

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Michael W. England, D.D.S.
License No. D8441

**STIPULATION AND ORDER FOR
STAYED SUSPENSION AND LIMITED
AND CONDITIONAL LICENSE**

The Minnesota Board of Dentistry (“Board”) is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received complaints against Michael W. England (“Licensee”). The Board’s Complaint Committee (“Committee”) reviewed the complaints and based upon the information held a conference with Licensee on February 25, 2010. As a result, the Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that he does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

Background

1. On September 25, 1987, the Board adopted a Stipulation for Order of Suspension and issued an Order of Suspension (“1987 Order”) that suspended Licensee’s license to practice dentistry in the State of Minnesota for 24 months, and placed conditions for a stayed suspension after serving 30-days of his suspension. The 1987 Order was based upon the following issues: unprofessional conduct; engaged in fraud for services billed; charged for services not rendered; and convicted of felony theft. Licensee’s felony conviction has been expunged from his criminal record.

2. On February 18, 1991, the Board adopted a Stipulation and Order (“1991 Order”) that indefinitely suspended Licensee’s license to practice dentistry in the State of Minnesota. The 1991 Order was based upon the following issues: substandard radiographs, diagnoses, restorative, periodontics, prosthodontics, and endodontics; engaged in fraud and/or deception for services billed; and inadequate recordkeeping. After completing the requirements of the 1991 Order, the Board granted Licensee an unconditional license on November 11, 1996.

3. On July 14, 2006, Licensee entered into an Agreement for Corrective Action (“2006 ACA”) with the Committee. The 2006 ACA was based upon improper advertising and substandard recordkeeping. On May 24, 2007, Licensee successfully completed all of the requirements of his 2006 ACA.

4. In December 2007, the Board received a complaint against Licensee alleging substandard care and unprofessional conduct with respect to patient 2. The Board forwarded the complaint to the Committee. Licensee was notified of the complaint and submitted his response to the allegations to the Committee. After reviewing Licensee’s response to the allegations, the Committee notified Licensee it had determined there was insufficient evidence to support disciplinary or corrective action, and it closed the matter. The Committee

also notified Licensee if the Board were to receive future complaints, the Committee may choose to reopen the matter. In March 2009, the Board received a complaint against Licensee alleging substandard care and unprofessional conduct with respect to patient 1. Licensee was notified of the complaint and submitted his response to the allegations to the Committee. As both complaints alleged substandard care and unprofessional conduct, the Committee reopened the complaint regarding patient 2.

Substandard Prosthodontic Care

5. Licensee failed to adequately document pertinent information and provide appropriate diagnoses and prosthodontic treatment for one or more of his patients. Examples include the following:

a. For patient 1, Licensee failed to provide appropriate diagnostic and prosthodontic treatment. On June 21, 2005, Licensee delivered a lower partial denture to patient 1. On January 16, 2008, Licensee delivered a lower full denture to patient 1. However, Licensee failed to document his diagnosis for the new lower full denture for patient 1. In addition, Licensee failed to thoroughly assess and properly diagnose the status of patient 1's periodontal conditions prior to recommending this prosthodontic treatment.

b. For patient 2, Licensee failed to provide appropriate diagnostic and prosthodontic treatment, as follows:

1) On December 6, 2006, Licensee placed four dental implants in the lower anterior area of patient 2's edentulous mouth. However, Licensee failed to thoroughly assess and properly diagnose the status of patient 2's severely atrophic mandibular ridge prior to proceeding with this prosthodontic treatment. In addition, Licensee failed to formulate an appropriate treatment plan. Licensee failed to adequately obtain patient 2's informed consent for the dental implants because the dental records did not include a notation that Licensee discussed

with the patient treatment options and the prognosis, benefits, and risks of each. Moreover, Licensee failed to document in patient 2's record the placement locations of the four dental implants in the patient's mouth. Furthermore, for patient 2, Licensee improperly placed the four dental implants resulting in the patient's lower full denture to improperly fit over the dental implants.

2) On January 17 and August 22, 2007, patient 2 saw a subsequent dental provider who diagnosed that her gingival tissue is erythematous around the dental implants. At the latter appointment, the subsequent dental provider recommended to patient 2 having the four dental implants removed from her mouth.

