

BEFORE THE KANSAS DENTAL BOARD

FILED

AUG 31 2012

In the Matter of )  
 )  
HESHUN CHEN, D.D.S. )  
\_\_\_\_\_ )

Case No. 12-53

KANSAS DENTAL BOARD

STIPULATION AND FINAL AGENCY ORDER

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

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein & Forbes, LLP, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Applicant is represented herein by John C Versnel, III of Lawrence & Versnel PLLC, 4120 Columbia Center, 701 Fifth Avenue, Seattle, WA 98104.

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 April 20, 2012, the state

of Washington Department of Health Dental Quality Assurance Commission, the Washington dental licensing entity, accepted a Stipulation with the Applicant imposing a sanction, including mandatory continuing education, on Applicant's Washington license to practice dentistry (the "Washington Settlement"). A true and correct copy of the Washington Settlement is marked Exhibit A, attached hereto and incorporated herein by reference.

The Board finds and concludes that the Washington 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 WASHINGTON 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 3.1 through 3.5 of the "Informal Disposition" section of the Washington Settlement appearing on pages 3-4.

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, from the Washington Dental Quality Assurance Commission regarding Applicant's compliance with the terms of the Washington Settlement.

C. 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 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. In the event that this Stipulation and Final Agency Order and the Final Order provided for herein are not accepted and approved, the Applicant further waives any objection to the 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 authorized representative of the Board and the Final Order provided for herein is entered. 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

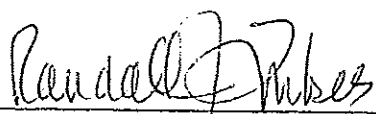
Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Dental Board by serving B. Lane Hemsley, its Executive Director, at 900 SW Jackson, Room 564-S, Topeka, KS 66612. The Applicant hereby waives those rights.

AGREED AND ACCEPTED BY:

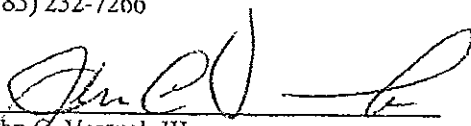
  
HESHUN CHEN, D.D.S.

8/1/2012  
Date

APPROVED BY:

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

8/2/12  
Date

  
John C. Versnel, III  
LAWRENCE & VERSNEL PLLC  
4120 Columbia Center  
701 Fifth Avenue  
Seattle, WA 98104  
(206) 344-2003

8/2/2012  
Date

BEFORE THE KANSAS DENTAL BOARD

In the Matter of )  
  ) )  
HESHUN CHEN, D.D.S. )  
\_\_\_\_\_ )

Case No. 12-53

FINAL ORDER

The Kansas Dental Board (the "Board"), through its authorized representative, approves and accepts the within Stipulation and incorporates the provisions thereof as the Final Order of the Board. The Board finds that on April 20, 2012, the Washington Department of Health Dental Quality Assurance Commission, the Washington dental licensing entity, (the "Washington Commission"), approved a Stipulation with Heshun Chen, DDS ("the Applicant") imposing a sanction on Applicant's Washington license to practice dentistry (the "Washington Settlement"). The Board further finds and concludes that the Washington 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 WASHINGTON SETTLEMENT.

Applicant shall and is hereby ordered to fully and timely comply with each of the requirements set forth in paragraphs 3.1 through 3.5 of the "Informal Disposition" section of the Washington Settlement appearing on pages 3-4.

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 from the Washington Commission regarding Applicant's compliance with the terms of the Washington Settlement.

C. 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.

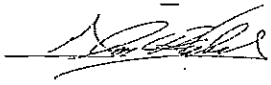
It is further hereby ordered that, pursuant to the Applicant's agreement and stipulation, any violation of the terms of the Stipulation signed by the Applicant or this Final Agency Order shall be sufficient grounds to revoke or otherwise discipline Applicant's license to practice dentistry in the State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

IT IS SO ORDERED.

ENTERED AND EFFECTIVE this 21<sup>st</sup> day of August, 2012.

KANSAS DENTAL BOARD

By:

  
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Glenn Hemberger, D.D.S.  
President and Investigation Member



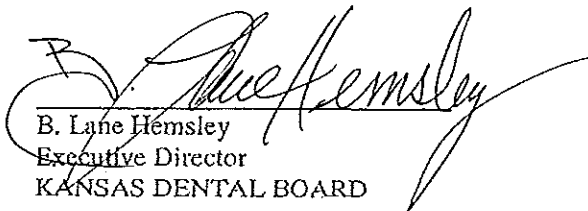
CERTIFICATE OF SERVICE

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 31<sup>st</sup> day of August, 2012, addressed to:

Randall J. Forbes  
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555 S. Kansas Avenue, Suite 303  
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B. Lane Hemsley  
Executive Director  
KANSAS DENTAL BOARD