

BEFORE THE KANSAS DENTAL BOARD



In the Matter of the Application for)
Reinstatement of Dental Hygiene Kansas)
License of:)
SAMANTHA A. MCMAHON)
Expired License No. 11640)

Case No. 18-33

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Samantha McMahon (the "Respondent") as follows:

1. The Board is represented herein by its attorney, Timothy D. Resner of Frieden & Forbes, LLP, 1414 SW Ashworth Pl., Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by her attorney, Anne Kindling of Joseph, Hollander & Craft, LLC, 1508 SW Topeka Blvd., Topeka, KS 66612-1887.

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. Respondent was previously 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 11640 (ECP III-36) on or about July 2, 2013. Respondent's license to engage in the practice of dental hygiene in the State of Kansas expired on or about December 1, 2018.

4. On or about November 18, 2019, the Respondent submitted to the Board an application for reinstatement of a license to practice dental hygiene in the State of Kansas (the

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“Reinstatement Application”). Through a preliminary review of the Reinstatement Application, the Board’s Executive Director determined that while Respondent answered “yes” to a question regarding whether she had been found guilty or pled no contest to any felony or misdemeanor, Respondent did not attach documentation or provide an explanation regarding the same, as required by the Reinstatement Application. Respondent supplemented the Reinstatement Application with documentation and an explanation on or about January 2, 2020.

5. The Board's Investigation Committee members have 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 denial of her Reinstatement Application.

6. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board and the Board finds that:

a. On or about October 19, 2018, the Board’s disciplinary counsel filed a Petition to Revoke License with the Board relating to criminal charges filed against Respondent in Geary County, Kansas and other alleged violations.

b. On November 16, 2018, Licensee, through counsel, requested a hearing be set.

c. Respondent’s license expired on or about December 1, 2018. As a result, the Board’s disciplinary counsel did not pursue an administrative hearing on the Petition to Revoke. However, the Petition to Revoke License remains pending.

d. On November 18, 2019, Respondent submitted her Application for Reinstatement. Supporting materials were submitted on January 2, 2020.

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THE GEARY COUNTY MATTER

e. On or about April 22, 2018, Respondent was arrested by the Geary County Sheriff's Department.

f. On or about April 30, 2018, Respondent was charged by the Geary County Attorney with seven (7) felony crimes and one (1) misdemeanor crime, including various drug related crimes and interference with law enforcement.

g. On or about November 2, 2018, Respondent entered into a plea agreement with the Geary County Attorney's office, wherein Respondent pleaded no contest to interference with law enforcement, a severity level 9 nonperson felony, and unlawful possession of marijuana, a class b nonperson misdemeanor. The remaining claims were dismissed.

h. On or about January 15, 2019, Respondent was placed on probation for twelve (12) months, and as a condition of probation, was ordered to [REDACTED] as directed by her assigned Court Services Officer.

i. On or about December 12, 2019, Respondent was granted early successful termination of her probation by the Geary County District Court.

THE WABAUNSEE COUNTY MATTER

j. On or about June 6, 2018, Respondent was arrested by the Wabaunsee County Sheriff's Department

k. On or about January 9, 2019, Respondent was charged with (1) one count of interference with law enforcement, a severity level 9 nonperson felony, in connection with law enforcement officer's investigation of a matter relating to stolen property.

l. On or about February 20, 2019, Respondent pleaded no contest to a charge of interference with law enforcement, a severity level 9 nonperson felony.

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m. On or about March 18, 2019, Respondent was placed on probation for twelve (12) months, and as a condition of probation, was ordered to [REDACTED] as directed by her assigned Court Services Officer.

