

FILED
JUN 22 2007
KANSAS DENTAL BOARD

BEFORE THE KANSAS DENTAL BOARD

In the Matter Of)	Case No.	06-95
)	OAH No.	07DB0002
ROBERT M. WOOD, D.D.S.)		
<u>License No. 6079</u>)		

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Robert M. Wood, D.D.S. (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, NA

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 limit a Level II Anesthesia Permit if it can be established that the permit holder has engaged in negligent or dangerous conduct. K.A.R. 71-5-6(a)(2).

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 him Kansas license number 6079. At all times relevant hereto, the Respondent has held a current license to engage in the practice of dentistry in the State of Kansas and a current Level II Anesthesia Permit.

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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 that:

A. On June 24, 2005, the Board issued Respondent a Level II Anesthesia Permit, identified as Permit Number II-016.

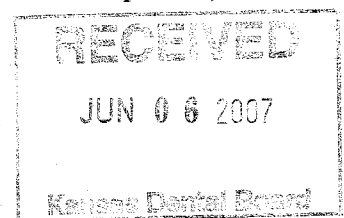
B. On or about August 9, 2006, an incident occurred whereby controlled substances from Respondent's office were located at the residence of a deceased individual (the "Incident").

C. As a result of the Incident, on or about August 14, 2006, the Drug Enforcement Agency ("DEA") performed an investigation of Respondent's inventory and record-keeping of controlled substances. The DEA determined that Respondent failed to maintain an adequate controlled substances inventory, maintain adequate records, and properly safeguard and protect controlled substances in his possession.

D. As a result of the DEA's investigation into Respondent's inventory and record-keeping of controlled substances, Respondent voluntarily surrendered his DEA registration, number BW3339783. Respondent's controlled substances were subsequently relinquished or destroyed by the DEA.

E. With the surrender of his DEA registration, Respondent was prohibited from ordering, prescribing, or administering any controlled substances.

F. Following the DEA's investigation that occurred on or about August 14, 2006, the Board received a complaint from DEA Investigator Martin Redd (the "Complaint").



G. On September 6, 2006, the Respondent submitted an Application for Registration, DEA Form-224, to the DEA.

H. By letter dated October 10, 2006, Respondent informed the Board that he did "not have controlled medications in [his] office" nor did he "subscribe [sic] medications."

I. After receipt of the Respondent's submission of an Application for Registration, the DEA performed a pre-registration inspection of Respondent's office on or about November 1, 2006. The DEA found that Respondent continued to possess and dispense controlled substances, despite having voluntarily surrendered his DEA registration on or about August 14, 2006.

J. The DEA also found that Lortab had been dispensed and not properly recorded in a patient's chart.

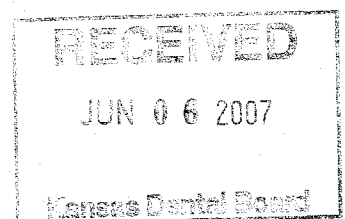
K. As a result of the DEA's pre-registration inspection of Respondent's Office, and in lieu of issuing an Order to Show Cause to revoke or suspend the Respondent's DEA Application for Registration, the Respondent signed a Memorandum of Agreement with the DEA on February 8, 2007.

L. At the time of the Incident, Respondent failed to maintain an adequate controlled substances inventory.

M. At the time of the Incident, Respondent failed to maintain adequate records.

N. At the time of the Incident, Respondent failed to properly safeguard and protect controlled substances in his possession.

O. After voluntarily surrendering his DEA registration, Respondent continued to possess and dispense controlled substances.



P. After voluntarily surrendering his DEA registration, Respondent failed to maintain adequate records.

Q. Respondent falsely advised a Board representative that he did not have controlled substances in his dental office since surrendering his DEA registration and that he had not prescribed controlled substances since surrendering his DEA registration.

