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MAY - 9 2008

KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter of	)	
	)	Case No. 07-119
RYAN D. LOUDEN, DMD	)	
<u>Kansas License No. 60014</u>	)	

**STIPULATION AND CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Ryan D. Louden, D.M.D. (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 his 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 dentistry.

3. The Respondent is not presently entitled to engage in the practice of dentistry in the State of Kansas by reason of the Board having issued an Emergency Agency Order suspending his license to practice dentistry until further order of the Board. At all times relevant hereto, the Respondent was issued Kansas License Number 60014.

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 upon motion duly made, seconded and passed, the Board finds, that:

A. On or about September 20, 2007, the Board issued an Emergency Agency Order suspending the Respondent's license to practice dentistry in the State of Kansas. A true and correct copy of the Emergency Agency Order is attached hereto and incorporated herein as Exhibit A.

B. The Respondent does not contest that the allegations contained in the Emergency Agency Order are true.

The Board further finds and concludes that the aforesaid conduct is grounds for disciplinary action in the State of Kansas pursuant to the following: K.S.A. 65-1436(a)(1); K.S.A. 65-1436(a)(2); K.S.A. 65-1436(a)(3), as further defined by K.S.A. 65-1436(c)(2); K.S.A. 65-1436(a)(3), as further defined by K.S.A. 65-1436(c)(3); and K.S.A. 65-1436(a)(10).

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 to the Board, within ten (10) days of the effective date to the Stipulation and Consent Order contemplated hereby, an administrative fine in the amount of Five Hundred Dollars (\$500).

B. IMPAIRED PROVIDER PROGRAM. Respondent agrees, and the Board further orders, that if Respondent is not currently a party to an agreement with the Kansas Dental Impaired Provider Program, the Respondent shall immediately enter into an agreement with the Kansas Dental Impaired Provider Program. Respondent shall fully cooperate with the

recommendations and requirements of the persons managing and implementing the Kansas Dental Impaired Provider Program, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the Kansas Dental Impaired Provider Program, and the further requirements of the Board. Respondent shall, at all times, be in full compliance with the requirements of the Kansas Dental Impaired Provider Program. The Respondent shall authorize the Kansas Dental Impaired Provider Program and any provider of evaluation or treatment programs he engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, his evaluations and treatment, including, but not limited to, all records and medical reports.

C. LIMITATION ON LICENSE. Respondent agrees, and the Board further orders, that the Respondent shall be prohibited from prescribing or dispensing any controlled substance until further order of the Board.

D. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he 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 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, 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 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 Stipulation and Consent Order.

12. The Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of his choosing. The 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 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 him. 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. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1173 Publicly Available Fine/Monetary Penalty."

B. Basis For Action: "H2 Unauthorized Prescribing of Medication."

18. The Respondent acknowledges that he has been advised by the Board that he 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 9 day of May, 2008.

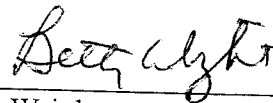


CERTIFICATE OF SERVICE

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 13<sup>th</sup> day of May, 2008, addressed to:

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

Ryan D. Louden, D.M.D.  
28840 Hwy 131  
Oak Creek, CO 80467



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Betty Wright  
Executive Director  
KANSAS DENTAL BOARD



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SEP 20 2007  
KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

*In The Matter Of*

RYAN D. LOUDEN, DMD  
LICENSE NO. 60014

Case No. 07-119

**EMERGENCY AGENCY ORDER**

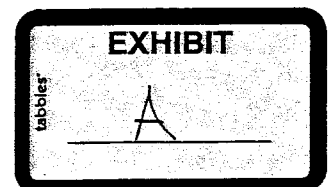
Ryan D. Louden, DMD (the "Respondent") is currently authorized to practice dentistry in the State of Kansas by reason of the Kansas Dental Board (the "Board") having issued him License No. 60014.

It has come to the attention of the Board's Investigation Member that the Respondent has committed the following acts:

1. On July 20, 2007, Respondent prescribed Hydrocodone (Vicodin) 30 for a five-year-old child J.P., who was the child of D.P., a woman with whom the Respondent reportedly had a romantic relationship. Prescribing this drug for a five-year-old child is below the applicable standard of care and was potentially impairing to the health and safety of the child. Although the Respondent's records indicate the Hydrocodone was for J.P., Respondent wrote the prescription fraudulently naming the boy's father as the patient. The boy's father was not and never had been a patient of Respondent.

2. Records from various pharmacies indicate that Respondent has written the following prescriptions for D.P.:

12/15/06	Diazepam - valium 5
12/15/06	Hydrocodone 20
5/18/07	Oxycodone (Lortab) 20
7/11/07	Oxycodone (Percocet) 20



7/14/07	Oxycodone 20
7/16/07	Hydrocodone 20
7/18/07	Oxycodone (Percocet) 20
7/20/07	Hydrocodone 20

During July of 2007, Respondent prescribed an excessive amount of controlled substances to D.P. and failed to record the amounts prescribed in the patient's record.

