

BEFORE THE KANSAS DENTAL BOARD

FILED
DEC - 8 2006
KANSAS DENTAL BOARD

In the Matter of)
)
DAVID M. DERUYTER, D.D.S.)
)
_____)

Case No. 06-96

STIPULATION AND FINAL AGENCY ORDER

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

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Haynes & Forbes, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Applicant 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 Applicant has submitted to the Board an application to be licensed to practice dentistry in the State of Kansas (the "Application").

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Applicant has committed an act or acts that would justify denial of his Application.

5. Applicant hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board and the Board finds that on February 21, 2003, the

Missouri Dental Board entered into a Settlement Agreement with the Applicant disciplining Applicant's Missouri license to practice dentistry (the "Missouri Settlement"). A true and correct copy of the Missouri Settlement is marked Exhibit A, attached hereto and incorporated herein by reference.

The Board finds and concludes that the Missouri Settlement is grounds for denying Applicant's application for a license to practice dentistry in the State of Kansas pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436 (a)(18).

6. The Board finds and the Applicant agrees that it is just and appropriate under the circumstances that he be issued a license to practice dentistry in the State of Kansas contingent upon his compliance with the following terms and conditions:

A. COMPLIANCE WITH THE MISSOURI SETTLEMENT. Applicant hereby agrees and consents to the Board's entry of an order requiring him to fully and timely comply with each of the requirements set forth in paragraphs 3, 4, 5, 6, 9, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of the "Joint Agreed Disciplinary Order" section of the Missouri Settlement appearing on pages 5 - 9.

B. AUTHORIZATIONS. Applicant shall execute, at the Board's request and from time to time, one or more authorizations or other documents necessary to authorize and permit the Board to obtain any and all information, including treatment records, from the Missouri Board regarding Applicant's compliance with the terms of the Missouri Settlement.

C. IMPAIRED PROVIDER PROGRAM. Applicant shall immediately arrange to be evaluated by 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 any evaluation and treatment programs recommended or required by the KS Dental Board Impaired Provider Program and the further requirements of the Board. Applicant shall at all times be in full compliance with the requirements of the Kansas Dental Impaired Provider Program. The Applicant shall authorize the Kansas Dental Impaired Provider Program and any provider of evaluation or treatment programs ~~she~~^{he} engages in to provide full and complete documentation and information regarding the Applicant's involvement in the programs, his evaluations and treatment, including, but not limited to, all records and medical reports.

D. OTHER REQUIREMENTS. Applicant acknowledges and agrees that as a condition of this Stipulation and Final Agency Order he must:

1. Comply fully with this Stipulation and Final Agency 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.

9. Applicant agrees and stipulates that any violation of the terms of this Stipulation or the Final Agency Order contemplated hereby shall be sufficient grounds to revoke or otherwise discipline Applicant's license to practice dentistry in the State of Kansas.

8. Applicant agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding the investigation of his application may be disclosed to and considered by the Board as part of the presentation and consideration of this Stipulation and Final Agency Order and the Final Order provided for herein, with or without the presence of the Applicant or his attorney. In the event that this Stipulation and Final Agency Order and the Final Order provided for herein are not accepted and approved by the Board, the Applicant further waives any objection to the Board members'

consideration of this 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 members' consideration of said document and information.

9. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Order provided for herein is entered by the Board. The Applicant 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 Final Agency Action or the Final Order provided for herein.

10. The Applicant agrees that this Stipulation and Final Agency Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. The Applicant 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.

11. 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.

12. The Applicant 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.

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 Applicant freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's granting him a license to practice dentistry in the State of Kansas. The Applicant further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

13. The Applicant acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing. The Applicant further acknowledges that he has read this 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.

14. Time is of the essence to this Stipulation and Final Agency Order. Applicant acknowledges and agrees that any violation of this 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 Stipulation and Final Agency Order shall not affect the obligation of Applicant to comply with all terms and conditions of this Stipulation and Final Agency Order.

15. This Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this 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 Stipulation and Final Agency Order shall be given full force and effect.

16. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

17. This 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 authorized representative.


18. The Applicant acknowledges that he has been advised by the Board that he would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Order provided for herein 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 Applicant hereby waives those rights.

AGREED AND ACCEPTED BY:



DAVID M. DERUYTER, D.D.S. *DM*

11-27-06
Date



ROBERT HENSON, D.D.S.
Investigation Member

12-8-06
Date

BEFORE THE KANSAS DENTAL BOARD

In the Matter of)
)
DAVID M. DERUYTER, D.D.S.)
_____)

Case No. 06-96

FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Dental Board (the "Board") approves and accepts the within Stipulation and incorporates the provisions thereof as the Final Order of the Board. The Board finds that on February 21, 2003, the Missouri Dental Board entered into a Settlement Agreement with the Applicant disciplining Applicant's Missouri license to practice dentistry (the "Missouri Settlement"). The Board further finds and concludes that the Missouri Settlement is grounds for denying Applicant's application for a license to practice dentistry in the State of Kansas, pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436 (a)(18).

The Board further finds and concludes that the Applicant should be issued a license to practice dentistry in the State of Kansas, contingent upon his compliance with the following terms and conditions:

A. COMPLIANCE WITH THE MISSOURI SETTLEMENT. Applicant shall and is hereby ordered to fully and timely comply with each of the requirements set forth in paragraphs 3, 4, 5, 6, 9, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of the "Joint Agreed Disciplinary Order" section of the Missouri Settlement appearing on pages 5 - 9.