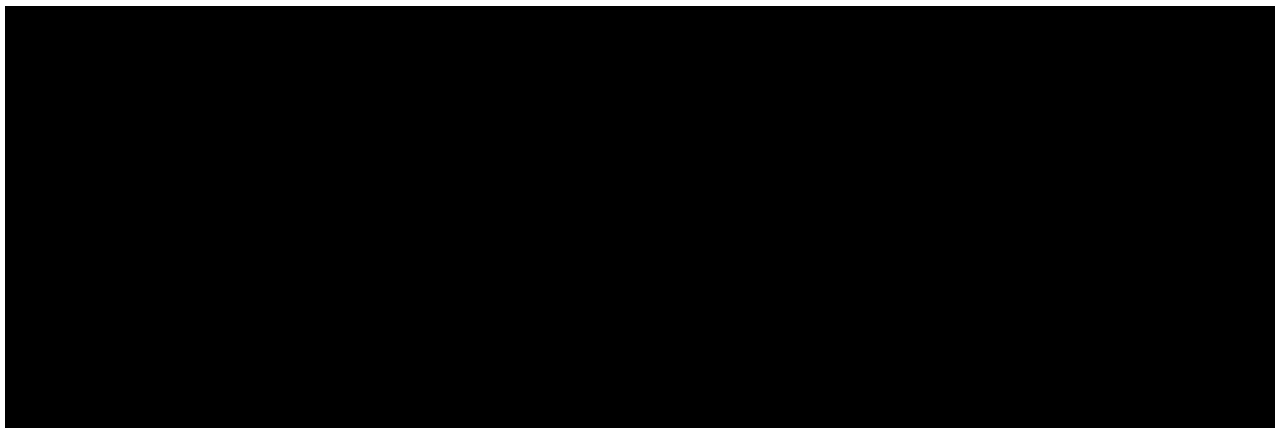
n. On or about December 17, 2019, Respondent was granted early successful termination of her probation by the Wabaunsee County District Court.

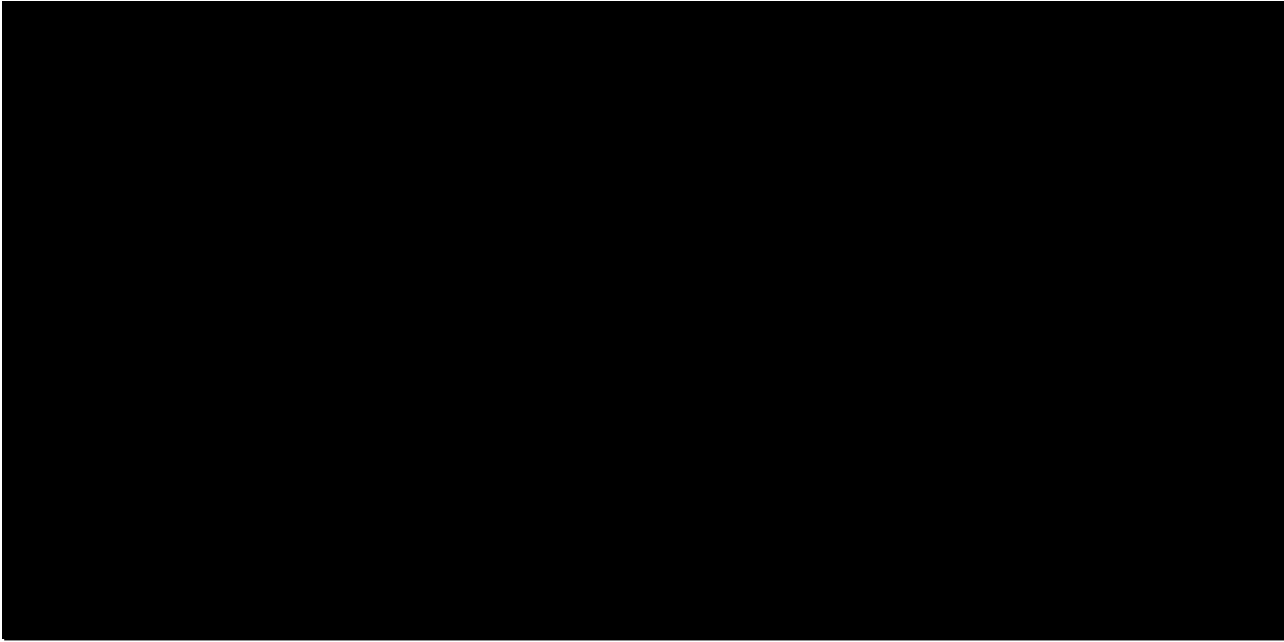
7. Upon motion duly made, seconded and passed, the Board finds that Respondent's conduct violates the Kansas Dental Act and forms the basis of discipline pursuant to K.S.A. 65-1436(a)(9) and (12).

