

BEFORE THE KANSAS DENTAL BOARD

FILED

SEP 18 2017

KANSAS DENTAL BOARD

In the matter of)
)
ROBERT M. MOODY, D.D.S) Case No. 15-83
Kansas License No. 5279)

ADDENDUM TO STIPULATION AND FINAL AGENCY ORDER

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

1. The Board is represented herein by its attorney, Brenda L. Head of Frieden, Unrein & Forbes, 1414 S.W. Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, Tracy A. Cole of Gilliland & Hayes, LLC, 20 West 2nd Avenue, 2nd Floor, P. O. Box 2977, Hutchinson, KS 67504-2977.

2. The Kansas Dental Board ("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 or omissions 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. The Respondent is presently entitled to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued his Kansas license number 5279, subject to the restrictions in the Stipulation and Final Agency Order entered by the Board on April 8, 2016

and filed with the Board on April 11, 2016 (the “4.11.16 Stipulation and Final Agency Order”). The 4.11.16 Stipulation and Final Agency Order is incorporated herein in its entirety by reference.

4. The Board has received certain information, investigated and determined that there are reasonable grounds to believe the Respondent has engaged in conduct which violates the 4.11.16 Stipulation and Final Agency Order and which violates one or more provisions of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

(a) The Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, the following matters:

(i) Pursuant to the 4.11.16 Stipulation and Final Agency Order, the Respondent’s Kansas dental license was restricted from performance of any and all dental extractions or exodontia. The Respondent has engaged in conduct in violation of the restrictions on his license which violates the 4.11.16 Stipulation and Final Agency Order and one or more provisions of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

(ii) Pursuant to the 4.11.16 Stipulation and Final Agency Order, during the period of restriction, the Respondent was required to conspicuously display in his place of practice written notice to the public reflecting that his practice of dentistry does not include any dental extractions or exodontia. The Respondent failed to conspicuously display such written notice during the period of restriction of his license which violates the 4.11.16 Stipulation and Final Agency Order and one or more provisions of the Kansas Dental Act, K.S.A. 65-1401 *et seq.*

(b) The Board find and concludes that the Respondent's conduct, as described above, is violative of the Kansas Dental Act and 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)(1), (a)(6), (a)(15) and (a)(16).

5. The Board finds and Respondent understands, stipulates and agrees that the following disposition is just and appropriate under the circumstances:

A. LICENSE RESTRICTION. Respondent agrees, and the Board orders all restrictions and requirements of the 4.11.16 Stipulation and Final Agency Order continue until such time as the Respondent successfully abides by all of the restrictions and requirements therein, as well as the requirements of this Addendum, and the Board removes or modifies the restrictions and requirements pursuant to the procedure and requirements set forth in the 4.11.16 Stipulation and Final Agency Order.

B. 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 thirty (30) days of the entry of this Addendum to Stipulation and Final Agency Order.

C. COMMUNITY SERVICE. Respondent agrees, and the Board further orders the Respondent shall complete Twenty-Four (24) hours of community service which have been pre-approved by a Board Representative. Each organization for which Respondent performs hours of community service shall provide written documentation certifying Respondent's successful completion of the respective community service hours performed.

D. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of the 4.11.16 Stipulation and Final Agency Order and this Addendum to Stipulation and Final Agency Order he must, and the Board further orders, the Respondent to:

1. Comply fully with this Addendum to Stipulation and Final Agency Order;
2. Comply fully with the 4.11.16 Stipulation and Final Agency Order; and
3. Comply fully with the Kansas Dental Act, the Board's rules and regulations, and all state and federal laws relating to Kansas dentists;

6. 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 Addendum to Stipulation and Final Agency Order, with or without the presence of the Respondent or his attorney. In the event this Addendum to Stipulation and Final Agency Order is not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Addendum to Stipulation and Final Agency 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.

7. The stipulations and orders contained herein shall not become binding until this Addendum to Stipulation and Final Agency 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 Addendum to Stipulation and Final Agency Order.

8. The Respondent agrees that this Addendum to Stipulation and Final Agency 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.

9. This Addendum to Stipulation and Final Agency Order and the 4.11.16 Stipulation and Final Agency 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.

10. The 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 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 him to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Addendum to Stipulation and Final Agency Order.

11. The Respondent acknowledges that he enters into this Addendum to Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing. The Respondent further acknowledges that he has read this Addendum to Stipulation and Final Agency Order in its entirety, that he understands its legal consequences, and that he agrees that none of its terms are unconscionable, arbitrary, or capricious.

12. Time is of the essence to this Addendum to Stipulation and Final Agency Order. Respondent acknowledges and agrees that any violation of this Addendum to Stipulation and Final Agency Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of an alleged violation of this Addendum to Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Addendum to Stipulation and Final Agency Order.

13. This Addendum to Stipulation and Final Agency Order and the 4.11.16 Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this Addendum to Stipulation and Final Agency Order or the 4.11.16 Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Addendum to Stipulation and Final Agency Order and 4.11.16 Stipulation and Final Agency Order shall be given full force and effect.

14. Upon execution by all parties and entry as an order by the Board, this Addendum to Stipulation and Final Agency Order shall be a public record in the custody of the Board.

15. This Addendum to Stipulation and Final Agency 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.

16. The Respondent acknowledges that he has been advised by the Board that he would have the right within fifteen (15) days after service of this Addendum to Stipulation and Final Agency Order to file a Petition for Reconsideration with the Board and the right within thirty (30) days after service of the Addendum to Stipulation and Final Agency 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 B. Lane Hemsley, its Executive Direction, at 900 S.W. Jackson, Room 564-A, Topeka, Kansas 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 15th day of September, 2017.

KANSAS DENTAL BOARD

By Donna K Thomas DDS
DONNA K. THOMAS, D.D.S.
President

AGREED AND APPROVED BY:

Robert M. Moody DDS
ROBERT M. MOODY, D.D.S.

18th Feb '17
Date

for Donna K. Thomas D.D.S.
CHARLES F. SQUIRE, D.D.S.
Investigation Member

9/15/17
Date

Tracy A. Cole
TRACY A. COLE
GILLILAND & HAYES, LLC
20 West 2nd Avenue, 2nd Floor
PO Box 2977
Hutchinson, KS 67504-2977
ATTORNEYS FOR RESPONDENT
ROBERT M. MOODY, D.D.S.

7/24/17
Date

Brenda L. Head
BRENDA L. HEAD, KS #15657
FRIEDEN, UNREIN & FORBES, LLP
1414 S.W. Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100 FAX (785) 354-1113
ATTORNEYS FOR THE KANSAS
DENTAL BOARD

7/26/17
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ADDENDUM TO STIPULATION AND FINAL AGENCY ORDER was served by depositing the same in the United States Mail, postage prepaid, this 15th day of September, 2017, addressed to:

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

Robert M. Moody, D.D.S.
122 N. Taylor Street
El Dorado, KS 67042

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B. Lane Hemsley, Executive Director
KANSAS DENTAL BOARD