

BEFORE THE KANSAS DENTAL BOARD

FILED

NOV - 5 2010

In the Matter of )  
 )  
YVETTE MCMULLEN, D.D.S. )  
Kansas License No. 6915 )

File No. 10-56

KANSAS DENTAL BOARD

**STIPULATION AND CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Yvette McMullen, D.D.S. (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, Larry L. McMullen, Husch Blackwell, 4801 Main Street, Ste 1000, Kansas City, Missouri 64112.

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 dentistry.

3. The Respondent is presently entitled to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued her Kansas license number 6915. At all times relevant hereto, the 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 the Respondent has committed an act or acts in violation of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and the Board finds and concludes that disciplinary action was taken against Respondent's license to practice dentistry in the State of Colorado by the Colorado State Board of Dental Examiners in a Final Agency Order issued February 24, 2010. A copy of that Final Agency Order (the "Colorado Order") is marked Exhibit A, attached hereto and incorporated herein by reference.

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's Kansas license to practice dentistry shall hereby be placed on probation for a period beginning on the effective date of the order contemplated hereby and ending February 24, 2011, and until all the terms of probation provided for in the Colorado Order have been completed and accepted by the Colorado Board. The Respondent shall notify the Board immediately if she does not fulfill any of the terms of probation contained in the Colorado Order or the period of probation of her Colorado dental license does not terminate on February 24, 2011.

B. JURISPRUDENCE EXAM. Respondent shall retake and pass the Kansas Dental Board's jurisprudence exam within 30 days of the effective date of the order contemplated hereby.

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 Committee, 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 investigation and 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. When entered by the Board, it shall be constitute a final agency order. 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 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.

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 his 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 approval and entry as an order by the Board, this Stipulation and Consent Order shall be a final agency order and 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 5<sup>th</sup> day of November, 2010.

KANSAS DENTAL BOARD

By: Denise L. Maus RDH  
DENISE MAUS, RDH  
President

AGREED AND APPROVED BY:

[Signature]  
YVETTE MCMULLEN, D.D.S.

10/1/10  
Date

\_\_\_\_\_  
RICHARD DARNALL, D.D.S.  
Investigation Member

\_\_\_\_\_  
Date

Larry L. McMullen, 4801 Main St. KCMO  
Respondent's Attorney's Name & Address 64112

10/1/10  
Date

[Signature]  
Randall J. Forbes #09089

10.12.10  
Date

FRIEDEN, UNREIN, FORBES & BIGGS, LLP  
555 S. Kansas Avenue, Suite 303  
Topeka, Kansas 66603  
TEL: (785) 354-1100  
FAX: (785) 354-1113  
Attorney for the Kansas Dental Board

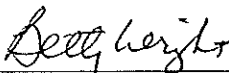
CERTIFICATE OF SERVICE

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 10<sup>th</sup> day of November, 2010, addressed to:

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

Yvette McMullen, D.D.S.  
410 West 18<sup>th</sup> Street  
Pueblo, CO 81003

Larry McMullen  
Husch Blackwell  
4801 Main Street, Ste 1000  
Kansas City, MO 64112

  
\_\_\_\_\_  
Betty Wright  
Executive Director  
KANSAS DENTAL BOARD



**Dora**  
Department of Regulatory Agencies

Division of Registrations  
Rosemary McCool  
Director

State Board of Dental Examiners  
Maulid Miskell  
Program Director

Bill Ritter, Jr.  
Governor

Barbara J. Kelley  
Executive  
Director

June 23, 2010

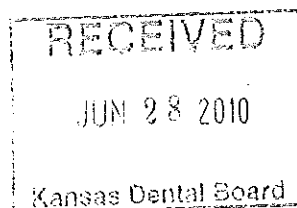
I do hereby certify that the enclosed documents are true and accurate copies of the public documents on file with the Colorado State Board of Dental Examiners regarding Yvette McMullen, DDS.

Stipulation and Final Agency Order  
Effective: February 24, 2010

FOR THE COLORADO STATE BOARD OF DENTAL EXAMINERS

Jessica Lehew  
Complaint Specialist

Enclosures





BEFORE THE STATE BOARD OF DENTAL EXAMINERS

STATE OF COLORADO

Case No. 2010-001578

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE  
DENTISTRY OF YVETTE MCMULLEN, D.D.S., LICENSE NUMBER (PENDING),

Applicant.

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IT IS HEREBY STIPULATED by and between the State Board of Dental Examiners,  
Panel A (the "Board") and Yvette McMullen, D.D.S., ("Applicant"), as follows:

**JURISDICTION**

The Board finds and the Applicant agrees that:

1. Yvette McMullen, D.D.S. (hereinafter "Applicant") filed an application to practice dentistry in the State of Colorado on or about May 4, 2009, license number pending.
2. The Board has jurisdiction over the person of Applicant and the subject matter of this Stipulation and Final Agency Order ("Stipulation and Order").
3. This Stipulation and Order is a full and final resolution of case number 2010-001578. This Stipulation and Order does not resolve any other cases, complaints or matters, known or unknown to the Board or Applicant, as of the effective date of this Stipulation and Order.

**FINDINGS OF FACT**

4. The Board finds and the Applicant admits that:
  - a. On or about May 4, 2009, Applicant filed an application to practice dentistry in the State of Colorado.
  - b. On October 21, 2009, the Board reviewed Applicant's application and all supporting documents.
  - c. The Board identified areas of deficiencies that require correction for Applicant to practice in accordance of the generally accepted professional standards.

5. By virtue of the facts admitted in paragraph 4 above, Applicant admits, and the Board finds, that Applicant violated § 12-35-129(7)(g), C.R.S.

