

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Amanda K. Fairbanks
Applicant for Dental Assistant License

**STIPULATION AND ORDER
FOR CONDITIONAL LICENSE**

STIPULATION

Amanda K. Fairbanks (“Applicant”) and the Minnesota Board of Dentistry’s Licensure and Credentials 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 dental assistants and to take disciplinary action when appropriate.

2. Applicant submitted a license application to practice dental assisting in the State of Minnesota to the Board, 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 April 23, 2015, Applicant appeared before the Committee, composed of Board members Nancy Kearn, D.H., Steven Sperling, D.D.S., and Allen Rasmussen, to discuss allegations made in a Notice of Conference dated April 7, 2015. Jennifer C. Middleton, Assistant Attorney General, represented the Committee at the conference.

4. Although Applicant was informed at the conference that she could be represented by legal counsel, Applicant knowingly and voluntarily waived that opportunity.

III.

FACTS

5. The parties agree this Stipulation and Order is based upon the following facts:
 - a. Applicant successfully completed the dental assisting program at Hibbing Community College in May 2011.
 - b. Applicant passed the Dental Assisting National Board Examination in August 2011, the Minnesota Licensure Examination in May 2011, and Minnesota Jurisprudence Examination in May 2011.
 - c. From August 2011 to February 2015, Applicant practiced as a licensed dental assistant, including performing expanded duties.
 - d. On or about February 3, 2015, Applicant realized that she had never been licensed by the Board. Applicant thought that her certification with the Dental Assisting National Board was her dental assisting license, and therefore, she was authorized to practice dental assisting in the State of Minnesota.
 - e. Applicant performed expanded duties beyond those allowed under Minnesota Rules 3100.8400 from August 2011 to February 2015.
 - f. On April 9, 2015, the Board received Applicant's completed application for licensure to practice dental assisting.

IV.

LAWS

6. Applicant acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 150A.08, subdivisions 1(1), (6), and (13), section 150A.11, subdivision 1, section 150A.12, Minnesota Rules 3100.6200(F) and 3100.8400, 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:

7. The Board shall grant Applicant a license to practice dental assisting in the State of Minnesota at such time as Applicant has completed all applicable requirements outlined within Minnesota Rules 3100.1300.

CONDITIONS

8. The Board places the following **CONDITIONS** on Applicant's license:

a. Dental Assistant Report. Within 60 days of the effective date of this Order, Applicant shall submit to the Committee a written report that discusses the meaning and implications of: (a) Minnesota Rules 3100.6200(F) that describes conduct unbecoming a licensee; (b) Minnesota Rules 3100.8500, subparts 1, 1a, 1b, and 1c that lists the procedures a licensed dental assistant is authorized to perform and the levels of supervision; and (c) Minnesota Rules 3100.8500, subpart 2 that specifically prohibits a licensed dental assistant from performing any procedures other than those listed within this part. In addition, Applicant's report shall also address the importance of taking professional responsibility for practicing within her scope of practice. Applicant's report shall be typewritten in her own words, double-spaced, and at least two pages in length but no more than three pages. Applicant's report shall be subject to approval by the Committee.

b. Licensure and Professional Development Report. Within 90 days of the effective date of this Order, Applicant shall submit to the Committee a written report that describes her protocol for maintaining a correct and current mailing address with the Board and outlines the requirements for properly displaying her licenses and renewal certificates in each

dental office. Applicant's report shall also focus on maintaining a complete professional development portfolio, including the required components of a portfolio and credit hours, and describe the significance of attending continuing education. Furthermore, Applicant's report shall describe in detail the role of a state agency such as the Minnesota Board of Dentistry compared to the role of a professional organization such as the Minnesota Dental Assistants Association. Applicant's report shall be typewritten in her own words, double-spaced, and at least two pages in length but no more than three pages. Applicant's report shall be subject to approval by the Committee.

c. Jurisprudence Examination. Within six months of the effective date of this Order, Applicant shall take and pass the Minnesota jurisprudence examination. Applicant may take the jurisprudence examination as many times as necessary to pass the examination within the six-month period, however, Applicant may take the examination only once each day. At the end of the examination session, Applicant will receive a printed score report from PSI Services, LLC. Applicant 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. Applicant 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.]

d. Civil Penalty. Applicant shall pay to the Board a civil penalty totaling \$1,800 in two installments as follows: \$900 within nine months from the effective date of this Order; and the balance of \$900 within 18 months from the effective date of this Order. Payments 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.

e. Community Service. Within one year of the effective date of this Order, Applicant shall complete forty (40) hours of unpaid community service at any voluntary dental access clinic located in Applicant's community or the Twin Cities area. **Prior to Applicant volunteering, each clinic must be approved in advance by the Committee.** Applicant shall submit to the Committee evidence of successfully completing 40 hours of service.

For this Agreement, Applicant shall not receive recognition for these dental services, including any letters of commendation, plaques, and advertising or marketing related to the individual provider or the practice. Violation of the recognition provision, whether intentional or not, will result in that treatment not being recognized by the Committee as meeting the requirement for community service. Moreover, none of the community service provided under this requirement may be used to satisfy the professional development requirements of Minnesota Rules 3100.5100, subpart 2.

Removal of Conditions

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

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

11. In Applicant's practice of dentistry, Applicant shall comply with the most current infection control requirements of Minnesota Rules 3100.6300 and 6950.1000 to 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, and the United States Department of Health and Human Services.

12. Applicant 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.

13. It is Applicant'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

14. If information or a report required by this Stipulation and Order is not submitted to the Board by the due date, or if Applicant otherwise violates this Stipulation and Order, the Committee may fine Applicant \$100 per late report or other violation. Applicant shall pay the fine and correct the violation within five days after service on Applicant of a demand for payment and correction. If Applicant 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. Applicant 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

15. If Applicant fails to comply with or violates this Stipulation and Order or it is determined Applicant 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 Applicant 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, Applicant shall submit a written response to the allegations. If Applicant 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 Applicant 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 Applicant may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Applicant 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 Applicant has failed to submit a timely response to the allegations, Applicant may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Applicant 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. Applicant'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 Applicant's practice, suspension, or revocation of Applicant's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Applicant'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 Applicant not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

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

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

18. In the event Applicant should leave Minnesota to reside or to practice outside of the state, Applicant 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 Applicant's discipline in Minnesota unless Applicant demonstrates that practice in another state conforms completely to this Stipulation and Order. If Applicant leaves the state, the terms of this order continue to apply unless waived in writing.

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

20. Applicant 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 Applicant.

21. 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.

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

23. Applicant has read, understands, and agrees to this Stipulation and Order and has voluntarily signed this Stipulation and Order. Applicant 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 Applicant, the Stipulation and Order will take effect and the order as modified will be issued. If the changes are unacceptable to Applicant or the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

24. Applicant 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, Applicant 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.

25. This Stipulation and Order shall not limit the Board's authority to proceed against Applicant by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Applicant 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

26. 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.

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

APPLICANT

LICENSURE/CREDENTIAL COMMITTEE

Amanda Fairbanks
AMANDA K. FAIRBANKS

By:

Marshall Shragg
MARSHALL SHRAGG, MPH
Executive Director

Dated: 5-25-15, 2015

Dated: MAY 28TH, 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 24th day of July, 2015.

MINNESOTA BOARD
OF DENTISTRY

By:



DAVID GESKO, D.D.S.
President