

BEFORE THE KANSAS DENTAL BOARD

FILED

JAN 20 2017

KANSAS DENTAL BOARD

In the Matter of the Licensure of: )
JAY MORRIS, D.D.S. ) Case No. 15-56
Kansas License No. 6047 )
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STIPULATION AND CONSENT ORDER

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

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein & Forbes, LLP, 1414 SW Ashworth Pl., Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, Mark W. Stafford, Simpson Logback Lynch Norris P.A., 107 SW 6th Ave., Suite 210, Topeka, Kansas 66603.

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 his Kansas license number 6047. 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's Investigation Member has received certain information, investigated and determined 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 the revocation or imposition of other disciplinary action against his Kansas License under the provisions of K.S.A. 65-

1436(b) and the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1436(d).

5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded and passed, the Board finds, that:

A. In March 2011, patient PW presented to Respondent's dental practice with teeth #'s 19, 20, 28, 29 and 30 missing.

B. Respondent treated patient PW by placing mini dental implants.

C. Within a few months, five (5) of the mini dental implants placed by Respondent on the lower right had fractured off at bone level and had to be removed by an oral surgeon.

D. Respondent's use of mini dental implants for long-term replacement and restoration of patient PW's posterior teeth fell below the applicable standard of dental care.

E. Instances existed in the treatment provided to patient PW, who had known bruxism, where the crown or restoration set several millimeters above the crestal bone. The length of the implant and restoration which was suprabony was not adequately supported by the portion of the implant which was in the bone. In the situation of patient PW, this condition fell below the applicable standard of dental care.

F. Respondent's dental records for patient PW indicate that the patient was charged for custom abutments attached to the implants that were not provided.

Upon motion duly made, seconded and passed, the Board finds that Respondent's conduct constitutes professional incompetence pursuant to K.S.A. 65-1436 (a)(3) as defined at

K.S.A. 65-1436 (c)(2) and subjects his license to discipline pursuant to K.S.A. 65-1436(b) including the imposition of an appropriate fine pursuant to 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. PRACTICE RESTRICTIONS. Respondent agrees and consents that he will neither prepare a treatment plan nor perform any and all types of dental implants in the future while practicing dentistry while being issued a Kansas Dental License. B. OTHER

REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must, and the Board further orders the Respondent to:

- (i) Comply fully with this Stipulation and Consent Order; and
- (ii) Comply fully with the Kansas Dental Act, the Board's rules and regulations and all state and federal laws relating to Kansas dentists.

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, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Consent 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 and orders contained herein shall not become binding until this Stipulation and Consent Order is approved and 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 Consent Order.

9. The 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. 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 Procedure Act and the Kansas Judicial Review Act.

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 his

to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order.

12. The Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation with or an opportunity to consult with counsel of his choosing. The 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 are unconscionable, arbitrary or capricious.

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. The pendency of any disciplinary action arising out of an 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 deemed 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, accepted and made an order of the Board by way of signature of the Board's President or the President's authorized representative.

17. The Respondent acknowledges that he has been advised by the Board that he would have 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.*, 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 Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 20<sup>th</sup> day of January, 2017

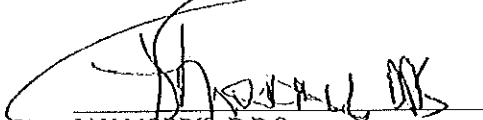
KANSAS DENTAL BOARD

By: \_\_\_\_\_




GLENN HEMBERGER, DDS  
President

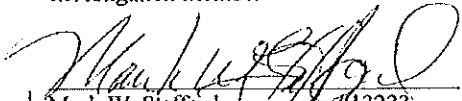
AGREED AND APPROVED BY:

  
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JAY MORRIS, D.D.S.

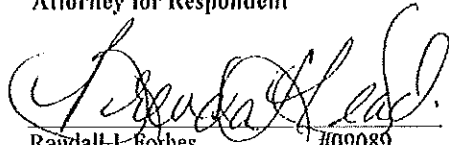
1-18-17  
Date

  
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for CHARLES SQUIRE, D.D.S.  
Investigation Member

1/20/17  
Date

  
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Mark W. Stafford #13233  
SIMPSON LOGBACK BYNCH NORRIS P.A.  
107 SW 6th Ave., Suite 210  
Topeka, KS 66603  
TEL: (785) 232-6200  
FAX: (785) 232-6205  
Attorney for Respondent

1/19/17  
Date

  
\_\_\_\_\_  
Randall J. Forbes #09089  
| Brenda L. Head #15657  
FRIEDEN, UNREIN & FORBES, LLP  
1414 SW Ashworth Pl., Suite 201  
Topeka, Kansas 66604  
TEL: (785) 354-1100  
FAX: (785) 354-1113  
Disciplinary Counsel for the Kansas Dental Board

1-19-17  
Date

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **STIPULATION AND CONSENT ORDER** was served by depositing same in the United States mail, postage prepaid, this 23<sup>rd</sup> day of January, 2017, addressed to:

Randall J. Forbes  
FRIEDEN, UNREIN & FORBES, LLP  
14154 SW Ashworth Place, Suite 201  
Topeka, KS 66604

**PERSONAL AND CONFIDENTIAL**

Jay Morris, D.D.S.  
5600 West 95<sup>th</sup> St. #204  
Overland Park, KS 66207

Mark W. Stafford  
SIMPSON LOGBACK LYNCH NORRIS P.A.  
107 SW 6th Ave., Suite 210  
Topeka, KS 66603

  
Representative of the Executive Director  
KANSAS DENTAL BOARD