

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Bryan T. Brettin, D.D.S.
License No. D11644

**STIPULATION AND ORDER
FOR CONDITIONAL LICENSE**

STIPULATION

Bryan T. Brettin, D.D.S. (“Licensee”) and the Minnesota Board of Dentistry’s Complaint Committee (“Committee”) agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Dentistry (“Board”) is authorized pursuant to Minnesota Statutes chapter 150A, section 214.10, and section 214.103 to license and regulate dentists and to take disciplinary action when appropriate.

2. Licensee holds a license from the Board to practice dentistry in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

CONFERENCE

3. On October 2, 2014, Licensee and his attorneys, Michael S. Kreidler and T. Michael Speidel, appeared before the Committee, composed of Board members Nancy Kearn, D.H., Neal Benjamin, D.D.S., and Allen Rasmussen, to discuss allegations made in a Notice of Conference dated July 31, 2014. Jason Pleggenkuhle, Assistant Attorney General, represented the Committee at the conference.

4. Licensee was advised by Committee representatives that he may choose to be represented by legal counsel in this matter. Licensee retained Michael S. Kreidler of Stich, Angell, Kreidler, Dodge & Unke, P.A., The Crossings Building, Suite 120, 250 Second Avenue South, Minneapolis, Minnesota 55401, and T. Michael Speidel of 12157 Saint Croix Trail South, Hastings, Minnesota 55033-9167.

III.

FACTS

5. The parties agree this Stipulation and Order is based upon the following facts:

a. Licensee created and posted the following three internet reviews regarding a general dentist who provides orthodontic services:

1) On June 3, 2011, the first review was posted by Licensee using the name "HockeyMom" via a Yahoo mail account under the name Mary Johnson. Licensee stated: "Be very cautious. This guy is very misleading and IS NOT AN ORTHODONTIST but rather a dentist who maybe took one weekend course in braces. This hardly qualifies him to be doing braces. Unfortunately, I learned the hard way. That's why his fees are too good to be true."

2) On June 19, 2011, the second review was posted by Licensee using the screen name "HockeyMom." Licensee stated: "This guy is not an orthodontist and I didn't learn this until after I had signed up for treatment. He only started doing braces after taking a weekend course. Not qualified. Thankful I found out before braces went on."

3) On August 7, 2011, the third review was posted by Licensee using the screen name "HockeyMom" via a Gmail account under a false name. Licensee stated: "So come to find out after time that the guy is not an Orthodontist. He is a general dentist who started doing braces out of the blue one day with no formal training whatsoever. I found this out

after my son got his braces off and our family dentist sent us to see a specialist and come to find out he needed surgery all along to fix his bite since his back teeth do not fit at all and now his front teeth don't touch either. But hey, they are straight. Guess I should have known that if the price seemed too good to be true, it probably was. Buyer beware." Licensee also rated twice his August 7, 2011, review as "helpful."

4) Regarding the aforementioned reviews, Licensee stated that his postings were true based upon comments people made to him or other dentists indicating that they did not understand that this general dentist wasn't an orthodontic specialist. Licensee's stated purpose for posting the reviews was to alert the public that this general dentist is not an orthodontist.

IV.

LAWS

6. Licensee acknowledges that the Board has concluded that his conduct described in section III. above constitutes a violation of Minnesota Statutes section 150A.08, subdivisions 1(1) and (6), Minnesota Rules 3100.6200(A), and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

CONDITIONS

7. The Board places the following **CONDITIONS** on Licensee's license:

a. Jurisprudence Examination. Within 90 days of the effective date of this Order, Licensee shall take and pass the Minnesota jurisprudence examination. Licensee may take the jurisprudence examination as many times as necessary to pass the examination within the 90-day period, however, Licensee may take the examination only once each day. At the end of the examination session, Licensee will receive a printed score report from PSI Services, LLC. Licensee must submit to the Board either an original printed score report or a notarized copy of the score report as proof of having passed the jurisprudence examination. Licensee is responsible for locating a testing center, registering for the jurisprudence examination, and paying for the examination fee through the Board's contracted testing agency, PSI Services, LLC. [A link for PSI can be found on the Board's website under Licensure.]

