

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Milos Tomaides, D.D.S.
License No. D9495

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

STIPULATION

Milos Tomaides, 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 February 20, 2014, Licensee appeared before the Committee, composed of Board members Joan Sheppard, D.D.S., Teri Youngdahl, L.D.A., John Manahan, J.D., and David Gesko, D.D.S., for a disciplinary conference to discuss allegations of a complaint made on

February 5, 2014. Sara P. Boeshans, Assistant Attorney General, represented the Committee at the conference.

4. Licensee was represented by David Aafedt, Esq., Winthrop & Weinstine.

III.

FACTS

5. On or about February 5, 2014, the Board received a complaint regarding Licensee's health. The complainant, an Emergency Department physician practicing at a Twin Cities hospital, indicated Licensee's serum drug test revealed the presence of methamphetamine and alprazolam.

6. Licensee met with the Complaint Committee on February 20, 2014. Licensee disclosed he used methamphetamine approximately every other weekend from March 2013 through January 2014.

7. Licensee enrolled in the Health Professionals Services Program ("HPSP") and entered into a Participation Agreement and Monitoring Plan on February 25, 2014. The Monitoring Plan required Licensee to abstain from the use of controlled substances and provide random biological samples as requested by the HPSP.

8. On April 8, 2014, Licensee submitted a toxicology screen pursuant to his Monitoring Plan with the HPSP. The HPSP learned that the toxicology screen tested positive for methamphetamine on April 15, 2014.

9. On April 9, 2014, the HPSP required Licensee to refrain from practice due to self-reports of sweating and chest pains, and until Licensee could submit clean drug screens and be cleared by a health professional.

10. Licensee admitted himself to Hazelden on April 20, 2014, for the Health Care Professional's Residential Evaluation Program. There, Licensee was diagnosed with methamphetamine dependency and Hazelden recommended Licensee complete a residential inpatient chemical dependency program for health care professionals. Hazelden determined that Licensee was not safe to practice with reasonable skill and safety at that time. On April 28, 2014, Hazelden informed the HPSP that a hair sample Licensee had submitted while he was at Hazelden tested positive for methamphetamine and a metabolite of heroine.

11. On April 24, 2014, the HPSP unsatisfactorily discharged Licensee due to non-compliance.

12. On April 25, 2014, the Complaint Committee temporarily suspended Licensee's license to practice dentistry. By Order of May 8, 2014, the Board continued the temporary suspension of Licensee's license to practice dentistry. On May 15, 2014, the Committee filed a Notice of Hearing on Temporary Suspension Pursuant to Minn. Stat. § 150A.08, subd. 8, scheduling a hearing on June 16, and June 17, 2014.

13. The Committee and Licensee mediated the matter on June 4, 2014.

IV.

LAWS

14. Licensee acknowledges that the conduct described in section III. above constitutes a violation of Minnesota Statutes section 150A.08, subdivision 1(5), (6), and (8) 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:

STAYED SUSPENSION

15. 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

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

a. Refrain from Practice Until Successful Completion of In-patient Chemical Dependency Treatment.

1) Licensee must refrain from the practice of dentistry until Licensee submits proof of successful completion of in-patient chemical dependency treatment to the Board as detailed below.

b. Participation in In-patient Chemical Dependency Treatment.

1) Licensee must locate and enroll in an in-patient chemical dependency treatment program to address, at minimum, his diagnosis of methamphetamine dependence. The program must be a minimum of twenty-one days in length. The program must be pre-approved by the Board, and such approval will not be unreasonably withheld. Licensee must submit to the Board the program credentials and background materials of the program.

2) Licensee must comply with all recommendations of the in-patient chemical dependency treatment program, including recommendations for additional treatment and/or evaluation.

3) Licensee must submit proof of successful completion of the in-patient chemical dependency treatment program to the Board, including submission of the discharge summary and treatment recommendations.

c. Participation in the HPSP.

1) Licensee must enroll in the HPSP for monitoring of his chemical dependency recovery within five (5) days of this Order. Licensee shall provide the HPSP with a copy of this Stipulation and Order after being adopted by the Board.

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

3) Licensee shall comply with all provisions of his HPSP Participation Agreement and Monitoring Plan, 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.

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

5) Licensee shall submit at least three (3) biological samples (i.e.: urine, blood, hair, or nails) per week, the type of sample to be determined by the HPSP, for a period of at least one year for toxicology screening. Thereafter, the HPSP shall determine the frequency of biological screens.

Removal of Stayed Suspension

17. The stayed suspension of Licensee's license shall be administratively removed upon Licensee's satisfactory completion of the disciplinary action contained within this Stipulation and Order. The Board's Executive Director will send written notification to the Licensee regarding the removal of the stayed suspension from Licensee's license to practice dentistry.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

18. 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.

19. 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.

20. 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.

Order of Removal of Stayed Suspension

21. 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 22 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 22 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 22 below to be held within 60 days of service of the Order of Removal.

Noncompliance or Violation With Stipulation and Order

22. 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. The Board agrees to make appropriate findings and conclusions to support a record to support any adverse action, from which an appeal may be taken.

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

23. 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.

24. 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.

25. 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.

26. 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. This waiver does not apply to any subsequent action taken by the Committee or the Board.

27. 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.

28. 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.

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

30. 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.

31. 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.

32. 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. Licensee retains all procedural and due process rights to contest such actions.

33. The Board will convene to vote on this Stipulation and Order for Stayed Suspension and Conditional License by June 20, 2014. Accordingly, Licensee agrees to waive the requirement pursuant to Minnesota Statutes section 150A.08, subdivision 8 that the Board schedule the disciplinary hearing to be held within 45 days of issuance of the May 8, 2014, Order. If the proposed Stipulation and Order is not approved, the matter must be heard within 30 days of the Board's rejection of the proposed Stipulation and Order.

VIII.

DATA PRACTICES NOTICES

34. 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.

35. 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


MILOS TOMAIDĒS, D.D.S.

By:

COMPLAINT COMMITTEE


MARSHALL SHRAGG, MPH
Executive Director

Dated: 6/5, 2014

Dated: JUNE 5TH, 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 6 day of June, 2014.

MINNESOTA BOARD
OF DENTISTRY

By:


Board President