

**BEFORE THE MINNESOTA**

**BOARD OF DENTISTRY**

In the Matter of  
Xieng Khan Lee, D.D.S.  
License Number: D13025

**STIPULATION AND ORDER  
FOR STAYED SUSPENSION**

**STIPULATION**

Xieng Khan Lee, 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.**

**REPRESENTATION**

3. Licensee was advised that he may choose to be represented by legal counsel in this matter. Licensee retained Fabian Hoffner, Esq., The Hoffner Law Firm, Ltd., 310 4th Avenue South, Suite 5010, Minneapolis, Minnesota 55415. Nicholas B. Lienesch, Assistant Attorney General, represented the Committee in this matter.

### **III.**

#### **FACTS**

4. The parties agree this Stipulation and Order is based upon the following facts as outlined below:

5. On June 9, 2017, Licensee was charged in Hennepin County District Court with Prostitution – Hiring or Agreeing to Hire a 13 to 15 year old, a felony offense, in violation of Minnesota Statutes section 609.324, subdivision 1(b)(2). The criminal complaint alleged that on April 12, 2017, Licensee responded to a Backpage.com advertisement in the “women seeking men” section, advertising sexual services, and corresponded with an undercover police officer who posed as a 15-year-old girl. Licensee agreed via text message to engage in sexual relations, and arrived at an agreed-upon location in Maple Grove where the supposed sexual activity was to occur. Licensee was arrested with \$402 in cash.

6. On April 19, 2018, Licensee submitted to the Board his application for renewal of his dental license. Licensee answered “No” to the following question on the renewal application: Do you have any criminal charges pending against you?

7. On April 20, 2018 an Amended Criminal Complaint was filed in Licensee’s criminal case, adding a second count as follows: Solicitation of a Child or Someone the Person Reasonably Believes to Be Child Through Electronic Communication to Engage in Sexual Contact, a felony offense, in violation of Minnesota Statutes section 609.352, subdivision 2a.(1).

8. On May 16, 2018, the district court convicted Licensee of both charges. The district court ordered a psychosexual evaluation of Licensee prior to sentencing, which included the finding that there is no indication that Licensee represents a current imminent risk of harm to

self or others. Licensee was sentenced to a stay of imposition and was not required to register as a sex offender.

9. The Board was first informed of Licensee's above convictions on January 10, 2020.

#### IV.

#### LAWS

10. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes sections 150A.08, subdivisions 1(1), (3), (6), and (7); and Minnesota Rule 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:

11. Licensee is hereby **REPRIMANDED** for the conduct referenced in section III. above.

#### STAYED SUSPENSION

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

a. Attendants with Female Patients. Immediately upon the effective date of this Order, Licensee must have another female present in the operatory at all times when he is providing any type of dental service to a female patient.

b. Civil Penalty. Licensee must pay to the Board a civil penalty totaling \$10,000. Licensee must pay \$5,000 within 30 days of the date of this Order, and \$5,000 at the

time that he submits a petition for removal of the stayed suspension, pursuant to paragraph 13, below. 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.

c. 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.

1) Ethics and Boundaries Essay Examination. Within nine months of the effective date of this Stipulation and Order, Licensee must pass the "Unprofessional Conduct" and "Professional Standards" portions of the ethics and boundaries essay examination offered through Ethics and Boundaries Assessment Services ("EBAS"), LLC. Licensee should review the EBAS website to learn about the application process, the 90 day test administration cycle, the time required by the testing agency to score the examination (two to six weeks), the retake policy on failed essays, and other relevant information. The score report of all examination attempts by Licensee, regardless of Licensee receiving a passing or failing score, shall be provided to the Committee by Licensee within ten business days of Licensee receiving a test result. [The EBAS website regarding the examination can be found at [www.ebas.org](http://www.ebas.org)]

2) 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”), which is a two-day, intensive, in-person program, 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.

3) Written Report for Coursework. Within 30 days after completing the course listed above, Licensee shall submit to the Committee:

- a. Proof of Licensee’s attendance at the course;
- b. Copies of all materials used and/or distributed in the course; and
- c. Specific information addressing how Licensee will incorporate the recently gained knowledge into Licensee’s practice.
- d. Licensee’s report 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.

All coursework reports submitted by Licensee are subject to review and approval by the Committee.

### **Removal of Stayed Suspension**

13. Licensee may petition to have the stayed suspension removed from Licensee's license at any regularly scheduled Board meeting no sooner than 12 months from the date of this Stipulation and Order and only upon completion of all requirements of this Stipulation and Order. Licensee has the burden of proving that Licensee has complied with the conditions of this Stipulation and Order and that Licensee is safe and competent to practice without a stayed suspension. Licensee must be in compliance with all elements of his criminal sentence at the time of his petition in order for his petition to be considered. Licensee may be required, at the Committee's discretion, to undergo an additional psychosexual evaluation upon petitioning, and to provide any other information reasonably requested by the Committee. 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**

14. 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 part 3100.6350 shall be applicable to such requests.

15. 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.

16. 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**

17. 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**

18. 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 paragraph 11, above, the Committee may remove the stay pursuant to the procedures outlined in paragraph 18, 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 12, above, 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 18, below, to be held within 60 days of service of the Order of Removal.

#### **Noncompliance or Violation With Stipulation and Order**

19. If Licensee fails to comply with or violates this Stipulation and Order, 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**

20. Licensee is required to notify all current and future patients of the existence of this Stipulation and Order.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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

28. 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.

29. 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.

30. 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

31. 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.

32. 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

  
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XIENG KHAN LEE, D.D.S.

PRACTITIONER REVIEW COMMITTEE

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

Dated: 1/14, 2020

Dated: 1/14, 2020

## 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 17 day of January, 2020.

MINNESOTA BOARD OF DENTISTRY

A handwritten signature in black ink, reading "Christy Jo Fogarty". The signature is written in a cursive, flowing style.

CHRISTY JO FOGARTY, D.H., A.D.T.  
President