

BEFORE THE KANSAS DENTAL BOARD

FILED
JUN 22 2007
KANSAS DENTAL BOARD

In the Matter Of)
)
ERIC N. YOUVAN, D.D.S.)
License No. 6972)

Case No. 06-1830-6972
Case No. 06-81

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Dental Board (the "Board") and Eric N. Youvan, 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, Terelle A. Mock of Fisher, Patterson, Sayler & Smith, LLP, 3550 S.W. 5th Street, Topeka, Kansas 66606.

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 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 6972. At all times relevant hereto, the Respondent has held a current license to engage in the practice of dentistry in the State of Kansas.

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.*

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Kansas Dental Board

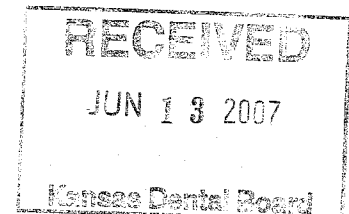
5. In Case No. 06-1830-6972, on December 28, 2006 the Board's Disciplinary Counsel filed a Petition to Revoke, Suspend, Limit or otherwise Discipline Licensure (the "Petition"), seeking the discipline of the Respondent's Kansas license to practice dentistry in the State of Kansas. The Petition alleges that the Respondent, while licensed by the Board, committed an act or acts in violation of the Kansas Dental Practices Act, K.S.A. 65-1401 *et seq.*, including:

A. On or about October 22, 2002, the Respondent, while under an agreement with Heart of America Professional Network ("HAPN") for treatment of alcohol abuse, informed HAPN that he was no longer practicing dentistry.

B. On or about November 1, 2002, HAPN informed the Respondent of his non-compliance with his HAPN Agreement because he had failed to follow through on a treatment recommendation following his relapse of September 26, 2002, submit twelve-step sheets, attend monthly monitoring meetings, and provide a UA. Continued compliance with the requirements of the HAPN agreement and recovery requirements was essential to the Respondent being able to practice dentistry safely.

C. On or about January 15, 2003, the Respondent informed the Board that he was retiring his license for a period of one year effective February 15, 2003.

D. On or about January 30, 2003, HAPN notified the Board that the Respondent's case was closed due to the retirement of his license for a period of one year. HAPN also advised the Board that, should the Respondent reactivate his license, the Kansas Dental Impaired Provider Program should be recommended for monitoring.



E. On or about August 3, 2003, the Respondent requested that his license be returned to active status. The Respondent failed to notify HAPN of his request to reactivate his license to practice dentistry.

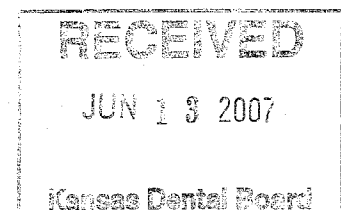
F. On or about February 7, 2006, the Respondent was arrested in Crawford County, Kansas, and charged with the following: Aggravated Assault contrary to K.S.A. 21-3401(a); Criminal Damage to Property contrary to K.S.A. 21-3720(a)(1); and Domestic Battery contrary to K.S.A. 21-3412(2)(C). The charges were later dropped.

G. After his arrest on or about February 7, 2006, the Respondent was admitted for a psychiatric evaluation. The evaluation of the Respondent resulted in findings that his drug screen was positive for marijuana and he seemed to minimize his substance abuse problem and was evasive about it.

H. On or about March 16, 2006, HAPN contacted the Respondent to request that he submit to an evaluation to determine whether he had a problem or illness which had, or could, impair his ability to practice dentistry safely. HAPN also requested that the Respondent complete and return Release of Information forms. The Respondent did not reply.

I. On or about April 11, 2006, HAPN contacted the Respondent and notified him that he was in non-compliance with the HAPN program for failure to respond to HAPN's March 16, 2006 correspondence, failure to return the Release of Information forms, and HAPN's inability to determine the Respondent's safety to practice dentistry.

J. On or about September 5, 2006, HAPN notified the Respondent that his case had been closed for failure to return a signed HAPN Agreement, which was mailed to the Respondent on July 7, 2006. The Respondent's failure to maintain compliance with HAPN and recovery requirements renders him unsafe to practice dentistry.



The Respondent does not contest that the allegations contained in the Petition are true.

