

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
JoAnn Bassing, D.D.S.
License No. D8639

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

STIPULATION

JoAnn Bassing, 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.

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 March 20, 2014, Licensee appeared before the Committee, composed of Board members Joan Sheppard, D.D.S., Teri Youngdahl, L.D.A., and John Manahan, J.D., to discuss allegations made in a Notice of Conference dated February 25, 2014. Sara P. Boeshans, Assistant Attorney General, represented the Committee at the conference.

4. Licensee was advised by Committee representatives that she may choose to be represented by legal counsel in this matter. Licensee retained Daniel M. Scott, Esq., of Kelley Wolter & Scott, PA, Suite 2350 Centre Village Offices, 431 South Seventh Street, Minneapolis, Minnesota 55415.

III.

FACTS

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

Unprofessional Conduct and Inability to Practice with Reasonable Skill and Safety

a. Licensee engaged in personal conduct which brings discredit to the profession of dentistry and may be unable to practice dentistry with reasonable skill and safety due to a physical, mental, emotional, or other disability.

1) Licensee was hospitalized for severe liver failure due to abusing Vicodin, and thereafter, she entered Hazelden for in-patient treatment and was discharged upon completion. According to Hazelden's records, Licensee's diagnosis included the following: amphetamine dependence in remission; sedative/hypnotic/anxiolytic abuse; hydrocodone/acetaminophen dependence with physiological dependence; generalized anxiety disorder; anemia; macular degeneration; Scleroderma; Eosinophilic esophagitis; Raynaud's syndrome; and Crest syndrome.

2) From March 15, 2010, to May 16, 2013, Licensee participated in and successfully completed the Health Professionals Services Program ("HPSP"). While participating in the HPSP, Licensee had two positive toxicology screens, including:

a) On July 16, 2010, Licensee had a positive toxicology screen for benzodiazepine. In response, Licensee stated that she thought she may have mistakenly taken her daughter's Xanax when they shared a hotel room.

b) On June 6, 2011, Licensee had a positive toxicology screen for ethanol. In response, Licensee stated that she may have taken Nyquil or there may have been a mix-up between her non-alcoholic drink and her daughter's alcoholic drink.

3) During an investigation initiated by the Board, on November 1, 2013, Licensee told the investigator that she would take drugs on Fridays to avoid a positive toxicology screen while she was being monitored by the HPSP knowing that she would not be required to provide a sample over the weekend. In addition, for the two aforementioned occasions of having positive toxicology screens and undergoing chemical assessments, Licensee admitted that she was not truthful with the assessor about using drugs on Fridays.

4) On January 27, 2014, the Committee sent a confidential referral letter to Licensee instructing her to contact the HPSP within ten business days or by February 10, 2014. On February 24, 2014, Licensee contacted the HPSP after the deadline date.

Improper Prescribing

b. Licensee improperly or in an unauthorized manner prescribed, dispensed, administered, or personally used or made improper or unauthorized use of a legend drug, other chemical, or controlled substance, as follows:

1) From January 1, 2010, to July 22, 2013, Licensee improperly prescribed drugs beyond the scope of practicing dentistry. During the investigation, Licensee told the investigator that she prescribed the following drugs using another person's name and without the person's knowledge when the prescription drugs were actually for her own personal use, as follows:

a) From August 2010 to July 2013, Licensee wrote 32 prescriptions in patient 1's name, a family member, for hydrocodone/acetaminophen totaling

about 1,850 tablets. Licensee also wrote seven prescriptions in patient 1's name for zolpidem totaling 347 tablets.

b) From January 2012 to July 2013, Licensee wrote four prescriptions in patient 2's name, a family member, for hydrocodone/acetaminophen totaling 360 tablets.

c) On April 2, 2012, Licensee wrote a prescription in patient 3's name, a family member, for hydrocodone/acetaminophen for 100 tablets.

d) On April 19, 2012, Licensee wrote a prescription in patient 5's name, a family member, for hydrocodone/acetaminophen for 100 tablets.

e) From September 2010 to July 2011, Licensee wrote ten prescriptions in patient 6's name for hydrocodone/acetaminophen totaling 385 tablets.

f) From July 2011 to January 2012, Licensee wrote three prescriptions in patient 7's name, a family member, for hydrocodone/acetaminophen totaling 160 tablets. Licensee also wrote a prescription in patient 7's name for zolpidem for 62 tablets.

