

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Connie Sutton, L.D.A.
License No. A6962

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

STIPULATION

Connie Sutton, L.D.A. ("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 dental assistants and to take disciplinary action when appropriate.

2. Licensee holds a license from the Board to practice dental assisting 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.

BACKGROUND

3. The Complaint Committee, composed of Steven Sperling, D.D.S. and Neal Benjamin, D.D.S., determined this matter could be settled with a Stipulation and Order. Jennifer C. Middleton, Assistant Attorney General, represents the Committee.

4. Through this Stipulation and Order, Licensee has been advised by Committee representatives that she may choose to be represented by legal counsel in this matter.

III.

FACTS

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

a. On August 28, 1992, Licensee was licensed to practice licensed dental assisting in the State of Minnesota.

b. On January 24, 2011, in Hennepin County District Court, Licensee was convicted of Driving While Intoxicated (“DWI”), a misdemeanor.

c. On May 29, 2014, in Hennepin County District Court, Licensee was convicted of Driving After Revocation and Traffic Regulation - Driver Who Is Not Owner Must Later Produce Proof of Insurance If Required, both misdemeanors.

d. On September 3, 2014, Licensee renewed her license to practice dental assisting in the State of Minnesota. Licensee respond “No” to the question, “Have you been convicted or adjudicated of a felony, gross misdemeanor, or misdemeanor?”

e. In fall 2014, Licensee began working as a licensed dental assistant (“LDA”) for a dental office (“Dental Office 1”) located in Minneapolis, Minnesota. While employed at Dental Office 1, Licensee used the owner dentist’s Drug Enforcement Agency (“DEA”) number to write prescriptions for controlled substances without the dentist’s knowledge. Licensee wrote thirty-four (34) prescriptions for narcotic medications, totaling 865 tablets, using her name and the names of other family and friends as patients. Licensee signed the dentist’s signature on the prescriptions that she authored.

f. In fall 2015, Licensee was terminated from her position as a LDA at Dental Office 1.

g. After being terminated from Dental Office 1, Licensee began working for another dental office ("Dental Office 2") located in Brooklyn Center, Minnesota. While employed at Dental Office 2, Licensee presented late to work on multiple occasions. Licensee also displayed extreme emotional distress, which lead her employer to send her home early from work.

h. On January 28, 2016, Licensee attempted suicide and was taken to the hospital.

i. On February 15, 2016, Licensee was terminated from her position as a LDA at Dental Office 2 for failure to present for her scheduled shifts.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 150A.08, subdivisions 1(1), (5), (6), (8), (13), and (14), Minnesota Rules 3100.6200(A), (H), and (I), 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. Licensee is hereby **REPRIMANDED** for the conduct referenced in section III. above.

STAYED SUSPENSION

8. The Board hereby **SUSPENDS** Licensee's license to practice dental assisting. The suspension is **STAYED** in its entirety, so long as Licensee complies with the following conditions:

CONDITIONS OF STAYED SUSPENSION

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

a. Prescription Prohibition. Licensee is immediately prohibited from having access to printed or computerized prescription forms as well as prescribing, administering, or dispensing any controlled substances listed in Minnesota Statutes. Within 14 days after being hired for employment at any dental practice, Licensee must submit to the Committee a signed written statement from the new employer or supervisor verifying that that person received and reviewed a copy of this Stipulation and Order.

b. Participation in HPSP.

1) Within 14 days after the effective date of this Order, Licensee shall enroll in HPSP for monitoring of her health issues. Licensee shall provide HPSP with a copy of this Stipulation and Order at the time of enrollment. Licensee must return the signed Participation Agreement to HPSP within 14 days of receiving the Participation Agreement from HPSP. Failure to meet either of these deadlines will be considered a violation of this Stipulation and Order.

2) Licensee shall be monitored by HPSP until HPSP determines Licensee is qualified to practice licensed dental assisting without monitoring.

3) Licensee shall comply with all provisions of her HPSP Participation Agreement, including revisions subsequent to this Stipulation and Order. Licensee's failure to comply with her HPSP Participation Agreement shall be considered a violation of this Stipulation and Order.

4) Licensee shall totally abstain from ingesting, injecting, or otherwise taking or using any mood-altering chemical or drug, including, but not limited to

alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Licensee by a licensed physician or another dentist as part of a course of treatment.

c. Psychological Fitness for Duty Evaluation. Within three months of the effective date of this Order, Licensee shall arrange to participate in an individualized professional evaluation performed by John Hung, Ph.D., L.P. in Edina, Minnesota, or another equivalent evaluation approved in advance by the Committee. Licensee shall provide Dr. Hung with a copy of this Stipulation and Order. The evaluation shall assess Licensee's judgment and critical thinking abilities in work situations. Licensee's signature on this Stipulation and Order is authorization for the Committee to communicate with the instructor/practitioner before, during, and after Licensee takes the evaluation about Licensee's comprehension of the presented material, 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 evaluation shall be determined by the Committee based on input from Dr. Hung or the practitioner of an equivalent evaluation. Licensee shall bear all costs associated with and pursuant to the contract agreement with the evaluator including, but not limited to, evaluations, preparation of reports, and complying with the evaluator's recommendations.

d. 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) Drug Diversion. Within six months of the effective date of this Order, Licensee shall personally attend and successfully complete an educational course regarding drug diversion through the University of Minnesota School of Dentistry or another accredited dental institution.

e. 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 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.

f. Civil Penalty. Licensee shall pay to the Board a civil penalty totaling \$1,000 in two installments as follows: \$500 within one year from the effective date of this Stipulation and Order; and the balance of \$500 within two years from the effective date of this Stipulation and 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 Bridgett Anderson, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414.

Removal of Stayed Suspension

10. Licensee may petition to have the stayed suspension removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee has complied with all the conditions of this Stipulation and Order. 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 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 Stipulation and Order.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

11. 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.

12. In Licensee's practice of dentistry, Licensee 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.

13. 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.

14. 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

15. 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.

Order of Removal of Stayed Suspension

16. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraphs 8 and 9 above, the Committee may remove the stay pursuant to the procedures outlined in paragraph 17 below, with the following additions and exceptions:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension (“Order of Removal”). Licensee agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 17 below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal shall confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee’s license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

b. The Committee shall schedule the hearing pursuant to paragraph 17 below to be held within 60 days of service of the Order of Removal.

Noncompliance or Violation With Stipulation and Order

17. 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

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

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

25. 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.

26. 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.

27. 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

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.

27. 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

28. 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.

29. 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


CONNIE SUTTON, L.D.A.

By:

COMPLAINT COMMITTEE


BRIDGETT ANDERSON, L.D.A., M.B.A.
Executive Director

Dated: 3/18/, 2016

Dated: March 18th, 2016

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 28th day of March, 2016.

MINNESOTA BOARD OF DENTISTRY

By:

Steven Sperling DDS
STEVEN SPERLING, D.D.S.
President