The Board finds and concludes that the allegations contained in the Petition are sufficient grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1436(b) and K.S.A. 65-1436(a)(2) and 65-1436(a)(3), as further defined by 65-1436(c)(3).

6. In Case No. 06-81, it is alleged that the Respondent, while licensed by the Board, committed an act or acts in violation of the Kansas Dental Practices Act, K.S.A. 65-1401 *et seq.*, including:

A. At Respondent's request, his license was voluntarily retired effective February 15, 2003.

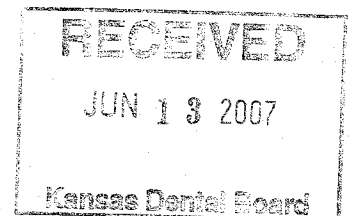
B. Despite the retirement of the Respondent's license, the Respondent continued to own a dental practice while his license was in retired status from February 15, 2003 to August 4, 2003.

The Respondent does not contest that the allegations contained in Case No. 06-81 are true.

The Board finds and concludes that the allegations contained in Case No. 06-81 are sufficient grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1435(d) and K.S.A. 65-1435(f).

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

A. **IMPAIRED PROVIDER PROGRAM.** 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



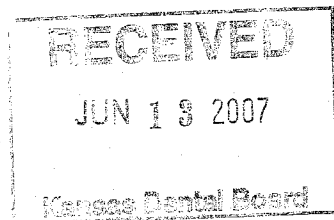
managing and implementing the Kansas Dental Impaired Provider Program, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the Kansas Dental Impaired Provider Program and the further requirements of the Board. 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.

B. ADMINISTRATIVE FINE. Respondent hereby agrees and consents to the Board entering an order requiring him to pay to the Board, within ten (10) days of the effective date to the Final Agency Order contemplated hereby, an administrative fine in the amount of One Thousand Five Hundred Dollars (\$1,500).

C. OTHER REQUIREMENTS. Respondent 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.

8. 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 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.

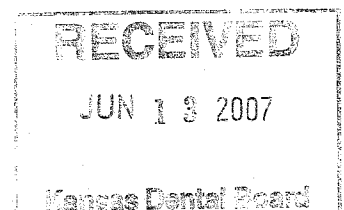
9. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Order provided for herein is entered by the Board. The Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval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

10. 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.

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 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;



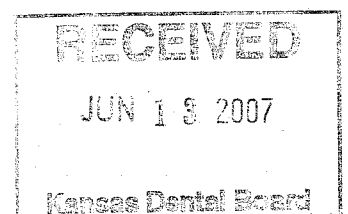
C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

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.

13. 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.

14. 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.



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.

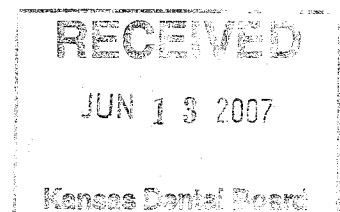
18. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1199 Other Licensure Action – Not Classified, Mandatory participation in the Kansas Dental Impaired Provider Program."

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

C. Basis For Action: "Other – Not Classified, Use of Intoxicants and related conduct."

19. 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:



ERIC N. YOUVAN, D.D.S.

6-6-07
Date

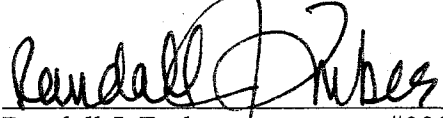
ROBERT HENSON, D.D.S.
Investigation Member

Date

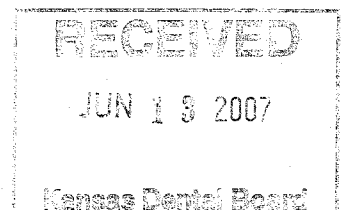
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Date



BEFORE THE KANSAS DENTAL BOARD

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) Case No. 06-81
Kansas License No. 6972)

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.

CASE NUMBER 06-1830-6972

In Case No. 06-1830-6972, the Board finds that on December 28, 2006 the Board's Disciplinary Counsel filed a Petition to Revoke, Suspend, Limit or otherwise Discipline Licensure (the "Petition") against Eric N. Youvan, D.D.S. (the "Respondent"), seeking the discipline of the Respondent's Kansas license to practice dentistry in the State of Kansas. The Petition alleges that the Respondent, while licensed by the Board, committed an act or acts in violation of the Kansas Dental Practices Act, K.S.A. 65-1401 *et seq.*, including:

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