

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Thomas E. Vukodinovich, D.D.S.
License No. D9526

**STIPULATION AND ORDER FOR
LIMITED AND 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.

After receiving a complaint against Thomas E. Vukodinovich, D.D.S. ("Licensee"), the Board's Complaint Committee ("Committee") reviewed the complaint and referred it to the Minnesota Attorney General's Office for investigation. Thereafter, the Committee received and reviewed the report of the investigation. On February 10, 2012, the Committee held a disciplinary conference with Licensee and his attorney, John M. Degnan. As a result, 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 he 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 memorializes the settlement of a contested case proceeding. Without having any force or effect in any extraneous civil or criminal proceeding, and for purposes of settlement, the parties agree on the following findings of the Board's investigation:

1. In February 2011, the Board received a complaint against Licensee from the Health Professionals Services Program ("HPSP") regarding Licensee's discharge from the program. The matter was referred to the Minnesota Attorney General's Office for investigation. On February 10, 2012, the Committee held a disciplinary conference with Licensee and his attorney regarding the following.

Improper Prescribing

2. 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. Examples include the following:

a. From October 2009 to November 2010, Licensee improperly prescribed controlled substances for a family member and his own personal use, as follows:

1) Licensee ordered Vicoprofen and Vicodin for a family member for pain associated with cancer treatments. Licensee also self-administered these drugs to relieve his ankle and back pain.

2) Licensee used several other prescription drugs for himself ordered from Henry Schein Company including indomethacin, lisinopril, cortisone, hydrochlorothiazide, and Lomotil.

b. Licensee previously did not keep a separate record of drugs, administered, dispensed, or distributed on file at his office location, as required by Minn. R. 6800.9954. Licensee stated that he only documents the administration of drugs to a patient in the patient's chart. Licensee indicated that he no longer maintains any scheduled controlled substances in his office.

Unprofessional Conduct

3. Licensee has engaged in personal conduct which brings discredit to the profession of dentistry as follows:

a. On December 3, 2010, Licensee contacted the HPSP after the HPSP received a third party report. During his intake interview with the HPSP, Licensee stated that he entered into treatment for Vicodin dependence at a residential program in California, from February 5 to 23, 2010. Licensee self-administered Vicodin from work and ordered prescription product for his personal use.

b. On December 10, 2010, Licensee completed a chemical dependency evaluation at a clinic in Minneapolis. Licensee was diagnosed with having opioid dependence. Licensee had relapsed in September 2010 and returned for treatment at the residential program in California for a second time from November 20 to 30, 2010.

c. On February 23, 2011, the HPSP informed the Board that Licensee had been discharged from the program due to non-cooperation.

d. On March 10, 2011, Licensee's attorney requested that the Board assist in getting Licensee back into the HPSP.

e. On March 21, 2011, Licensee contacted the HPSP as requested by the Board's confidential referral letter and participated in an intake interview. As of the date of

this Stipulation, Licensee has remained compliant with the requirements of the HPSP monitoring program.

Unprofessional Conduct / Administering Sedation

4. Licensee engaged in conduct unbecoming a person licensed to practice dentistry regarding the administration of certain sedation medications to his patients, in that during the conference with the Committee, Licensee indicated that he administers minimal sedation; however, he failed to provide accurate information when questioned about minimal sedation and using certain reversal agents.

C. Violations. The Committee concludes that the practices described above constitute violations of Minn. Stat. § 150A.08, subd. 1(6) and Minn. R. 3100.6200 A (conduct unbecoming a person licensed to practice dentistry or conduct contrary to the best interest of the public); Minn. Stat. § 150A.08, subd. 1(5) (improperly prescribed, dispensed, administered, or personally used a legend drug, chemical, or controlled substance); Minn. Stat. § 150A.08, subd. 1(8) (past physical, mental, emotional, or other disability which adversely affects Licensee's ability to perform as a dentist); and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order placing Licensee's license in a LIMITED and CONDITIONAL status as follows:

E. Limitation and Conditions. Licensee and the Committee recommend that the Board issue an order which places a LIMITATION and CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

LIMITATION

Licensee's license shall be subject to the following limitation:

1. Medications. Licensee agrees that he shall not order or maintain any legend drug other than for the use in the legitimate practice of dentistry.

