records indicate the Hydrocodone was for J.P., [Louden] wrote the prescription fraudulently naming the boy's father as the patient. The boy's father was not and never had been a patient of [Louden].

2. Records from various pharmacies indicate that [Louden] has written the following prescriptions for D.P.:

12/15/06	Diazepam – valium 5
12/15/06	Hydrocodone 20
5/18/07	Oxycodone (Lortab) 20
7/11/07	Oxycodone (Percocet) 20
7/14/07	Oxycodone 20
7/16/07	Hydrocodone 20
7/18/07	Oxycodone (Percocet) 20
7/20/07	Hydrocodone 20

During July of 2007, [Louden] prescribed an excessive amount of controlled substances to D.P. and failed to record the amounts prescribed in the patient's record.

3. Records from pharmacies in the city in which [Louden] practices indicate that [Louden] has written the following prescriptions for himself:

12/3/06	Hydrocodone (Lortab) 20
11/27/06	Chlordiazepoxide (Librium) 10
3/3/07	Chlordiazepoxide (Librium) 10
3/7/07	Chlordiazepoxide (Librium) 10
4/6/07	Chlordiazepoxide (Librium) 10
4/26/07	Chlordiazepoxide (Librium) 10
5/28/07	Chlordiazepoxide (Librium) 10
7/8/07	Hydrocodone (Vicodin) 20

By self-prescribing Chloradiazepoxide, [Louden] was prescribing outside the scope of the practice of dentistry.

4. On July 30, 2007, at approximately 6:30 PM, police officers attempted to discuss with [Louden] the prescription [Louden] had written for J.P. The police reported that [Louden] appeared extremely intoxicated and slurred his words. The police have reported that they have had multiple contacts with [Louden] during which he appeared intoxicated.

5. On September 10, 2007, police officers reported to [Louden's] dental office to perform a welfare check on [Louden] at the request of D.P., a woman with whom the [Louden] reportedly had a romantic relationship. The police reported that the front of [Louden's] dental office contained a strong odor of Nitrous Oxide and [Louden] was found sitting in a chair in a patient booth with the nose piece for Nitrous Oxide on his face. The police also reported that a bottle of vodka, which was approximately ¾ empty, was on [Louden's] desk in the rear of [Louden's] dental office and [Louden] appeared to be intoxicated.

6. On September 12, 2007, at approximately 9:30 p.m., police officers reported to [Louden's] dental office to perform another welfare check on [Louden] at the request of D.P., a woman with whom [Louden] reportedly had a

romantic relationship. The police reported that [Louden's] dental office contained a strong odor of Nitrous Oxide and [Louden] was found sitting in a chair with the nose piece for Nitrous Oxide on his nose. The police also located a four pack of Salvador's original margarita alcoholic beverages and discovered that three of the beverages were open. The police further reported that [Louden] initially appeared to be unconscious, but when police officers called his name, [Louden] stood and appeared to be intoxicated. When police officers began to place handcuffs on him, [Louden] took a drink out of a bottle of margarita. When police officers conducted field sobriety tests, they determined, based on their training and expertise, that there was at least a 65% probability that [Louden] was impaired.

3. On or about November 14, 2007, the Board received notification from the Heart of America Professional Network ("HAPN") that Louden had entered into inpatient treatment through the 3 year HAPN Kansas Dental Association Wellbeing Program, for substance abuse.

4. On or about May 9, 2008, pursuant to a request from Louden to modify the Emergency Agency Order and reinstate his license, and a representation from HAPN that Louden was fit to practice, the Board and Louden entered into a Stipulation and Consent Order for Case No. 07-119, whereby Louden:

A. Did not contest the allegations in the Emergency Agency Order entered on or about September 20, 2007;

B. Agreed to the payment of an administrative fine to the Board in the amount of \$500.00;

C. Agreed to enter into and remain in full compliance with the requirements of the Kansas Dental Impaired Provider Program;