b. Coursework. Licensee shall successfully complete the coursework described below. **All coursework must be approved in advance by the Committee.** Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this stipulation and order. None of the coursework taken pursuant to this stipulation and order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minnesota Rules 3100.5100, subpart 2. The coursework is as follows:

1) Ethics/Professional Boundaries. Within six months of the effective date of this Order, Licensee shall arrange to enroll in an individualized ethics and professional boundaries training course taught by John Hung, Ph.D., L.P. in Edina, Minnesota, or another equivalent course approved in advance by the Committee. Licensee's signature on this Order is authorization for the Committee to communicate with the instructor/practitioner before, during, and after Licensee takes the course about his needs, performance, and progress. Licensee's signature also constitutes authorization for the instructor/practitioner to provide the Committee

with copies of all written evaluation reports. Successful completion of the boundaries course shall be determined by the Committee based on input from Dr. Hung, or the instructor/practitioner of an equivalent course.

c. Coursework Report Within 30 days after completing the course listed above, Licensee shall submit to the Committee:

- 1) proof of Licensee's attendance and completion of the course;
- 2) copies of all materials used and/or distributed in the course; and
- 3) a summary report of what Licensee learned in the course and specific information addressing how Licensee will incorporate this recently gained knowledge into Licensee's practice.

- 4) Licensee's reports shall be typewritten in Licensee's own words, double-spaced, at least two pages in length but no more than three pages, and shall list references used to prepare the report.

- 5) All coursework reports submitted by Licensee are subject to review and approval by the Committee.

Removal of Conditions

8. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting no sooner than one year after the effective date of this Stipulation and Order provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. Licensee shall have the burden of proving that Licensee has complied with the conditions and that Licensee is qualified to practice dentistry without conditions. Licensee's compliance with the foregoing requirements shall not create a presumption that the conditions should be removed. Upon consideration of the evidence

submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this Stipulation and Order.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this Stipulation and Order.

10. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this Stipulation and Order, including requests for explanations, documents, office inspections, or appearances at conferences. Minnesota Rules 3100.6350 shall be applicable to such requests.

11. It is Licensee's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the payment, report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

Imposition of Fine

12. If information or a report required by this Stipulation and Order is not submitted to the Board by the due date, or if Licensee otherwise violates this Stipulation and Order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to

seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minnesota Statutes section 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

Noncompliance or Violation With Stipulation and Order

13. If Licensee fails to comply with or violates this Stipulation and Order or it is determined Licensee has further violated Minnesota Statutes chapter 150A or Minnesota Rules chapter 3100, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with the Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through the procedures of Minnesota Statutes section 214.103, subdivision 6.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the

hearing and this Stipulation and Order. The Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation will not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while this order is in effect.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Licensee's practice, suspension, or revocation of Licensee's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 150A.08, subdivision 8, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

14. Within ten days of execution of this Stipulation and Order, Licensee shall provide the Board with the names of all states in which Licensee is licensed to practice as a dental professional or holds any other professional or occupational license or registration.

15. If while residing or practicing in Minnesota, Licensee should become employed at any other dental clinic or facility or move, Licensee shall notify the Board in writing of the new address and telephone number within ten days.

16. In the event Licensee should leave Minnesota to reside or to practice outside of the state, Licensee shall notify the Board in writing of the new address and telephone number within ten days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that practice in another state conforms completely to this Stipulation and Order. If Licensee leaves the state, the terms of this order continue to apply unless waived in writing.

17. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

18. Licensee waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

19. This Stipulation and Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

20. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

21. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed this Stipulation and Order. Licensee is aware this Stipulation and Order must be approved by the Board before it goes into effect. The Board may approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

22. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

23. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

24. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

25. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

LICENSEE

COMPLAINT COMMITTEE


BRYAN T. BRETTIN, D.D.S.

By:


JOYCE NELSON, L.D.A.
Interim Executive Director

Dated: Nov 23, 2015

Dated: 12/14, 2015

ORDER

Upon consideration of the foregoing Stipulation and based upon all the files, records, and proceedings herein,

The terms of the Stipulation are approved and adopted, and the recommended disciplinary action set forth in the Stipulation is hereby issued as an Order of this Board effective this 15th day of January, 2016

MINNESOTA BOARD
OF DENTISTRY

By: Alma Sperling DDS
BOARD PRESIDENT