CONDITIONS

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

2. 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, 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 another dentist as part of a course of treatment.

3. Sedation Report. Within three months after the effective date of this Order, Licensee shall submit to the Committee a written report that: (a) compares minimal sedation to moderate sedation based upon Minnesota Rules parts 3100.0100 and 3100.3600; (b) describes what specific reversal agents are used for different sedation drugs such as flumazenil

for benzodiazepines; (c) explains what information to properly document and maintain in the patient's record for recordkeeping purposes when administering minimal sedation; and (d) outlines his office policy for filing an adverse reaction report with the Board based upon Minnesota Rules part 3100.3600, subpart 8. Licensee's report shall be typewritten in his 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. Licensee's report shall be subject to approval by the Committee.

4. Office Inspection and Patient Records Review. At a later date, Licensee shall cooperate with at least one unannounced office visit at his dental office during normal office hours by a representative of the Board. The representative shall conduct an inspection of Licensee's office for the purpose of reviewing the following: (a) the type and amount of prescription drugs at his office, including storage information; and (b) the record of drugs received, administered, dispensed, sold, or distributed on file at his office, from which dispensing is taking place, as required by Minnesota Rules part 6800.9954.

Furthermore, the representative shall select, remove, and make copies of five (5) original patient records, including radiographs, where Licensee has administered minimal sedation to the patient. Upon receiving these patient records, the Committee shall review Licensee's documentation and administration protocol for minimal sedation, including informed consents, treatment plans, and sedation records. Additional office visits or requests for patient records shall be at the discretion of the Committee.

5. 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 through 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, and United States Department of Health and Human Services.

d. In the event Licensee should leave Minnesota to reside, Licensee shall notify the Board in writing of the new location within five days. Periods of residency outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota.

F. Licensee may petition to have the conditional status removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee has complied with all the limitations and conditions of in this stipulation. 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 limitations and conditions of this stipulation and order and that Licensee is qualified to practice with reasonable skill and safety. Licensee's compliance with the foregoing requirements does not create a presumption that conditions should

be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue imposed by this order.

G. 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.

H. 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 will 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 limitations on Licensee's practice, or suspension or revocation of Licensee's license.

I. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order is a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee may attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein limits (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.

J. Attendance at Conference. Licensee and his attorney attended a conference with the Committee on February 10, 2012. The following Committee members attended the conference: Candace Mensing, D.D.S.; Nancy Kearn, D.H.; and Neal Benjamin, D.D.S. Assistant Attorney General Benjamin R. Garbe represented the Committee at the conference. Licensee is represented by John M. Degan in this matter, who has advised Licensee regarding this stipulation and order.

K. 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.

L. 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 will be null and void and may 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.

M. Record. This stipulation, related investigative reports and other documents 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.

N. 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. Data does 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.

O. 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.

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

LICENSEE


By: _____
THOMAS E. VUKODINOVICH, D.D.S.

Dated: 8/6/12, 2012

COMPLAINT COMMITTEE


By: _____
MARSHALL SHRAGG, MPH
Executive Director

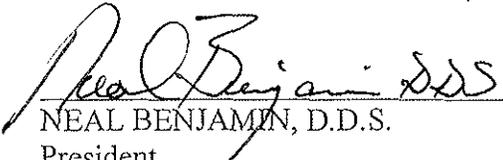
Dated: AUGUST 6th, 2012

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 21st day of September, 2012.

MINNESOTA BOARD
OF DENTISTRY

By: 
NEAL BENJAMIN, D.D.S.
President