#### STATUTORY AUTHORITY

6. The Board's grounds to impose disciplinary action are based on the following statutory authority:

12-35-129 Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - disciplinary panels- cease and desist.

(7)(g) The board may include, in any disciplinary order that allows the dentist or dental hygienist to continue to practice, such conditions as the board may deem appropriate to assure that the dentist or dental hygienist is physically, mentally and otherwise qualified to practice dentistry or dental hygiene in accordance with generally accepted professional standards of practice. Such an order may include any or all of the following:

(I) Submission by the licensee to such examinations the board may order to determine the licensee's mental or physical condition or professional qualifications;

(II) The taking by the licensee of such therapy, courses of training, or education as may be needed to correct deficiencies found by the board or by such examinations;

(III) The review or supervision or supervision of the licensee's practice as may be necessary to determine its quality and to correct any deficiencies;

(IV) The imposition of restrictions on the licensee's practice to assure that such practice does not exceed the limits of the licensee's capabilities.

#### DISPOSITION

7. PROBATION. Applicant shall hereby be placed on probation for a period of 1 (one) year and until all terms of probation have been completed and accepted by the Board, commencing from the effective date of this Stipulation and Order. Credit for the period of probation shall be given only for the periods of time in which Applicant is in complete compliance with all terms of this Stipulation and Order. Applicant acknowledges that her license is restricted by the probationary terms set forth in this Stipulation and Order.

The terms of probation are as follows:

8. Continuing Education Courses

a. Applicant agrees to complete 12 hours of Board pre-approved continuing education courses within one (1) year of the effective date of this Stipulation and Order as follows: 6 hours of restorative diagnosis and treatment planning and 6 hours of periodontal diagnosis and treatment planning.

b. Prior to enrolling in each course, Applicant shall submit course information on a form provided by and approved by the Board for approval of the continuing education course. Upon completion of each continuing education course, the Applicant shall submit to the Board a certificate or letter of successful completion.

c. Failure to provide documentation of successful completion for each continuing education course to the Board shall be deemed a violation of this Stipulation and Order. Applicant's failure to successfully complete the continuing education course(s) within one year of the execution date of this Stipulation and Order shall be deemed a violation of this Stipulation and Order.

9. RETAKE & PASS JURISPRUDENCE EXAM. Applicant must retake and pass the jurisprudence exam within 30 days of the effective date of this Stipulation and Order.

ADVISEMENTS AND WAIVERS

10. ADVISEMENT AND WAIVERS. Applicant is fully aware of and understands her right to receive a formal notice of hearing and charges and to have a formal disciplinary hearing pursuant to § 12-35-129(1), C.R.S., and hereby waives those rights and requests that this Stipulation and Order be accepted by the Board with the same force and effect as an Order entered into as a result of a formal disciplinary hearing. Applicant further waives the right to appeal the Order entered herein.

11. This Stipulation and Order is entered into by Applicant voluntarily, after the opportunity to consult with counsel and with full understanding of the legal consequences of this Stipulation and Order.

12. Applicant acknowledges and agrees that any violation of this Stipulation and Order shall constitute a violation of a lawful Board Order and grounds for further proceedings pursuant to the Dental Practice Act of Colorado and, if proven, may constitute a basis for further disciplinary action. In the event this matter is referred to hearing for violation of this Stipulation and Order, this Stipulation and Order shall be admissible as evidence. In the event an alleged violation of this Stipulation and Order proceeds to hearing and the facts that constitute the violation are not proven, no disciplinary action shall be taken by the Board and this Stipulation and Order shall remain operative and in full force and

effect. The pendency of any disciplinary action pursuant to this Stipulation and Order shall not affect the obligation of Applicant to comply with the terms of this Stipulation and Order.

13. FINAL AGENCY ORDER. Applicant acknowledges that this Stipulation and Order shall constitute a Final Agency Order of the State Board of Dental Examiners upon acceptance by the Board and execution by an authorized Board member.

14. INTEGRATION AND SEVERABILITY. This Stipulation and Order constitutes the entire agreement between the Applicant and the Board. There are no other promises expressed or implied. In the event that a court of competent jurisdiction deems a provision unenforceable, such provision shall be severed, and the remainder of this Stipulation and Order shall be given full force and effect.

15. TERMINATION OF RESTRICTED LICENSE. If Applicant has adhered to all terms and conditions of this Stipulation and Order, Applicant's conditions shall be deemed completed and Applicant may request reinstatement of her dental license to be active without conditions. Request for termination of the restricted license must be made in writing to the Board, and Applicant is solely responsible for establishing, through written and other documentation satisfactory to the Board, that she has satisfied all terms and conditions of this Stipulation and Final Agency Order.

16. OTHER CONDITIONS. In the event this Stipulation and Order does not become an order of the Board, it shall be void and Applicant shall not be bound by any provisions or admissions herein.

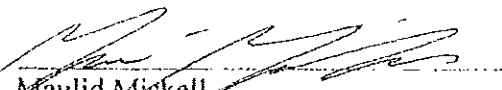
17. PUBLIC RECORD. This Stipulation and Order is a public record in the custody of the Board at all times and shall be reported as required by law.

18. EFFECTIVE DATE. This Stipulation and Order shall become an Order of the Board when accepted by the Board and signed by the Program Director or an authorized Board member.

APPLICANT

  
Yvette McMullen, D.D.S.

COLORADO STATE BOARD OF  
DENTAL EXAMINERS

  
Maulid Miskell  
Program Director  
1560 Broadway, Suite 1310  
Denver, Colorado 80202

Effective Date: This 24<sup>th</sup>

day of February, 2010.