

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
)
NANCY K. WHITCOMB, R.D.H.)
Kansas License No. 377)

Case No. 09-20

FILED

NOV - 5 2010

KANSAS DENTAL BOARD

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Nancy K. Whitcomb, 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 377. 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:

A. On or about November 26, 2008 the Arkansas State Board of Dental Examiners issued a disciplinary order (hereinafter "Arkansas Disciplinary Order") against Licensee's license to practice dental hygiene in the State of Arkansas because the Licensee:

(i) failed to take the required number of continuing education hours in order to renew her license;

(ii) provided false and fraudulent information in order to obtain a renewal of her license; and

(iii) violated a regulation of the Arkansas Board requiring that she take and accurately report continuing education hours to the Arkansas Board.

B. As a consequence, the Arkansas State Board of Dental Examiners assessed a fine against Licensee in the amount of \$500 and directed Licensee to pay the fine within six months from the date of the Arkansas Disciplinary Order. (A true and correct copy of the Arkansas Disciplinary Order is attached hereto and incorporated herein as Exhibit A).

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:

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:

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- (i) Provide the Board within 30 days of the effective date of this Stipulation and Consent Order, if not already provided, satisfactory evidence of compliance with Kansas law regarding continuing education applicable to dental hygienists in the State of Kansas.
- (ii) Comply fully with this Stipulation and Consent Order; and
- (iii) Comply fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws applicable to dental hygienists in the State of Kansas.

7. Respondent agrees that all information in the possession of the Board's Investigation Committee, its staff, investigators and attorney regarding the subject matter of this 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. 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 5th day of November, 2010.

KANSAS DENTAL BOARD

By: Richard Darnall RDH
RICHARD DARNALL, D.D.S. Denise Munn, RDH
President

AGREED TO AND APPROVED BY:

Nancy K. Whitcomb RDH
NANCY K. WHITCOMB, R.D.H.

4 October 2010
Date

Signature of Respondent's Attorney

Date

Printed Name of Respondent's Attorney

Printed Address of Respondent's Attorney

Randall J. Forbes
Randall J. Forbes #09089
~~Justin L. McFarland #24247~~

10.12.10
Date

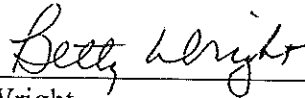
FRIEDEN & FORBES
555 S. Kansas Avenue, Suite 303
Topeka, Kansas 66603
TEL: (785) 232-7266
FAX: (785) 232-7266
Disciplinary Counsel for the
Kansas Dental Board

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 November, 2010, addressed to:

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

Nancy K. Whitcomb, R.D.H.
16 Wedgewood Drive
Holiday Island, Arkansas 72631



Betty Wright
Executive Director
KANSAS DENTAL BOARD

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF: NANCY K. WHITCOMB, RDH

ORDER

On this 13th day of November, 2008, comes on for hearing the matter of Nancy K. Whitcomb, RDH. The Arkansas State Board of Dental Examiners appeared, together by a quorum of its membership, together with its attorney, William H. Trice, III. Nancy K. Whitcomb, RDH, appeared *pro se*. From the pleadings, testimony of the witnesses, and evidence introduced, the Board finds that:

I.

Nancy K. Whitcomb, RDH, is licensed to practice dental hygiene in the state of Arkansas pursuant to the provisions of the Dental Practice Act.

II.

From the admissions of Nancy K. Whitcomb, RDH, and the evidence introduced, the Board finds that Nancy K. Whitcomb, RDH, on 31 January 2008, filed information seeking a renewal of her license to practice dental hygiene and reported false and fraudulent information to the Board; more specifically, information stating that she had taken a CPR course in December of 2007 and was entitled to 7 hours credit. She further submitted fraudulent information that she had taken an OSHA Infection Control course, entitling her to 16 hours of continuing education credit.

III.

After an audit and additional information was collected, the Board finds that Nancy K. Whitcomb RDH, was only entitled to 4 hours of continuing education credit for the CPR course and 9 hours of credit for the OSHA course.

IV.

Nancy K. Whitcomb RDH, either knew or should have known, that the information she submitted involving her continuing education hours was false and fraudulent; and further that she submitted said information in order to obtain her license and to renew her license to practice dental hygiene in the State of Arkansas.

Wherefore, it is considered, ordered and adjudged that Nancy K. Whitcomb, RDH, violated the Dental Practice Act, more specifically ACA §17-80-104, in that she failed to take the required number of hours of continuing education in order to renew her license.

It is further ordered and adjudged that Nancy K. Whitcomb, RDH, violated the Dental Practice Act, more specifically ACA §17-82-210(c)(3), that is, she provided false and fraudulent information in order to obtain a renewal of her license to practice dental hygiene in the State of Arkansas.

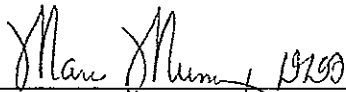
It is further ordered and adjudged that Nancy K. Whitcomb, RDH, violated the Dental Practice Act, more specifically ACA§17-82-316(c)(6), that is, she violated a regulation of the Board that being Article XIV, requiring that she take and accurately report continuing education hours to the Board.

As a result of the above violations of the Dental Practice Act and the Rules and Regulations of the Board, Nancy K. Whitcomb, RDH, is issued a reprimand by the Arkansas State Board of Dental Examiners.

It is further ordered that as a result of the above violations of the Dental Practice Act Nancy K. Whitcomb, RDH, will pay to the Arkansas State Board of Dental Examiners a \$500.00 fine within six months from the date of this Order.

IT IS SO ORDERED:

ARKANSAS STATE BOARD OF DENTAL EXAMINERS




Mark Muncy, D.D.S., PRESIDENT

11/26/08

Date

Approved as to Form:



William H. Trice, III
Attorney for the Arkansas State Board of Dental Examiners