3. Records from pharmacies in the city in which Respondent practices indicate that Respondent has written the following prescriptions for himself:

12/3/06	Hydrocodone (Lortab) 20
11/27/06	Chlordiazepoxide (Librium) 10
3/3/07	Chlordiazepoxide (Librium) 10
3/7/07	Chlordiazepoxide (Librium) 10
4/6/07	Chlordiazepoxide (Librium) 10
4/26/07	Chlordiazepoxide (Librium) 10
5/28/07	Chlordiazepoxide (Librium) 10
7/8/07	Hydrocodone (Vicodin) 20

By self-prescribing Chloradiazepoxide, Respondent was prescribing outside the scope of the practice of dentistry.

4. On July 30, 2007, at approximately 6:30 PM, police officers attempted to discuss with Respondent the prescription Respondent had written for J.P. The police reported that Respondent appeared extremely intoxicated and slurred his words. The police have reported that they have had multiple contacts with Respondent during which he appeared intoxicated.

5. On September 10, 2007, police officers reported to Respondent's dental office to perform a welfare check on Respondent at the request of D.P., a woman with whom the Respondent reportedly had a romantic relationship. The police reported that the front of Respondent's dental office contained a strong odor of Nitrous Oxide and Respondent was found sitting in a chair in a patient booth with the nose piece for Nitrous Oxide on his face. The police

also reported that a bottle of vodka, which was approximately  $\frac{3}{4}$  empty, was on Respondent's desk in the rear of Respondent's dental office and Respondent appeared to be intoxicated.

6. On September 12, 2007, at approximately 9:30 p.m., police officers reported to Respondent's dental office to perform another welfare check on Respondent at the request of D.P., a woman with whom the Respondent reportedly had a romantic relationship. The police reported that Respondent's dental office contained a strong odor of Nitrous Oxide and Respondent was found sitting in a chair with the nose piece for Nitrous Oxide on his nose. The police also located a four pack of Salvador's original margarita alcoholic beverages and discovered that three of the beverages were open. The police further reported that Respondent initially appeared to be unconscious, but when police officers called his name, Respondent stood and appeared to be intoxicated. When police officers began to place handcuffs on him, Respondent took a drink out of a bottle of margarita. When police officers conducted field sobriety tests, they determined, based on their training and expertise, that there was at least a 65% probability that Respondent was impaired.

After considering the foregoing, the Board's Investigation Member, in accordance with the authority granted to him by the Board, enters the following emergency agency order, pursuant to K.S.A. 77-536 and K.S.A. 65-1449.

#### I. FINDINGS OF FACT

For purposes of this order, the Board's Investigation Member makes the following findings of fact:

1. The Board has previously issued Respondent license number 60014, which entitled him to practice dentistry in the State of Kansas ("Respondent's License").

2. Respondent has prescribed controlled substances in a fraudulent manner and in a manner that was potentially impairing to the health and safety of a five-year-old patient.

3. The Respondent prescribed excessive amounts of controlled substances to a patient with whom he reportedly had a romantic relationship.

4. The Respondent has self-prescribed drugs that were beyond the scope of the practice of dentistry.

5. The Respondent has had multiple contacts with law enforcement officers in which the officers reported that Respondent appeared to be significantly intoxicated.

6. The Respondent has habitually used intoxicants and drugs which have rendered the Respondent unfit for the practice of dentistry.

7. The Respondent has acted in a professionally incompetent manner.

## II. CONCLUSIONS OF LAW AND FACT

For purposes of this order, the Board's Investigation Member makes the following conclusions of law and fact:

1. Respondent's continuation in the practice of dentistry would constitute an immediate danger to the public health and safety or welfare. The least restrictive way to prevent or avoid the immediate danger Respondent poses to the public health, safety and welfare is to suspend Respondent's License.

2. There is cause to believe the acts committed by Respondent could form the basis for discipline of Respondent's License, including revocation or suspension, pursuant to various provisions of the Dental Act, including K.S.A. 65-1436 (a)(1), (2), (3), and (10).

## III. EMERGENCY ORDER

Pursuant to K.S.A. 77-536 and K.S.A. 65-1449, and based upon the foregoing findings and conclusions, Respondent's License is hereby suspended until further order of the Board, effective immediately.

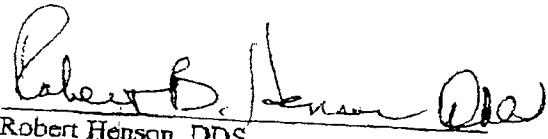
Within fifteen (15) days after service of this Emergency Agency Order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

Within the time limits established in K.S.A. 77-613, either party may seek judicial review of this Emergency Agency Order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Betty Wright  
Executive Director  
Kansas Dental Board  
900 SW Jackson, Room 564-S  
Topeka, KS 66612

IT IS SO ORDERED.

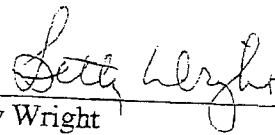
9-20-07  
Date

  
Robert Henson, DDS  
Investigation Member  
Kansas Dental Board

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 20<sup>th</sup> day of September, 2007, deposit in the United States mail, postage prepaid, a copy of the foregoing EMERGENCY AGENCY ORDER, properly addressed to the following:

Ryan Louden, DMD  
113 South Main  
Ulysses, KS 67880



Betty Wright  
Executive Director  
Kansas Dental Board