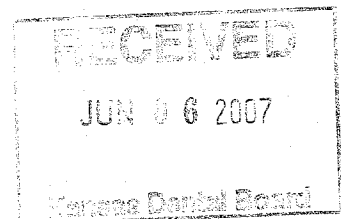
The Board finds and concludes that the aforesaid conduct is grounds for disciplinary action in the State of Kansas pursuant to K.A.R. 71-5-6(a)(2).

6. The Board finds and the Respondent agrees that the following disposition is just and appropriate under the circumstances:

A. Respondent agrees to abide by all Federal, state, and local laws and regulations relating to controlled substances.

B. Respondent shall not dispense any controlled substance listed in Schedules III through V other than by direct administration to the patient or by prescribing. Respondent shall not dispense any controlled substance listed in Schedule II.

C. Respondent agrees to maintain records of all controlled substances as required by Title 21 of the Code of Federal Regulations, Section 1304.04 and inventory records specified in the Code of Federal Regulations, Section 1304.11. Since these records are required by law, this term shall not terminate upon completion of the agreement period specified in paragraph 6J below. Such records shall be available for inspection and be maintained in a readily retrievable manner separate from all other records of the medical practice without the necessity of the Board obtaining an administrative inspection warrant, a search warrant or other means of entry, and without prior notice to the Respondent. The Board agrees to make any such inspections during normal business operating hours.

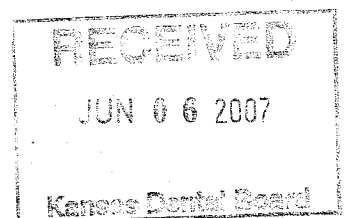


D. Respondent agrees to keep copies of all controlled substances prescriptions he issues while the Agreement is in effect. The prescriptions shall include the date, name and address of the patient, and name, quantity, form and medical purpose for prescribing the controlled substance. Such prescription copies shall be available for inspection and be maintained in a readily retrievable manner separate from all other records of the medical practice without the necessity of the Board obtaining an administrative inspection warrant, a search warrant or other means of entry, and without prior notice to Respondent. The Board agrees to make any such inspections during normal business operating hours.

E. Respondent shall maintain a log of controlled substance prescriptions telephoned to pharmacies. The log shall include the information specified in paragraph 6D, as well as the name and telephone number of the pharmacy contacted.

F. Respondent shall document the reason for administering or prescribing a controlled substance in the patient's chart and will make all chart entries in typewritten form or legible print.

G. For the duration of the Agreement, Respondent shall retain the prescription copies as set forth in paragraph 6D at his DEA registered location and agrees to allow DEA personnel and state or local law enforcement and regulatory personnel access to his controlled substance records, the prescription copies and the patient files for purposes of verifying his compliance with this Agreement and with all federal, state and local statutes and regulations relating to controlled substances. Respondent agrees to permit such entry by DEA and state or local law enforcement and regulatory personnel during normal business operating hours and without the requirement of an administrative inspection warrant, a search warrant or other means of entry, and without prior notice to Respondent. The Respondent shall also allow



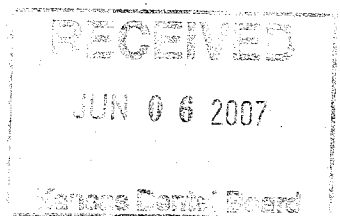
DEA and state or local law enforcement and regulatory personnel to inspect his medical patient files in order to verify the controlled substance prescriptions that he has issued during the term of the Agreement.

H. Respondent understands and agrees that any violations of this agreement may result in the initiation of proceedings to immediately suspend or revoke the Respondent's Level II Anesthesia Permit and/or his license. The Respondent further understands that the Board is not precluded from introducing the Agreement, violations of the Agreement and any other relevant allegations, whether enumerated herein or not, that preceded or may ensue during or after the effective period of the Agreement, in any future administrative proceedings. The Board and Respondent agree that neither party is precluded or limited in alleging and proving any fact that would otherwise be admissible in any subsequent administrative hearings pertaining to the Respondent's Level II Anesthesia Permit and/or his license.

