

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Paul M. Trygstad, D.D.S.
License No. D9087

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Paul M. Trygstad, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Minnesota Attorney General's Office ("AGO") for investigation. Following the investigation, the Committee held a conference with Licensee and his attorney on April 19, 2012. The Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that Licensee does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following investigation by the Board:

Background

1. On May 22, 2007, the Committee held a disciplinary conference with Licensee to discuss his ability to practice dentistry with reasonable skill and safety due to a physical, mental, emotional, or other disability. Licensee was previously discharged from the Health Professionals Services Program ("HPSP") due to having positive toxicology screen results for alcohol. Following the conference, the Committee instructed Licensee to re-enroll in the HPSP, which he did, and the matter was closed.

2. On April 30, 2010, Licensee entered into an Agreement for Corrective Action ("2010 ACA") with the Committee. Licensee's 2010 ACA was based upon substandard endodontic care, substandard diagnostic/restorative care, substandard periodontal care, substandard radiographic diagnosis, and substandard recordkeeping. Licensee has completed all requirements of the 2010 ACA, with the exception of the treatment and recordkeeping inspection. Therefore, Licensee is currently subject to the 2010 ACA.

3. In June 2011, the Committee received two subsequent complaints against Licensee alleging substandard care and ongoing substance abuse issues, which were referred to the Attorney General's Office for investigation. Upon review of the complaint regarding substance abuse, the Committee decided to serve upon Licensee a Stipulation to Cease Practicing Dentistry, which he refused to sign. In September and October 2011, the Committee received and reviewed the investigative reports.

4. On April 19, 2012, the Committee held a disciplinary conference with Licensee and his attorney, John M. Degnan, to discuss the matters described below. Following the conference, the Committee determined that disciplinary action was warranted against Licensee relative to these matters.

Unprofessional Conduct and Inability to Practice with Reasonable Skill and Safety

5. Licensee has 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.

a. On May 14, 2009, Licensee successfully completed the Health Professionals Services Program ("HPSP") for monitoring of his substance disorder.

b. On March 19, 2011, Licensee entered an inpatient chemical dependency treatment program at Hazelden after relapsing with alcohol beginning in November 2010. Licensee admitted that he returned to drinking alcohol because of multiple stressors with his family, marriage, and the holidays.

c. On March 28, 2011, Licensee was diagnosed with alcohol dependence with physiologic dependence, generalized anxiety disorder, and dysthymic disorder in an assessment conducted at Hazelden.

d. On April 7, 2011, Licensee self-reported for the fourth time to the HPSP due to his history of abusing alcohol, multiple relapses, and numerous treatment programs since 2003. During his intake interview with the HPSP, Licensee stated that he started drinking alcohol again in about November 2010 due to stressors at work and his depression getting worse. Licensee added that this was his first relapse since completing the HPSP in May 2009. Prior to relapsing, Licensee admitted that he had attended AA meetings and met with his sponsors sporadically.

e. On May 7, 2011, Licensee signed his Participation Agreement with the HPSP to monitor his substance use disorder. Among other things, the terms of Licensee's monitoring plan included: refrain from practicing dentistry until authorized by the HPSP; attend

a substance abuse treatment program; see therapy and primary healthcare providers; abstain from using alcohol and other mood-altering substances; perform toxicology screens; and monitor for 48 months.

f. On June 3, 2011, while still at Hazelden, Licensee was asked to complete a urine toxicology screen because his breath smelled like alcohol. Afterwards, Hazelden staff learned that Licensee had actually solicited and received a urine sample from another resident for his toxicology screen. When confronted with this information, Licensee admitted to substituting the urine and relapsing by drinking alcohol on May 31 and June 2, 2011. Licensee stated that he relapsed because of his father's death, his depression with leaving friends at Hazelden, and his anxiety of returning to work and family.

g. On June 6, 2011, Licensee left Hazelden on his own against Hazelden's recommendation to enter an out-of-state extended chemical dependency treatment program due to the severity of his addiction and many attempts at treatment. Licensee indicated that he could not enter such an extended program because he could not afford it and it would also require absence from his practice.