D. Agreed that under his license, he was prohibited from prescribing or dispensing any controlled substance; and

E. Agreed do to fully comply with the provisions of the May 9, 2008 Stipulation and Consent Order and fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

5. On or about October 29, 2009, the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, State Board of Dentistry (“Pennsylvania Board”) entered a “Final Adjudication and Order” which revoked Louden’s license to practice dentistry in Pennsylvania. Specifically, the Final Adjudication and Order established that:

A. Pursuant to the facts of the Emergency Agency Order by the Board, on or about September 10, 2007, the Pennsylvania Board determined that Louden was subject to discipline pursuant to section 4.1(a)(4) of the [Pennsylvania] Dental Law, 63 P.S. § 123.1(a)(4) and imposed a public reprimand and a \$1,000.00 civil penalty on Louden’s Pennsylvania license to practice dentistry.

B. Pursuant to Louden’s failure to pay the \$1,000.00 civil penalty levied against Louden’s Pennsylvania license to practice dentistry, on or about December 14, 2007, the Pennsylvania Board indefinitely suspended Louden’s Pennsylvania license to practice dentistry until such time as Louden paid the outstanding civil penalty and provided proof to the Pennsylvania Board that his license to practice dentistry in Kansas was returned to and maintained in good standing.

C. On or about January 5, 2009, the Pennsylvania Board served an order to show cause on Louden regarding the Emergency Agency Order entered by the Board.¹

D. Louden failed to respond to the Pennsylvania Board’s show cause order, and on or about September 16, 2009, the Pennsylvania Board entered a default against Louden, deeming the facts in the Emergency Agency Order admitted.

¹ According to the “Findings of Fact” in the Pennsylvania Board’s Final Adjudication and Order, service of the show cause order was not effectuated on Louden until June 17, 2009. See ¶ 35.

6. On or about April 30, 2009, the Board received a letter from HAPN, stating that Louden tested positive for alcohol consumption with an EtG level of 1500 during his periodic drug screen. Louden admitted drinking on several occasions knowing that the same was a violation of his HAPN agreement.

7. On or about August 10, 2011, the Board received a letter from HAPN, stating that Louden's Kansas Dental Association Wellbeing Program case was being closed for failure to call into the Affinity system, missing two consecutive scheduled urine drug screens, failure to attend monthly monitoring meetings and failure to document his attendance at 12-step meetings.

8. On or about August 30, 2011, the Board entered a second "Emergency Agency Order to Suspend License" in Case No. 07-119, suspending the license of Louden indefinitely pursuant to K.S.A. 77-536 and K.S.A. 65-1449, specifically finding that:

1. In the Stipulation and Consent Order filed 5/9/2008 [Louden] agreed and was ordered to enter and remain compliant with the Kansas Dental Impaired Provider Program.

2. In the Board's 9/20/2007 Emergency Order [Louden's] license was suspended due to prescribing controlled substance in a fraudulent manner, prescribing excessive amounts of controlled substances to a patient, and self-prescribing drugs that were beyond the scope of the practice of dentistry, and habitually using intoxicants and drugs which rendered [Louden] unfit for the practice of dentistry.

3. The acts described in the Emergency Order posed an immediate danger to the public health, safety and welfare.

4. On August 10, 2011 the board received notice that the program closed the case on [Louden] for noncompliance. [Louden] had not attended monthly meetings and had not reported for random drug screens since June 2011.

9. On or about November 4, 2011, the Board received notification from HAPN that Louden had re-entered into inpatient treatment through the 3 year HAPN Kansas Dental Association Wellbeing Program, for substance abuse.

10. On or about November 28, 2011, the Board received notification from HAPN that HAPN had declared Louden safe to practice and may return to his dentistry practice.

11. On or about February 8, 2012, the Board entered an "Order Withdrawing Emergency Agency Order to Suspend License," which withdrew the August 30, 2011 Emergency Agency Order to Suspend License and specifically stated that the Stipulation and Consent Order dated May 9, 2008 would remain in full force and effect.