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

A. LICENSURE. Respondent agrees, and the Board further orders that, subject to the terms of paragraphs 8.B – 8.F below, Respondent's license to engage in the practice of dental hygiene in the State of Kansas shall be reinstated upon the effective date of this Stipulation and Consent Order.

B. PROBATION. Respondent agrees, and the Board further orders that Respondent's License to engage in the practice of dental hygiene in the State of Kansas shall be on PROBATION for one (1) year from the effective date of this Stipulation and Consent Order.





D. EXTENDED CARE PERMIT. Respondent agrees, and the Board further orders that Respondent shall not hold an extended care permit I, II or III, and Respondent's request for issuance of an extended care permit in the Reinstatement Application is denied. Respondent shall be eligible to petition the Board to remove the prohibition on an extended care permit I, II or III upon successful completion of probation.

E. DISMISSAL. Respondent and the Board stipulate, and the Board further orders, that the Petition to Revoke is hereby dismissed with prejudice.

F. 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 dental hygienists.

9. Respondent agrees that all information in the possession of the Board's Investigation members, 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.

10. 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.

11. 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.

12. 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.

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13. 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, K.S.A. 77-501 and the Kansas Judicial Review Act.

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.

14. 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.

15. 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.

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16. 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.

17. 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.

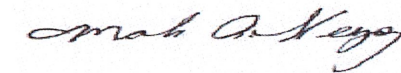
18. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's President or the President's authorized representative.

19. The Respondent acknowledges that she has been advised by the Board that she would have the right within fifteen (15) days after service of this Stipulation and Consent Order to file a petition for reconsideration with the Board and the right within thirty (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.*, and to serve such a petition for judicial review on the Kansas Dental Board by serving B. Lane Hemsley, its Executive Director, at 900 SW Jackson, Room 455-S, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 14th day of August, 2020.

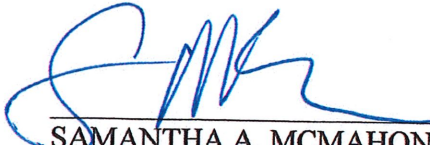
KANSAS DENTAL BOARD

By:



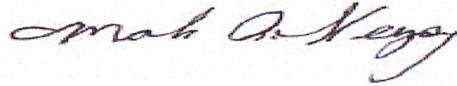
MARK HERZOG, DDS
President

AGREED AND APPROVED BY:



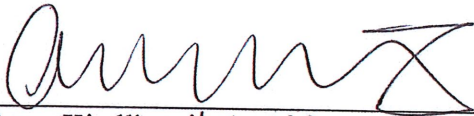
SAMANTHA A. MCMAHON

7/2/2020
Date



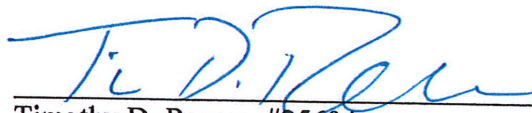
Mark Herzog, D.D.S.
Investigation Member

8/14/2020
Date



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Respondent's Attorney

7-6-2020
Date



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Disciplinary Counsel for the Kansas Dental Board

7-9-2020
Date

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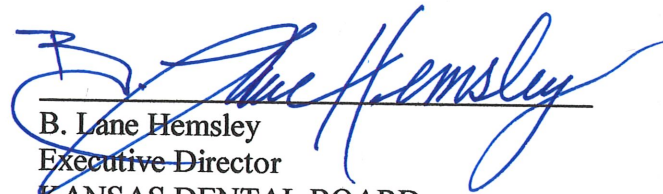
CERTIFICATE OF SERVICE

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 17th day of August, 2020, addressed to:

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B. Lane Hemsley
Executive Director
KANSAS DENTAL BOARD