I. Respondent understands that a copy of this Agreement shall be forwarded to the DEA.

J. The terms and conditions of this Agreement will commence and remain in effect for a period of three (3) years from the time the Agreement is fully executed, i.e., from the date the Final Agency Order contemplated hereby is executed.

7. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding the investigation which led to this disciplinary action 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 Final Agency Order and the Final Order provided for herein, with or without the presence of the Respondent 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 Respondent 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 member's consideration of said document and information.

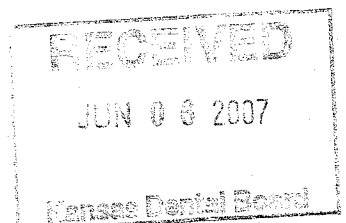
8. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Order provided for herein is entered by the Board. The Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Final Agency Action or the Final Order provided for herein.

9. The Respondent 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 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;



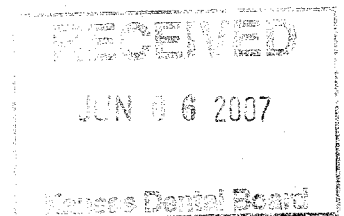
C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

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 Final Agency Order and the Final Order provided for herein.

12. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing. The Respondent 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.

13. Time is of the essence to this Stipulation and Final Agency Order. Respondent 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 Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.



14. 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.

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

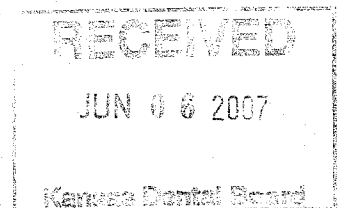
16. This Stipulation and Final Agency Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

17. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1199 Other – Not Classified, no administration or dispensation of any controlled substance listed in Schedule II."

B. Basis For Action: "A6 – Violation of Federal or State Statutes, Regulations or Rules."

18. The Respondent 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 Respondent hereby waives those rights.

AGREED AND ACCEPTED BY:

Robert M. Wood, D.D.S.
Robert M. Wood, D.D.S.

5/24/07
Date

Robert Henson, D.D.S.
Robert Henson, D.D.S.
Investigation Member

6-4-07
Date

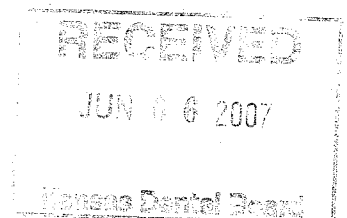
APPROVED BY:

Respondent's Attorney's Name & Address

Date

Randall J. Forbes
Randall J. Forbes, #09089
FRIEDEN & FORBES
555 S. Kansas Avenue, Suite 303
Topeka, KS 66603
(785) 232-7266

5.29.07
Date



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License No. 6079)

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FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Dental Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board.

The Board finds that on June 24, 2005, the Board issued Respondent a Level II Anesthesia Permit, identified as Permit Number II-016. On or about August 9, 2006, an incident occurred whereby controlled substances from Respondent's office were located at the residence of a deceased individual (the "Incident"). As a result of the Incident, on or about August 14, 2006, the Drug Enforcement Agency ("DEA") performed an investigation of Respondent's inventory and record-keeping of controlled substances. The DEA determined that Respondent failed to maintain an adequate controlled substances inventory, maintain adequate records, and properly safeguard and protect controlled substances in his possession.

As a result of the DEA's investigation into Respondent's inventory and record-keeping of controlled substances, Respondent voluntarily surrendered his DEA registration, number BW3339783. Respondent's controlled substances were subsequently relinquished or destroyed by the DEA. With the surrender of his DEA registration, Respondent was prohibited from ordering, prescribing, or administering any controlled substances. Following the DEA's investigation that occurred on or about August 14, 2006, the Board received a complaint from DEA Investigator Martin Redd (the "Complaint").