B. AUTHORIZATIONS. Applicant shall and is hereby ordered to execute, at the Board's request and from time to time, one or more authorizations or other documents

necessary to authorize and permit the Board to obtain any and all information, including treatment records, from the Missouri Board regarding Applicant's compliance with the terms of the Missouri Settlement.

C. IMPAIRED PROVIDER PROGRAM. Applicant shall and is hereby ordered to immediately arrange to be evaluated by 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 any evaluation and treatment programs recommended or required by the Kansas Pharmacy Impaired Provider Program and the further requirements of the Board. Applicant shall at all times be in full compliance with the requirements of the Kansas Dental Impaired Provider Program. The Applicant shall authorize the Kansas Dental Impaired Provider Program and any provider of evaluation or treatment programs ~~she~~^{he} engages in to provide full and complete documentation and information regarding the Applicant's involvement in the programs, his evaluations and treatment, including, but not limited to, all records and medical reports.

D. OTHER REQUIREMENTS. Applicant shall and is further ordered:

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

It is further hereby ordered that, pursuant to the Applicant's agreement and stipulation, any violation of the terms of the Stipulation signed by the Applicant or this Final Agency Order shall be sufficient grounds to revoke or otherwise discipline Applicant's license to practice dentistry in the State of Kansas.

IT IS SO ORDERED.

ENTERED AND EFFECTIVE this 8th day of December, 2006.

KANSAS DENTAL BOARD

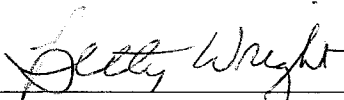
By: Karen Callanan DDS
Karen Callanan, D.D.S., M.S.
President

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND FINAL AGENCY ORDER was served upon counsel by depositing same in the United States mail, postage prepaid, this 11 day of December, 2006, addressed to:

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

David M. DeRuyter, D.D.S.
7501 West 98th Street
Overland Park, Kansas 66612



Betty Wright
Executive Director
KANSAS DENTAL BOARD



Matt Blunt, Governor
State of Missouri

David T. Broeker, Director
Division of Professional Registration

Gregory A. Steinhoff, Director
Department of Economic Development

MISSOURI DENTAL BOARD
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573-751-0040
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800-735-2966 TTY
800-735-2466 Voice Relay Missouri
dental@pr.mo.gov
<http://www.pr.mo.gov>

Sharlene Rimiller
Executive Director

August 29, 2006

Betty Wright
Executive Director
Kansas Dental Board
Landon State Office Building
900 SW Jackson, Rm 564-S
Topeka, KS 66612-1572

Dear Ms. Wright:

This letter will certify that the attached copies are accurate and true copies of the records of the Missouri Dental Board contained in the file of D. Michael DeRuyter, D.D.S.

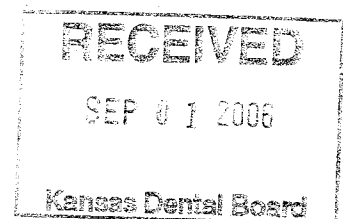
If you should have any questions regarding these documents, please do not hesitate to contact this office.

Sincerely,

Vickie Holtmeyer
Investigator I

VH:ps

Enclosure



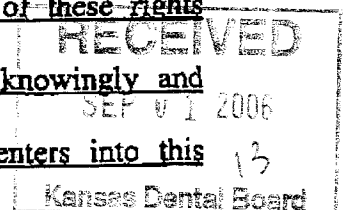
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**SETTLEMENT AGREEMENT BETWEEN THE MISSOURI
DENTAL BOARD AND D. MICHAEL DERUYTER, D.D.S.**

COME NOW the licensee, D. Michael DeRuyter, D.D.S. ("Licensee"), and the Missouri Dental Board ("Board") and enter in to this Settlement Agreement for the purpose of resolving the question of whether Licensee's license as a dentist will be subject to discipline.

Pursuant to the terms of §536.060, RSMo Supp. 1997, the parties hereto waive the right to a hearing of the issues stipulated in this Agreement by the Administrative Hearing Commission ("AHC") of the state of Missouri and, additionally, the right to disciplinary hearing before the Board under §621.110, RSMo 1994, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial Administrative Hearing Commissioner concerning the charges pending against him; the right to a ruling on questions of law by an Administrative Hearing Commissioner; and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided her by operation of law, D. Michael DeRuyter, D.D.S., knowingly and voluntarily waives each and every one of these rights and freely enters into this



Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the complaint filed with the Board, investigative report, and other documents relied upon by the Board in determining there was cause for discipline against his license. Licensee acknowledges that the Board and its attorney followed the procedures enumerated in Section 621.045, RSMo Supp. 1997, including but not limited to:

- (1) providing Licensee with a written description of the specific conduct for which discipline is sought, and a citation to the law and rules violated, together with copies of any documents which are the basis thereof;
- (2) waiting to offer a settlement proposal to Licensee until more than thirty (30) days after providing the above-mentioned description, citation, and documents;
- (3) allowing Licensee at least sixty (60) days from the date of mailing to consider the Board's initial settlement offer and discuss the terms of such settlement offer with the Board;
- (4) advising Licensee that Licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of Licensee;