Substandard Recordkeeping

6. Licensee failed to make or maintain adequate patient records. Examples include the following:

a. Licensee failed to document the name and identification number of all insurance carriers for patient 1.

b. Licensee failed to document updated medical histories on a routine basis for patients 1 and 2.

c. Licensee failed to properly document a complete record of the patient's existing oral health status including, but not limited to, dental caries, missing or unerupted (impacted) teeth, restorations, oral cancer evaluation, soft/hard tissue examination, and periodontal conditions for patients 1 and 2.

d. Licensee failed to make or maintain an adequate radiographic record for patient 2 in that the radiographs were non-diagnostic in quality or insufficient.

e. Licensee failed to document his diagnoses for dental treatment for patients 1 and 2.

f. Licensee failed to make corrections properly in the patient's record for patient 1.

Improper Billing

7. Licensee improperly billed the patient, third-party payor, or others relating to the practice of dentistry when he billed for different services than those actually rendered and billed for services performed on a different date for patient 1. On January 16, 2008, Licensee performed simple extractions on patient 1 removing teeth #25, #26, #27, and #28. However, according to patient 1's billing history, Licensee incorrectly billed the patient and the insurance company for surgical extractions of teeth #25, #26, and #27, and indicated that the extractions were performed on November 27, 2007. After reviewing patient 1's record and relevant radiographs, the Committee determined that the oral surgery procedures performed by Licensee were simple extractions based upon the lack of documented surgical information in the patient's progress notes and the panorex radiographs. On November 27, 2007, Licensee also incorrectly billed patient 1 for a comprehensive examination, radiographs, diagnostic casts, extractions, surgical reduction of fibrous tuberosity, and nitrous oxide, which Licensee failed to document in the patient's progress notes on that same date.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. § 150A.08, subd. 1(6) and (13), Minn. R. 3100.6200 A, 3100.6200 B, 3100.6200 H, 3100.6200 I, 3100.9600, and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order placing a **STAYED SUSPENSION**, as follows:

Stayed Suspension. Licensee's license to practice dentistry in the State of Minnesota is hereby **SUSPENDED** for two years. The suspension is **STAYED** based upon Licensee's compliance with all of the limitations and conditions set forth in paragraph E. below.

E. Limitations and Conditions of Stayed Suspension. Licensee and the Committee recommend that the Board issue an order which places LIMITATIONS and CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

LIMITATION

Licensee's license shall be subject to the following limitation:

1. Dental Implant Treatment. Licensee is prohibited from providing any dental implants for an implant supported removable prosthesis for a patient until he successfully completes the implant course described below and submits the required written report to the Committee for review and acceptance. At that time, Licensee may petition the Committee for removal of the limitation.

CONDITIONS

Licensee's license shall be subject to the following terms, conditions, and requirements:

2. 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 within the 90-day period as many times as necessary to pass the examination, 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 Prometric. 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, Prometric Incorporated. [A link for Prometric can be found on the Board's website under Licensing.]

3. Civil Penalty. The Board imposes a civil penalty in the amount of \$20,000 for Licensee's conduct described above. The civil penalty shall be paid by Licensee within 90 days of the effective date of this Order. Payments from Licensee shall be made by cashier's check or money order made payable to the Minnesota Board of Dentistry and shall be delivered personally or by mail to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414.

4. 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. If Licensee attends an undergraduate or graduate dental school course, Licensee must provide each instructor with a copy of this stipulation and order prior to commencing a course. Licensee shall pass all courses with a grade of 70 percent or a letter grade "C" or better. Licensee's signature on this stipulation and order constitutes authorization for the course instructor(s) to provide the Committee with a copy of the final examination and answers for any course Licensee takes. Licensee's signature also authorizes the Committee to communicate with the instructor(s) before, during, and after Licensee takes the course about Licensee's needs, performance and progress. 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 Minn. R. 3100.5100, subpart 2. The coursework is as follows:

a. Treatment Planning / Recordkeeping. Within nine months of the effective date of this Order, Licensee shall personally attend and successfully complete the

treatment planning / recordkeeping course entitled “Dental Patient Management: Dental Records and Treatment Planning Fundamentals” offered at the University of Minnesota School of Dentistry or an equivalent course.

b. Ethics. Within 12 months of the effective date of this Order, Licensee shall complete an individually designed course in ethics offered by either Dr. Muriel Bebeau or Dr. Karin Quick at the University of Minnesota School of Dentistry, or an equivalent course offered by another practitioner. Licensee’s signature on this Agreement is authorization for the Committee to communicate with the practitioner before, during, and after Licensee takes the course about his needs, performance, and progress. Licensee’s signature also constitutes authorization for the practitioner to provide the Committee with copies of all written evaluation reports. Successful completion of this course shall be determined by the Committee based on input from the practitioner of the course.

c. Dental Implants. Within 18 months of the effective date of this Order, Licensee shall personally attend and successfully complete the two-day Dental Implant course offered by IMTEC.

