

**SBDE NO. 2014-01015**

**IN THE MATTER OF  
THE LICENSE OF**

**KENNETH WILSTEAD, DDS**

**TEXAS DENTAL LICENSE  
NUMBER 27571**

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**BEFORE THE STATE**

**BOARD OF**

**DENTAL EXAMINERS**

**AGREED SETTLEMENT ORDER**

On the 14<sup>th</sup> day of August, 2015, the State Board of Dental Examiners (Board) met in a regularly scheduled meeting and the above-styled case was heard.

On August 10, 2015, the Board proposed this Agreed Settlement Order (ASO) in the above-styled case against Kenneth Wilstead, DDS, hereinafter "Respondent," holder of Texas Dental License No. 27571. At issue are allegations that Respondent violated the laws and rules regulating the practice of dentistry.

Respondent hereby waives a formal adjudicatory hearing and enters into the following ASO. Respondent, by signature below, acknowledges that Respondent was advised of the right to legal representation, and that Respondent understands the nature of the alleged violations. Respondent's signature hereon also acknowledges that an adequate opportunity was provided to allow Respondent to respond to the alleged violations.

The following ASO is proposed, contingent on Board approval.

**FINDINGS OF FACT**

1. Respondent, Kenneth Wilstead, DDS, holds Texas Dental License No. 27571. Respondent's license was initially issued on November 25, 2011, and was in full force and effect at all dates and times material and relevant to this ASO.
2. Respondent's license has no prior disciplinary history.
3. On or about July 8, 2013, Respondent engaged in dishonorable conduct in the prescribing of controlled substances. Specifically, Respondent prescribed Phentermine Hydrochloride (Schedule IV Controlled Substance) and Zolpidem Tartrate (Schedule IV Controlled Substance), to J.R. and R.R. for non-dental purposes.
4. On or about November 11, 2013, Respondent engaged in dishonorable conduct in the prescribing of controlled substances. Specifically, Respondent utilized his

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dental partner's DEA number to prescribe himself Phentermine Hydrochloride (Schedule IV Controlled Substance) and Zolpidem Tartrate (Schedule IV Controlled Substance).

5. During the time period from on or about June 5, 2013, through on or about April 29, 2014, Respondent engaged in dishonorable conduct in the prescribing of controlled substances. Specifically, Respondent over-prescribed APAP/Hydrocodone Bitartrate (Schedule III Controlled Substance at time of prescription) to patient M.Y.
6. During the time period from on or about June 24, 2013, through on or about March 25, 2014, Respondent engaged in dishonorable conduct in the prescribing of controlled substances. Specifically, Respondent over-prescribed APAP/Hydrocodone Bitartrate (Schedule III Controlled Substance at time of prescription) to patient J.P.
7. During the time period from on or about January 2, 2014, through on or about January 29, 2014, Respondent engaged in dishonorable conduct in the prescribing of controlled substances. Specifically, Respondent over-prescribed Alprazolam (Schedule IV Controlled Substance) and Zolpidem Tartrate to patient A.H.

#### CONCLUSIONS OF LAW

The references to Statutes and Rules cited below are to the Statutes and Rules in effect at the time of the violations.

1. The Board has authority and jurisdiction over this case pursuant to Tex. Occ. Code §§ 251-267 and 22 Tex. Admin. Code §§ 100-125.
2. Respondent's conduct constitutes a violation of Tex. Occ. Code §263.002(a)(3), (4), (7), (10); and 22 Tex. Admin. Code §108.9(4), (C)-(F), (6), (11).

#### AGGRAVATING & MITIGATING FACTORS

1. In determining the appropriate sanctions in this matter, the Board considered the following mitigating factor: Respondent cooperated with the Texas Department of Public Safety's criminal investigation.
2. In determining the appropriate sanctions in this matter, the Board considered the following aggravating factors:
  - a. Respondent forged a prescription for himself using his dental partner's DEA number.

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- b. Respondent was arrested on or about May 7, 2014 and charged with possession of a controlled substance by fraud and delivering a prescription for non-dental purposes.