2) From April 2010 to May 2013, Licensee improperly ordered for her own personal use the following drugs from Darby Dental Supply and Henry Schein Corporation: approximately 17,200 tablets of hydrocodone/acetaminophen; 1,500 tablets of zolpidem; and 2,700 tablets of alprazolam.

3) From February 2010 to June 2013, Licensee improperly prescribed the following non-controlled medications to the following patients for conditions beyond the scope of practicing dentistry: antibiotics and anti-psychotics for patient 1, a family member; an antibiotic and a nasal spray for patient 4, a family member; and an antibiotic and omeprazole for herself.

4) Licensee told the investigator during the investigation that she surrendered her Drug Enforcement Administration (“DEA”) registration as part of the DEA investigation.

Substandard Infection Control and Safety/Sanitary Conditions

c. Licensee failed to maintain adequate safety and sanitary conditions for a dental office. Licensee also failed to comply with the most current infection control recommendations and guidelines of the Centers for Disease Control. During the March 20, 2014, conference, the Committee learned the following from the Licensee: she does not bag all of her dental instruments prior to the sterilization process; and she does not routinely perform appropriate testing of her autoclave using an internal chemical indicator and a biological (spore) indicator.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 150A.08, subdivisions 1(5), (6), (8), and (10), Minnesota Rules 3100.6200 A, 3100.6200 K, and 3100.6300, 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:

STAYED SUSPENSION

7. The Board hereby **SUSPENDS** Licensee's license to practice dentistry. The suspension is **STAYED** so long as Licensee complies with the following conditions:

CONDITIONS OF STAYED SUSPENSION

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

a. Participation in HPSP.

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

2) Licensee shall be monitored by the HPSP until HPSP determines Licensee is qualified to practice without conditions.

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

b. Infection Control Consultant. Within three months after the effective date of this Order, Licensee shall hire an infection control consultant pre-approved in advance by the Committee for an evaluation involving consultative and inspection services specifically for her dental office. Licensee must provide to the consultant a copy of this Order prior to receiving an evaluation. Within 14 days after the completion of the evaluation, Licensee shall cause the

consultant to provide to the Committee a detailed written report of the evaluation and compliance recommendations. Licensee shall bear the costs of this evaluation, the preparation of the report, and compliance with any infection control recommendations. Within 30 days of the consultant's report, Licensee shall comply with the consultant's recommendations and submit a written report to the Committee that indicates the changes relative to infection control that Licensee has made in her dental office.

Along with her written report, Licensee must also submit a copy of her entire infection control manual for review which must be current and in compliance with guidelines established by the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration. Licensee's infection control manual shall also include a signed verification from all staff, including dentists, dental hygienists, licensed and unlicensed dental assistants, that they have fully read and reviewed Licensee's infection control manual and have received annual infection control staff training.

c. Infection Control Inspection. Licensee shall fully cooperate with all unannounced office visits by a representative of the Board conducted for the purpose of inspecting the safety and sanitary conditions present in Licensee's office. The Board's representative shall conduct the inspection during normal business hours. The Board's representative shall complete at least one unannounced office visit pursuant to this paragraph; additional visits shall be at the discretion of the Committee.

Removal of Stayed Suspension

9. 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 her 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 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

10. 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.

11. 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.

12. 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.

13. 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

14. 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

15. 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 7 and 8 above, the Committee may remove the stay pursuant to the procedures outlined in paragraph 16 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 16 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 16 below to be held within 60 days of service of the Order of Removal.

Noncompliance or Violation With Stipulation and Order

16. 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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

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

24. 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.

25. 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.

26. 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.

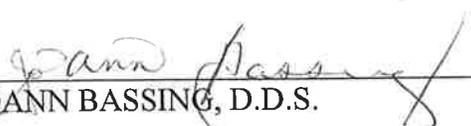
DATA PRACTICES NOTICES

27. 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.

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

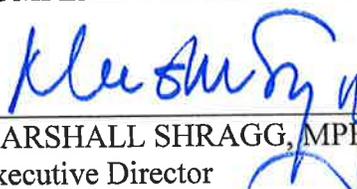
LICENSEE



JOANN BASSING, D.D.S.

By:

COMPLAINT COMMITTEE



MARSHALL SHRAGG, MPH
Executive Director

Dated: 07-15, 2014

Dated: APRIL 18TH, 2014

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 2nd day of May, 2014.

MINNESOTA BOARD
OF DENTISTRY

By:



TERI YOUNGDAHL, L.D.A.

President