5. Written Coursework Report. Within 30 days after completing each coursework above, Licensee shall submit to the Board (a) a transcript or other documentation verifying that Licensee has successfully completed the course, (b) a copy of all materials used and/or distributed in the course, and (c) a written report summarizing how Licensee has implemented this knowledge into Licensee’s practice. Licensee’s report shall be typewritten in Licensee’s own words, double—spaced, at least two pages and no more than three pages in length, and shall list references used to prepare the report. All reports are subject to approval by the Committee.

6. Recordkeeping Inspection. Licensee shall cooperate with at least one unannounced office visit during normal business hours by a representative of the Board, additional visits shall be at the discretion of the Committee. The representative shall randomly select, remove, and make copies of original patient records, including radiographs, to provide to the Committee for its review of Licensee's recordkeeping and billing practices.

7. Other Conditions.

a. 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.

b. 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, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minn. R. 3100.6300 and 6950.1000 through 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, and United States Department of Health and Human Services.

d. In the event Licensee should leave Minnesota to reside, Licensee shall notify the Board in writing of the new location within five days. Periods of residency outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota.

F. Removal of Stayed Suspension. Licensee may petition to have the stayed suspension removed from Licensee's license at any regularly scheduled Board meeting after the two-year stayed suspension period has passed and provided that Licensee has complied with all

of the limitations and conditions of his stayed suspension. Moreover, Licensee's petition must be received by the Board at least 30 days prior to the Board meeting. Licensee has the burden of proving that Licensee has complied with the limitations and conditions of this stipulation and order and that Licensee is qualified to practice without a stayed suspension. Licensee's compliance with the foregoing requirements does not create a presumption that the stayed suspension should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the stayed suspension imposed by this order.

G. Fine for Violation of Order. 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 Minn. Stat. § 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.

H. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. 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 alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is

mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board will be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension or revocation of Licensee's license.

I. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order is a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee may attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein limits (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

J. Attendance at Conference. Licensee attended a conference with the Committee on February 25, 2010. Although Licensee was informed at the conference that he could be represented by legal counsel, Licensee knowingly and voluntarily waived that opportunity. The following Committee members attended the conference: Joan Sheppard, D.D.S.; and David

Linde, D.D.S. Assistant Attorney General Careen H. Martin represented the Committee at the conference.

K. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

L. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order will be null and void and may not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

M. Record. This stipulation, related investigative reports and other documents constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

N. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. Data does not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

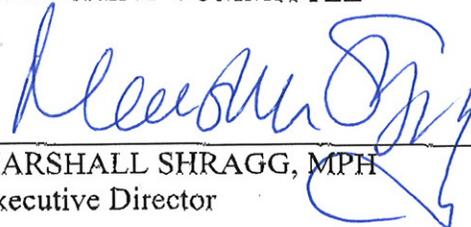
O. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

P. Service and Effective Date. If approved by the Board, a copy of this stipulation and order will be served personally or by first class mail on Licensee. The order will be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE


By: _____
MICHAEL W. ENGLAND, D.D.S.

COMPLAINT COMMITTEE


By: _____
MARSHALL SHRAGG, MPH
Executive Director

Dated: Sept. 23, 2010

Dated: September 23rd, 2010

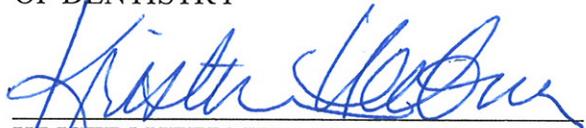
ORDER

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 24th day of September, 2010.

MINNESOTA BOARD
OF DENTISTRY

By:


KRISTIN HEEBNER, J.D.
Vice President