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AUG 22 2016

KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter of the Licensure of: )
)
ANTHONY J. PLEVIAK, D.D.S. )
Kansas License No. 5280 )
\_\_\_\_\_ )

Case Nos. 12-117 and 12-134

STIPULATION AND CONSENT ORDER

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

1. The Board is represented herein by its attorney, Brenda Head of Frieden, Unrein & Forbes, L.L.P., 1414 S.W. Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, James P. Nordstrom of Fisher, Patterson, Sayler & Smith, L.L.P., 3550 S.W. 5th Street, Topeka, Kansas.

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 petition, Respondent Anthony J. Pleviak, D.D.S. has practiced dentistry in the State of Kansas under the authority of Kansas License Number 5280 issued by the Board ("Kansas License").

4. The Board's Investigation Member has received certain information, investigated, and is of the opinion 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 disciplinary action against his Kansas License under the provisions of K.S.A. 65-1436(b) and/or the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1436(d).

5. Respondent points out to the Board that no complaints against him have come from patients. Nevertheless, Respondent hereby admits that he has, during and prior to 2012, failed to timely diagnose and treat tooth decay of several of his patients. As to these matters, Respondent waives any further proof in this or any other proceeding before or initiated by the Board.

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

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 hereby orders Respondent to pay an administrative fine in the amount of Two Thousand Dollars (\$2,000.00), within ten (10) days of the effective date of the Consent Order.
- (b) Respondent, having come to the end of his career in dentistry will be voluntarily retiring no later than May 26, 2016, and, having done so, agrees to surrender and will surrender his license. If Respondent should

seek reinstatement of any dentistry privileges in the future, whether for fee or *pro bono*, such will be granted, if and only if approved by the Board and the Board is free to place any qualifications, conditions precedent, and/or restrictions the Board desires, including, but not limited to, rejection of any such application by Respondent for reinstatement..

(c) 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;
- (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; and

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.

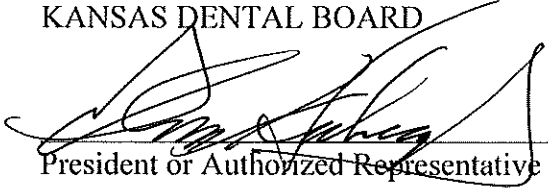
16. This Stipulation and Consent Order shall become effective on the day it is approved upon motion duly made, seconded and passed by the Board and entered as an order of the Board by the signature of the Board's President or the President's authorized representative below.

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

ENTERED AND EFFECTIVE this 19 day of August, 2016.

KANSAS DENTAL BOARD

By:

  
President or Authorized Representative

AGREED TO AND APPROVED BY:

  
Anthony Pleviak, D.D.S.

April 8, 2016  
Date




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James P. Nordstrom #06929  
FISHER, PATTERSON, SAYLER & SMITH, L.L.P.  
3550 S.W. 5<sup>th</sup> Street  
Topeka, KS 66606  
(785) 232-7761; (785) 232-6604 –fax  
[jnordstrom@fisherpatterson.com](mailto:jnordstrom@fisherpatterson.com)  
**Attorney for Respondent**

Date

April 8, 2016



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Brenda Head #15657  
FRIEDEN, UNREIN & FORBES, L.L.P.  
1414 S.W. Ashworth Place, Suite 201  
Topeka, KS 66604  
(785) 354-1100; (785) 354-1113 – fax  
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**Disciplinary Counsel for the  
Kansas Dental Board**

Date

May 3, 2016

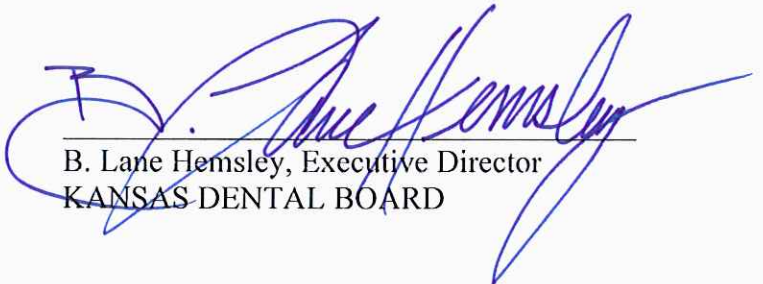
**CERTIFICATE OF SERVICE**

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 22<sup>nd</sup> day of August, 2016, properly addressed to:

Anthony Pleviak, D.D.S.  
1271 S.W. Woodhull  
Topeka, KS 66604

James P. Nordstrom  
FISHER, PATTERSON, SAYLER & SMITH, L.L.P.  
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**Attorney for Respondent**

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**Disciplinary Counsel for the  
Kansas Dental Board**

  
B. Lane Hemsley, Executive Director  
KANSAS DENTAL BOARD