

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Jennifer N. Moreno, L.D.A.
License No. A10452

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Dentistry (“Board”) on December 4, 2009, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraphs G. and H. of the Stipulation and Order for Conditional Registration, dated September 25, 2009 (“September 2009 Order”), issued by the Board to Jennifer N. Moreno, L.D.A. (“Respondent”). At the hearing, the Board’s Complaint Committee presented by affidavit evidence of Respondent's violations of the September 2009 Order. Respondent did not appear. Daphne A. Lundstrom, Assistant Attorney General, appeared and presented oral argument on behalf of the Board’s Complaint Committee. Board members Nancy Kearn, D.H., Candace Mensing, D.D.S, and Freeman Rosenblum, D.D.S, did not participate in deliberations and did not vote in the matter. Mary Liesch, Complaint Unit Supervisor for the Board, did not participate in the deliberations. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes chapter 150A to register, regulate, and discipline licensed dental assistants and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against licensed dental assistants, to

refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the September 2009 Order. In paragraphs G. and H. of the September 2009 Order, Respondent expressly acknowledged and agreed to several procedures the Board's Complaint Committee may use to resolve alleged noncompliance with or violation of the September 2009 Order. The September 2009 Order remained in full force and effect at the time the conduct described below occurred.

3. Respondent expressly acknowledged and agreed in paragraphs G. and H. of the September 2009 Order that, in the event the Board received evidence Respondent violated the terms of the September 2009 Order, Minnesota Statutes chapter 150A, or Minnesota Rules chapter 3100, she would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

4. The Board received information that Respondent violated the terms of the September 2009 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes chapter 150A as follows:

a. Among other things, paragraph E. of the September 2009 Order requires Respondent to enroll in the Health Professionals Services Program ("HPSP") for a chemical dependency evaluation by October 9, 2009, and comply with all recommendations.

b. Respondent failed to enroll in the HPSP by October 9, 2009, and was unsuccessfully discharged on October 15, 2009. The HPSP informed the Board by facsimile of Respondent's discharge from the program.

c. Respondent violated the September 2009 Order when she failed to enroll in the HPSP.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes chapter 150A and Minnesota Statutes sections 214.10 and 214.103 (2006).

2. The Board's Complaint Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraphs G. and H. of the September 2009 Order.

3. The Board's Complaint Committee has proved by a preponderance of the evidence that Respondent has violated the September 2009 Order.

4. As a result of the violations set forth above and pursuant to the terms of the September 2009 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice as a licensed dental assistant.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. IT IS HEREBY ORDERED that the September 2009 Order is hereby **RESCINDED** and shall have no further force and effect.

2. IT IS FURTHER ORDERED that Respondent's license is **SUSPENDED**. During the period of suspension, Respondent shall not engage in any act which constitutes the practice of a licensed dental assistant as described by Minnesota Rules 3100.8500 and shall not imply to former patients or other persons by words or conduct that Respondent is licensed to practice dental assisting.

3. IT IS FURTHER ORDERED that within ten days of the date this order is adopted by the Board, Respondent shall return to the Board her original and current registration by delivering them personally or by first-class mail to Marshall Shragg, Executive Director, Minnesota Board of Dentistry, University Park Plaza, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414-3246.

4. IT IS FURTHER ORDERED that Respondent may petition for reinstatement of her license pursuant to the following procedures:

a. Respondent may submit a petition for reinstatement at any regularly scheduled Board meeting no sooner than 12 months from the date of this order, provided that Respondent's petition is received by the Board at least 30 days prior to the Board meeting and that Respondent has met with the Board's Complaint Committee concerning the petition prior to the Board meeting.

b. Respondent has the burden of proving that she has successfully addressed the causes of the conduct described in this order, that she is fit to practice licensed dental assisting in compliance with accepted standards, and that she has completed the following requirements:

1) Reports Verifying Sobriety. Respondent shall cause to be submitted to the Board reports from two adult persons, at least one of whom is not related to Respondent by blood or marriage, who can attest to Respondent's sobriety. The report shall be submitted to the Board at the time Respondent petitions for reinstatement of her license. Each report shall provide and address:

a) Respondent's regular participation in a chemical dependency support group such as AA or other structured chemical dependency rehabilitation program;

b) Respondent's sobriety, including the date she last used mood-altering chemicals, including alcohol; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

2) Self-Report. Respondent shall submit to the Board a report from Respondent herself. The report shall be submitted to the Board at the time Respondent petitions for reinstatement of her license. Each report shall provide and address:

a) Respondent's sobriety, including the date Respondent last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this order is in effect;

b) Respondent's treatment and participation in a chemical dependency rehabilitation program, including weekly attendance at a chemical dependency support group such as AA during the 12 months preceding the petition; evidence of participation shall include, but need not be limited to, attendance sheets on a form provided by the Board which have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

c) Respondent's physical and mental health status, treatment plans, medications, and compliance with treatment;

d) The type of employment in which Respondent has been involved;

e) Respondent's future plans in dental assisting and the steps she has taken to prepare herself to return to practice; and

f) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

3) Chemical Dependency Evaluation. Within 60 days of petitioning, Respondent shall undergo a chemical dependency evaluation performed by a chemical dependency treatment professional. Respondent shall submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this order prior to the evaluation.

4) Compliance With Evaluator's Recommendations. Respondent shall comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

5) Random Alcohol and Drug Screens. During Respondent's petition, the Board may direct Respondent, without prior notice, to submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs. Respondent shall arrange with her employer for release from work for purposes of fulfilling the requirements of the laboratory screening. The Board may contact Respondent by telephone, letter, or through personal contact by an agent to direct her to submit to the tests within two hours after she is contacted by the Board. The hair, blood, and urine screens shall be: (1) observed in their drawing; (2) handled through legal chain-of-custody methods; and (3) paid for by Respondent. The results of the screens shall be reported directly to the Board. The

biological fluid testing shall take place at Hennepin County Medical Center, 701 Park Avenue South, Minneapolis, Minnesota 55415. If Respondent is farther than 30 miles from Hennepin County Medical Center and the blood and urine testing is to be completed through the mail, the drug screening tests used must be those obtained from Hennepin County Medical Center. All blood and urine tests processed through the mail must be directed to the attention of the toxicology supervisor at Hennepin County Medical Center.

6) Waivers. During Respondent's petition, and at the request of the Board, Respondent shall complete and sign health records waivers and chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's mental health or chemical dependency records from her treating professionals. Respondent's completion of these requirements shall not create a presumption that Respondent's license should be reinstated.

c. Reinstatement Requirements. Respondent shall meet all reinstatement requirements in effect at the time of her petition to remove the suspended status from her license, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

d. Additional Information. Respondent shall provide any additional information relevant to her petition reasonably requested by the Board's Complaint Committee.

e. Conditions. If the Board grants Respondent's petition, the Board may impose reasonable conditions on her license.

5. IT IS FURTHER ORDERED that Respondent's violation of this order shall be considered, a violation of Minnesota Statutes chapter 150A.08, subdivision 1(13), and shall constitute grounds for further disciplinary action.

6. IT IS FURTHER ORDERED that if Respondent violates or fails to comply with the terms of this order, Minnesota Statutes chapter 150A, or Minnesota Rules chapter 3100, the Board's Complaint Committee may, in its discretion, seek additional discipline by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14.

Dated: 1-18-10

MINNESOTA BOARD OF DENTISTRY



JOAN SHEPPARD, D.D.S.
Vice President/Presiding Board Member

MEMORANDUM

Respondent has failed to comply with the HPSP Participation Agreement and Monitoring Plan, agreed to by Respondent. Because of her failure to comply, the Board lacks assurance that Respondent is safe to practice. Moreover, the Board finds it significant that Respondent agreed to comply with the HPSP's requirements in a stipulation and order approved by this Board, yet Respondent again failed to comply. The suspension of Respondent's license is appropriate.

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