

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Gary J. Hedin, D.D.S.
License No. D11959

**STIPULATION AND ORDER
FOR CONDITIONAL LICENSE**

STIPULATION

Gary J. Hedin, D.D.S. ("Licensee") and the Minnesota Board of Dentistry's Practitioner Review 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 when appropriate.

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 December 5, 2019, Licensee and his attorney, Thomas B. Brever, appeared before the Committee, composed of Board members Hassan Ismail, D.D.S., Heidi Donnelly, L.D.A., and Ruth Dahl, to discuss allegations made in a Notice of Conference dated October 29, 2019. Daniel S. Schueppert, Assistant Attorney General, represented the Committee at the conference.

4. Licensee was advised by Committee representatives that he may choose to be represented by legal counsel in this matter. Licensee retained Thomas B. Brever, Esq., of Foster & Brever, PLLC, 2812 Anthony Lane South, Suite 200, Saint Anthony, Minnesota 55418.

III.

FACTS

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

a. On June 15, 2004, the Board licensed Licensee to practice dentistry in Minnesota.

b. On October 24, 2019, the Board received a complaint against Licensee regarding his guilty plea to federal tax fraud related to Licensee not paying his dental practice's employment taxes to the Internal Revenue Service. The Board sent to Licensee a proposed Stipulation to Cease Practicing Dentistry ("2019 Stipulation to Cease").

c. On November 4, 2019, Licensee and the Board entered into the 2019 Stipulation to Cease that prohibited Licensee from practicing dentistry in any manner in the State of Minnesota while the 2019 Stipulation to Cease was in effect.

d. On December 5, 2019, the Committee met with Licensee for a conference to discuss the following:

1) On October 22, 2019, Licensee entered into a Plea Agreement and Sentencing Stipulation with the United States Attorney's Office for the District of Minnesota related to his dental practice's payroll taxes. From 2012 to 2017, Licensee was the owner of a dental practice located in Duluth, Minnesota. Licensee pleaded guilty to charges made by the United States Internal Revenue Service ("IRS") that he willfully failed to account for and pay employment taxes, in violation of 26 U.S.C. section 7202. Licensee was the owner and person

responsible for his dental practice's tax matters. Specifically, Licensee failed to file the appropriate federal tax returns for his practice and failed to pay employment taxes for his practice's employees, totaling \$158,958 to the IRS from 2012 to 2017, excluding interest and penalties. As a result, the employees of Licensee's practice had their employment taxes withheld from 2012 to 2017. Instead, Licensee used the funds on a lavish lifestyle, including vacations, adult entertainment, membership in private social clubs, and jewelry purchases.

2) In Licensee's written response to the Committee and at the conference, Licensee reported that he also used some of the funds to pay for expenses related to medical conditions of his immediate family member. Licensee acknowledged the evidentiary basis for disciplinary action based upon his admission of guilt and plea to the felony.

e. The 2019 Stipulation to Cease shall have no further effect upon entry of this Stipulation and Order between Licensee and the Board.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes sections 150A.08, subdivisions 1(1), (2), (3), and (6), Minnesota Rules 3100.6200(A), 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.

CONDITIONS

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

a. Civil Penalty. Licensee must pay to the Board a civil penalty totaling \$10,000. Immediately after the effective date of this Stipulation and Order, Licensee must make monthly payments to the Board on the first of each month in the amount of at least \$250 for forty consecutive months. Larger monthly payments made by Licensee will be accepted by the Board and will fulfill this requirement more expeditiously. Payments must be made by cashier's check or money order made payable to the Minnesota Board of Dentistry and shall be mailed to the Minnesota Board of Dentistry, c/o Bridgett Anderson, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414.

b. PROBE Professional Ethics and Boundaries Program. Within nine months of the effective date of this Stipulation and Order, Licensee shall successfully complete the PROBE Professional Ethics and Boundaries program offered through the Center for Personalized Education for Physicians ("CPEP"), or another comparable ethics course approved in advance by the Committee. To successfully complete the course, Licensee must receive a passing evaluation or grade, without any condition or qualification. In addition, Licensee shall take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any report to the Committee after completion of the program.

c. Community Service. Within nine months of the effective date of this Stipulation and Order, Licensee shall complete thirty (30) hours of unpaid community service at any voluntary dental access clinic located in Licensee's community or the Twin Cities area. **Prior to Licensee volunteering, each clinic must be approved in advance by the Committee.** Licensee shall submit to the Committee evidence of successfully completing 30 hours of service.

For this requirement, Licensee 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. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. Licensee shall have the burden of proving that Licensee has complied with the conditions and that Licensee is qualified to practice dentistry without conditions. Licensee's compliance with the foregoing requirements shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee 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. 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. 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.

12. 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.

13. Licensee must make full payment to the person or agency that provides services for all evaluations, inspections, courses, monitoring services, or other conditions required pursuant to this Stipulation and Order. Licensee's failure to make full payment is a violation of this Stipulation and Order and will render the requirement unsatisfied.

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.

Noncompliance or Violation With Stipulation and Order

15. 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

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

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. 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.

24. 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.

25. 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

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.

LICENSEE



GARY J. HEDIN, D.D.S.

PRACTITIONER REVIEW COMMITTEE



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

Dated: 12-15, 2019


Dated: 12-17, 2019

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 20th day of December, 2019.

MINNESOTA BOARD OF DENTISTRY



RUTH A. DAHL
Executive Board Secretary