FACTS COMMON TO CASE NOS. 10-131 AND 11-136

12. On or about December 16, 2010, the Board received a complaint from the Kansas Medical Assistance Program ("KMAP"), establishing that Louden has engaged in a practice that may violate the Act.

13. KMAP undertook a records evaluation of Twin Lakes, P.A. regarding the entities billing practices for dates of service June 14, 2010 through June 17, 2010. Records were requested and provided to assist KMAP in its evaluation. Louden is affiliated with Twin Lakes, P.A.

14. Louden filed a claim with KMAP on July 26, 2010, alleging that he extracted two teeth from a patient on said date. A review of x-ray records received from Twin Lakes, P.A. revealed that the patient in questions' two teeth which were billed as extracted on July 26, 2010, were absent one month prior to July 26, 2010.

15. On or about April 19, 2011, the Board received a complaint from Dentist C.F.B., D.D.S. regarding the treatment of patient C.T. A review of patient C.T.'s dental records establishes that Louden devised a treatment plan for patient C.T. on January 26, 2011 whereby patient C.T. was to receive restorations on teeth numbers 13, 14, 15, 18, 19, 20 and 21. The original x-rays taken purportedly by an unlicensed person in Louden's office were of poor

diagnostic quality, were excessive and did not indicate significant interproximal decay on any of the teeth set for restorations.

16. On or about March 14, 2011, Louden completed restorations on patient C.T.'s teeth numbers 3, 4, 5, 29, 30 and 31. The x-rays which purport to be taken by an unlicensed person were of poor diagnostic quality in that they failed to show significant interproximal decay requiring the services rendered. The x-rays taken by Louden's office were excessive. Moreover, radiographs taken by Dentist C.F.B., D.D.S., subsequent to the treatment provided to patient C.T. by Louden, revealed that the restorations placed by Louden on March 14, 2011 were over-prepared, especially considering the lack of significant interproximal decay on patient C.T.'s teeth.

17. Louden has a history of past violations and substandard dental care:

A. Case No. 3032-02a. Patient was scheduled to have a tooth extracted. Louden was corrected by the patient when he initially intended to pull the wrong tooth. However, even after corrected, Louden pulled the wrong tooth.

B. Case No. 3032-02-b. Patient suffered from a low oxygen level, pursuant to sedation provided by Louden. The patient's low oxygen level was serious enough that patient had to be rescued by his own wife. Result of Louden's conduct was the revocation of his sedation license.

C. Case 06-82. Louden placed an usually large order of controlled substances on June 6, 2006. Upon inquiry by the Board, Louden responded that all shipments had been destroyed. The case was referred to the United States Drug Enforcement Agency.

D. Case 07-119. *See supra*, ¶¶. 2 – 11.

E. Case 10-114. Complaint received on October 25, 2010 regarding the treatment of a patient seen by Dentist S.T., D.D.S. An x-ray taken by Dentist S.T., D.D.S. revealed a post improperly placed after a root canal by Louden.

**LOUDEN'S SURRENDER OF LICENSE AND
SUBSEQUENT APPLICATION FOR REINSTATEMENT**

18. Pursuant to the Board's institution of disciplinary proceedings against Louden, specifically Case Nos. 10-131 and 11-136, Louden surrendered his license to the Board on or about April 23, 2012, stating in part:

. . . I hereby surrender my license to practice dentistry in Kansas. I have no intent to return to Kansas in the future. I have no desire to further prove myself when clearly I have already done that. I thank you for the time I was able to practice, I enjoyed the relationships with my patients, however I feel our relationship has grown stale and there will be no real way to fix it.

19. On or about May 22, 2012, the Board's Executive Director notified Louden that the Board had accepted the surrender of his license to practice dentistry in Kansas. Louden was therein notified that if he wishes to reapply for his Kansas license, Case Nos. 07-119, 10-131 and 11-136 would be re-opened by the Board.