**ORDER**

IT IS THEREFORE AGREED and ORDERED THAT:

1. Respondent's Texas Dental License No. 27571, issued to Kenneth Wilestead, DDS, is hereby is hereby issued the sanction of REPRIMAND.
2. Respondent SHALL pay an administrative monetary fine in the amount of one thousand dollars (\$1,000.00) payable to the "Texas State Board of Dental Examiners" located at 333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701-3942. The administrative monetary fine SHALL be paid in full no later than twelve (12) months from the date of ratification of this ASO by the Board.
3. Within fifteen (15) days from the effective date of this ASO, Respondent SHALL join PRN and maintain membership and fulfill all membership requirements as deemed necessary by PRN. Respondent SHALL abide by and participate with all terms and conditions of PRN. The terms and conditions of PRN may, at the discretion of PRN, include but are not limited to: monitoring, participation in an inpatient or outpatient treatment program; monitoring of therapeutic levels of drugs, submission of a narrative as requested; and such other conditions deemed appropriate by PRN. PRN SHALL furnish to the Board, upon request, documentation evidencing Respondent's compliance or non-compliance with the terms of PRN's program. Failure to comply with all provisions and recommendations of PRN during the entire probationary period SHALL constitute a violation of this ASO and may subject Respondent to further disciplinary action by the Board.
4. Respondent SHALL surrender his Drug Enforcement Administration (DEA) and Department of Public Safety (DPS) permits for controlled substances on or before the effective date of this ASO. Respondent may not re-apply for his DEA and DPS permits for controlled substances for at least twelve (12) months from the effective date of this ASO or the date that he surrendered the permits, whichever is later. Respondent SHALL request permission from Board Staff to reapply for DEA and DPS permits.
5. Respondent SHALL conduct a self-audit of his prescribing activity quarterly for a period of two (2) years starting on the effective date of this ASO. The audit SHALL include a review of the Prescription Access in Texas database, maintained by the Texas Department of Public Safety, with a written summary of the dental purpose for each prescription. Respondent SHALL provide Board Staff with a list of prescriptions prescribed by Respondent with the written summary every ninety (90) days from the effective date of this Order for a period

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of two (2) years. The audit is intended to detect and prevent diversion and abuse of controlled substances.

6. Respondent SHALL complete a total of eighteen (18) hours of Continuing Education courses, which SHALL be completed within six (6) months of the effective date of this ASO. The eighteen (18) hours of Continuing Education courses completed SHALL be in the following areas:

Risk Management	6 hours
Ethics	6 hours
Pharmacology	6 hours

This continuing education SHALL be in addition to Respondent's annual Continuing Education hours required for licensure by the Board.

All continuing education courses SHALL be approved in advance by Board Staff. It is the responsibility of the Respondent to obtain such approval. Courses taken without prior approval and/or prior to the effective date of this ASO SHALL NOT satisfy the requirements of this ASO. Board Staff SHALL have the authority to reduce the number of continuing education days or hours based on course availability. Upon the successful completion of each course, the Respondent SHALL provide complete documentation of the course completion to the Board.

7. Respondent shall successfully complete the Jurisprudence Assessment-Board Order and submit proof of a completion to Board Staff within thirty (30) days of the effective date of this ASO. Respondent may not take the Jurisprudence Assessment-Board Order prior to the effective date of this ASO. Respondent shall be responsible for all costs relating to compliance with this requirement.
8. Respondent SHALL abide by the Laws of the State of Texas, the Dental Practice Act, the rules and regulations of the Board, and any reporting requirements imposed to ensure compliance with this ASO.

**SIGNATURE PAGE FOLLOWS.**

By signing this ASO, Respondent agrees to its terms, acknowledges understanding it, and agrees to satisfactorily comply with the mandates of this ASO in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent's signature hereon does not constitute either admission or denial of the allegations set forth in this ASO or the underlying complaint, and it does not constitute admission or denial of the findings of fact and the conclusions of law set forth.

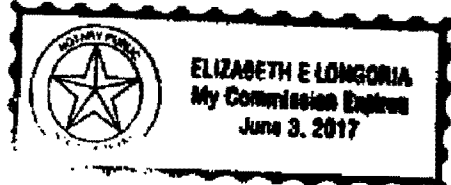
Respondent, by signing this ASO, waives any right to a formal hearing and any right to judicial review of this ASO. Failure to comply with the terms and conditions of this ASO SHALL constitute a violation of this ASO and may subject Respondent to further disciplinary action by the Board.

All of the above terms, conditions, and penalties become effective on the effective date of this ASO. The effective date of this ASO shall be the date it is executed by the Board.

*Kenneth Wilstead*  
Kenneth Wilstead, DDS  
Respondent

Elizabeth E Longoria notarized the signature of Kenneth  
Wilstead, DDS, this 12 day of August 2015

*Elizabeth E. Longoria*  
NOTARY PUBLIC IN and FOR THE STATE OF TEXAS



STATE BOARD OF DENTAL EXAMINERS  
SIGNED this 14<sup>th</sup> day of August 2015.

*Rudy G. Ramos, Jr.*  
Rudy G. Ramos, Jr., DDS, Presiding Officer

*Steven J. Austin*  
Steven J. Austin, DDS, Secretary

*Ken*