

BEFORE THE KANSAS DENTAL BOARD

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KANSAS DENTAL BOARD

In the Matter of the Licensure of:)
)
ERNESTO BELEN, D.M.D.)
Kansas License No. 6771)
_____)

Case No. 17-7

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board ("Board") and Ernesto Belen, D.M.D. ("Respondent") as follows:

1. The Board is represented herein by its attorneys, Randall J. Forbes and Brenda L. Head of Frieden, Unrein & Forbes, LLP, 1414 S.W. Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, _____.

2. The Board is the duly constituted and acting agency of the State of Kansas authorized to administer and enforce the provisions of the Kansas Dental Practices Act, which is codified in article 14 of chapter 65 and article 14 of chapter 74 of the Kansas Statutes Annotated and amendments or supplements thereto ("KDPA" or "Act"). Pursuant to applicable provisions of the KDPA and the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* ("KAPA"), whenever it is established that a licensee has committed any of the acts described in K.S.A. 65-1436(a), the Board may revoke, suspend and/or limit the licensee's Kansas License and/or assess a fine against the licensee in an amount not in excess of \$10,000.00.

3. At all times relevant to this order, Respondent Ernesto Belen, D.M.D. has practiced dentistry in the State of Kansas under the authority of Kansas License Number 6771 issued by the Board ("Kansas License"). Respondent may be served with this order at 9314 E. Central, Wichita, KS 67206.

4. The Board's Investigation Member has received certain information, investigated and determined that there are reasonable grounds to believe that Respondent has committed one or more acts in violation of K.S.A. 65-1436(a) which would justify the revocation or imposition of other disciplinary action against his Kansas License under the provisions of K.S.A. 65-1436(b) and the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1436(d).

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: at an October 10, 2016 office inspection, as well as prior occasions, Respondent failed to comply with sanitation requirements by having a log of test results readily available in his dental practice.

Upon motion duly made, seconded and passed, the Board finds that Respondent's conduct violates the KDPA, that such conduct warrants the imposition of appropriate disciplinary action against his Kansas License under the provisions of K.S.A. 65-1436(b), including the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1436(d), pursuant to K.S.A. 65-1436(a)(17).

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

(a) ADMINISTRATIVE FINE. Respondent agrees, and the Board further orders the Respondent to pay an administrative fine in the amount of One Thousand Dollars (\$1,000.00), within ten (10) days of the entry of the Consent Order.

(b) OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must, and the Board further orders Respondent to:

(i) Comply fully with this Stipulation and Consent Order; and

(ii) Comply fully with the Kansas Dental Practices 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 his attorney. In the event that this Stipulation and Consent Order is not accepted and approved by the Board, Respondent waives any objection to the Board members' consideration of this Stipulation and Consent Order or the information mentioned in the preceding sentence and further waives the disqualification of any Board member, including any right to seek the disqualification of any Board member, based on such 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. 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. 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. Respondent further agrees

that the Kansas Dental Practices Act (“KDPA”) referenced in paragraph 2 above 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. Respondent acknowledges that he has the following rights:

(a) To have formal notice of charges served upon him;

(b) To file a response to the charges;

(c) To have notice of and participate in a formal adjudicative hearing with the Board or its designee 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, K.S.A. 77-501 *et seq.* and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The Respondent freely waives these rights and acknowledges that such waiver is made voluntarily and in consideration of the Board’s agreement to limit the disciplinary action taken against him in accordance with the terms and conditions provided for herein. Respondent also waives all of his rights to seek reconsideration, administrative review and/or judicial review of this Stipulation and Consent Order or to otherwise challenge or contest this Stipulation and Consent Order in any direct or collateral administrative or judicial proceedings..

12. Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation or a reasonable opportunity for consultation with counsel of his choosing. Respondent further acknowledges that he has read this Stipulation and Consent

Order in its entirety, that he understands its legal consequences and that he agrees that none of its terms or conditions is unconscionable, arbitrary, capricious or unreasonable.

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 him and/or his Kansas License. The pendency of any disciplinary action arising out of any 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 determined to be 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 upon motion duly made, seconded and passed by the Board and entered as an order of the Board by the signature of the Board's President or the President's authorized representative below.

17. Respondent acknowledges that he has been advised by the Board that he has 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 Judicial Review Act, K.S.A. 77-601 *et seq.*, which must be served on the Kansas Dental Board by serving B. Lane Hemsley, its Executive Director, at

900 SW Jackson, Room 564-S, Topeka, KS 66612. However, Respondent expressly waives these rights.

ENTERED AND EFFECTIVE this 21st day of April, 2017.

KANSAS DENTAL BOARD

By: Donna Thomas D.D.S.
DONNA THOMAS, D.D.S.
President

AGREED TO AND APPROVED BY:


ERNESTO BELEN, D.M.D.

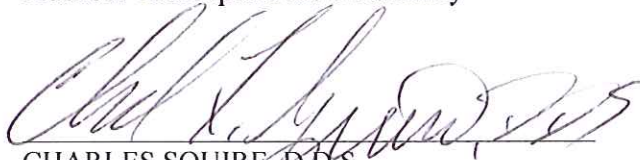
3-24-17
Date

(Signature of Respondent's Attorney)

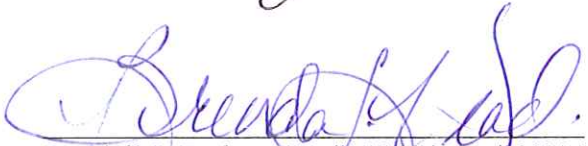
Date

(Printed Name of Respondent's Attorney)

Address of Respondent's Attorney


CHARLES SQUIRE, D.D.S.
Investigation Member

04/21/2017
Date



Randall J. Forbes, KS #09089/MO #64335
Brenda L. Head, #~~11227~~15657
FRIEDEN, UNREIN & FORBES, LLP
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**Disciplinary Counsel for the
Kansas Dental Board**

3/28/17
Date

CERTIFICATE OF SERVICE

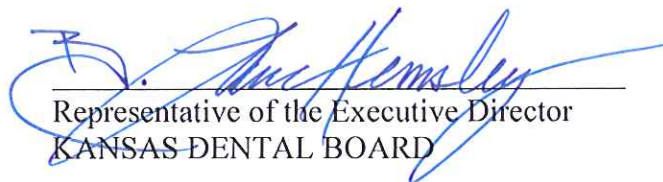
The undersigned hereby certifies that a genuine copy of the foregoing **STIPULATION AND CONSENT ORDER** was served upon Respondent and counsel by depositing same in the United States mail, postage prepaid, this ~~24th~~ day of ~~March~~, 2017, properly addressed to: 25th

Ernesto Belen, D.M.D.
9314 E. Central
Wichita, KS 67206

(Name of Respondent's Counsel)

(Address of Respondent's Counsel)

Randall J. Forbes
Brenda L. Head
FRIEDEN, UNREIN & FORBES, LLP
1414 S.W. Ashworth Place, Suite 201
Topeka, KS 66604



Representative of the Executive Director
KANSAS DENTAL BOARD