20. On or about November 2, 2012, Louden applied for reinstatement of his dental license with the Board.

II. CONCLUSIONS OF LAW AND FACT

21. The Kansas Administrative Procedure Act, specifically K.S.A. 77-511(a)(2)(a), authorizes the use of summary proceedings of a state agency when denying an application for licensure.

22. Pursuant to K.S.A. 65-1431a(a), the applicant has the burden of proof by clear and convincing evidence to show sufficient rehabilitation to justify reinstatement of a license.

The applicant shall comply with all conditions imposed by the Board in establishing justification for rehabilitation.

23. K.S.A. 65-1436(a) provides that:

The Kansas dental board may refuse to issue the license under the dental practices act, . . . 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 [committed any of the acts enumerated in K.S.A. 65-1436(a)(1) – (20)].

24. Pursuant to the “Findings of Fact” delineated in ¶¶ 2 – 17, the Board finds that Loudon has committed an act or acts that justify the refusal to reinstate his license pursuant K.S.A. 65-1436(a), in that Loudon has:

A. Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value in violation of K.S.A. 65-1436(a)(1);

B. Habitually used intoxicants or drugs which have rendered such person unfit for the practice of dentistry in violation of K.S.A. 65-1436(a)(2);

C. Repeatedly failed to adhere to the standard of dental care which constitutes ordinary negligence for the purposes of K.S.A. 65-1436(c)(2) in violation of K.S.A. 65-1436(a)(3);

D. 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 in violation of K.S.A. 65-1436(a)(10);

E. Engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or on any document connected with the practice of

dentistry by knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement in violation of K.S.A. 65-1436(a)(16).

F. Failed to keep adequate records in violation of K.S.A. 65-1436(a)(17) and K.A.R. 71-1-15.

III. ORDER

WHEREFORE, based upon the foregoing, the Board hereby **DENIES** Ryan D. Louden's application for reinstatement of a dental license.

Ryan D. Louden may request a hearing pursuant to the Kansas Administrative Procedures Act. Pursuant to K.S.A. 77-537, this decision, a Summary Order is subject to a request for a hearing *et seq.*, by filing a written request with B. Lane Hemsley, Executive Director, Kansas Dental Board at 900 S.W. Jackson Street, Room 564-S, Topeka, Kansas 66612-1230, within fifteen (15) days of the date of service of this order.

If a hearing is not requested as described above, the order denying reinstatement of a dental license to Ryan D. Louden shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a Final Agency Order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

B. Lane Hemsley
Executive Director
Kansas Dental Board
900 S.W. Jackson Street, Room 564-S
Topeka, Kansas 66612-1230

IT IS SO ORDERED.

3/25/2013
DATE


GLENN HEMBERGER, D.D.S.
Investigative Member
Kansas Dental Board

CERTIFICATE OF SERVICE

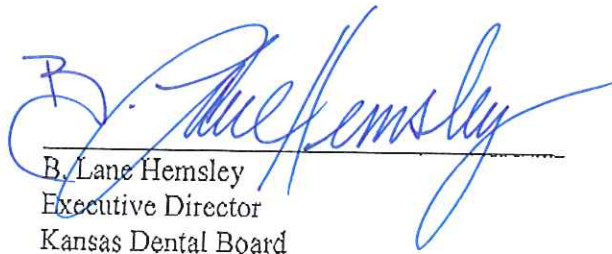
I hereby certify that I did, on the 25th day of March, 2013, deposit in the United States mail, first class postage prepaid, a copy of this AGENCY SUMMARY ORDER OF DENIAL properly addressed to the following:

Randall J. Forbes
Timothy D. Resner
FRIEDEN, UNREIN & FORBES, LLP
555 South Kansas Avenue, Suite 303
Topeka, Kansas 66603

and mailed one (1) copy first class mail, and (1) copy certified return receipt requested to:

Ryan D. Loudon, DMD
23223 N. Pedregosa Dr.
Sun City West, Arizona 85375

Ryan D. Loudon, DMD
1016 W. Ashbury St.
Olathe, KS 66061-2406


B. Lane Hemsley
Executive Director
Kansas Dental Board