h. On June 7, 2011, Licensee was discharged from HPSP due to his non-compliance. Among other things, Licensee relapsed while in treatment at Hazelden. While he could not follow Hazelden's recommendation to enter extended treatment due to the cost and required absence from his practice, he did enter into an alternative program in Duluth for monitoring and counseling.

i. On or about June 23, 2011, Licensee voluntarily entered the outpatient treatment program at the Center for Alcohol and Drug Treatment in Duluth, Minnesota.

j. On September 19, 2011, Licensee re-enrolled in the HPSP after receiving a confidential referral letter from the Committee in August 2011. On October 11, 2011, Licensee signed his Participation Agreement with the HPSP to monitor his substance use disorder.

Substandard Care

6. Complaints regarding substandard diagnosis and treatment planning, substandard periodontal care, substandard endodontic care, substandard radiographic diagnosis, and substandard recordkeeping were received by the Committee while Licensee was implementing his coursework pursuant to the 2010 ACA. The Committee observed continued substandard care in multiple patient records.

C. Violations. The Committee concludes that the practices described above constitute violations of Minn. Stat. § 150A.08, subd. 1(4) (habitually overindulged in the use of intoxicating liquors); Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 B (repeated performance of dental treatment which falls below accepted standards); Minn. Stat. § 150A.08, subd. 1(13) and Minn. R. 3100.9600 (failure to make or maintain adequate dental records on each patient); and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order **RESCINDING** the April 30, 2010, Agreement for Corrective Action and placing **CONDITIONS** on Licensee's license to practice dentistry in the State of Minnesota as follows:

CONDITIONS

Licensee's license shall be subject to the following terms, conditions, and requirements:

1. Participation in HPSP.

a. Licensee must continue with his participation in the HPSP for monitoring of his chemical dependency recovery. Licensee shall provide HPSP with a copy of this stipulation and order after being adopted by the Board.

b. Licensee shall be monitored by HPSP until HPSP determines Licensee is qualified to practice without conditions.

c. Licensee shall comply with all provisions of his HPSP Participation Agreement, including revisions subsequent to this order. Licensee's failure to comply with his HPSP Participation Agreement shall be considered a violation of this stipulation and order.

d. Licensee shall totally abstain from ingesting, injecting, or otherwise taking or using any mood-altering chemical or drug, including 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.

2. Recordkeeping Inspection. Within six months of the effective date of this Order, Licensee shall cooperate with at least one unannounced office visit during normal business hours by a representative of the Board; additional visits shall be at the discretion of the Committee. The representative shall randomly select, remove, and make copies of eight original patient records, including radiographs, to provide to the Committee for its review of Licensee's recordkeeping practices after the designated date of April 19, 2012.

3. Other Conditions.

a. 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.

b. 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, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minn. R. 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.

d. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five 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.

E. Removal of Conditions. 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 order.

F. Fine for Violation of Order. 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 Minn. Stat. § 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.

G. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. 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 alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this

stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or a limitation on Licensee's practice, or suspension or revocation of Licensee's license.

H. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Conference. Licensee and his attorney attended a conference with the Committee on April 19, 2012. The following Committee members attended the conference: Joan Sheppard, D.D.S. and Teri Youngdahl, L.D.A. Assistant Attorney General Geoffrey S. Karls represented the Committee at the conference. Licensee was represented by John M. Degnan in this matter, who has advised Licensee regarding this stipulation and order.

J. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right

to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

L. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public

documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

N. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

O. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

Paul M. Trygstad MD
PAUL M. TRYGSTAD, D.D.S.

By:

COMPLAINT COMMITTEE

Marshall Shragg
MARSHALL SHRAGG, MPH
Executive Director

Dated: 4-21-14 ~~2012~~

Dated:

April 22nd, 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, the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board placing CONDITIONS on Licensee's license effective this 2nd day of May, 2014.

MINNESOTA BOARD
OF DENTISTRY

By:


TERI YOUNGDAHL, LDA
President