

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Gregory W. Dunn, D.D.S.
License No. D8446

**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 Gregory W. Dunn, 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 May 18, 2007. 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 facts:

Substandard Orthodontic Diagnosis and Treatment / Recordkeeping

1. Licensee failed to adequately document pertinent information and/or provide appropriate diagnostic and orthodontic treatment to one or more of his patients. Examples include the following:

a. Licensee failed to develop an adequate orthodontic treatment plan and informed consent that facilitated coordination of the treatment objectives and the various methods available for addressing them, as follows:

1) For patient 5, Licensee failed to document and/or adequately inform the patient about the treatment option of providing orthodontic care without extracting the patient's permanent teeth.

2) For patient 6 who had asymmetry issues, Licensee failed to document and/or adequately inform the patient's parents about the following treatment options: referral consultation with an oral surgeon for orthognathic surgery due to family history and potential for condylar hyperplasia; referral consultation with an othodontist; and defer orthodontic treatment until patient's growth process completed and provide treatment in one phase.

b. Licensee failed to provide appropriate orthodontic treatment on one or more of his patients, as follows:

1) For patient 1, Licensee failed to provide adequate orthodontic treatment when he failed to: formulate an appropriate treatment plan that encompassed provisions for follow-up and future completion of treatment; refer the patient to an oral surgeon in a timely manner regarding unerupted second molars; and properly align the patient's posterior

occlusion creating in an unstable long term result due to the lack of occlusion on the left side, occlusion only on the premolars on the right side, upper and lower first molars in lingual version, and stress imparted to the anterior teeth.

2) For patient 5, Licensee failed to provide adequate orthodontic treatment when he failed to properly align the lower premolar and first molars leaving a root divergence between these two teeth on both sides along with spaces at the extraction sites. In addition, Licensee failed to align teeth #30 and #31 leaving a marginal ridge step.

3) For patients 6 and 7, Licensee failed to provide adequate orthodontic treatment when he failed to appropriately align the patient's second molars during treatment before removing the appliances. When formulating treatment plans for patients 1 through 8, Licensee also failed to indicate provisions for alignment of the second molars during orthodontic treatment or reasons for removing appliances prior to aligning the second molars.

4) For patients 7 and 8, Licensee failed to provide adequate orthodontic treatment when he failed to properly coordinate the patient's dental arches leaving the teeth without being fully and/or properly occluded or interdigitated after completing orthodontic treatment. Specifically, patient 7 also had a posterior open bite in the premolar area on the right side. Moreover, patient 8 also had spacing present on the distal aspect of the maxillary canines with symmetry and midline discrepancies.

c. When documenting orthodontic treatment provided to patient 1, Licensee failed to indicate that he was the dental provider by noting his name or initials in the patient's treatment record.

Improper Use of Auxiliary Personnel

2. Licensee has employed, assisted, or enabled auxiliary staff to practice dentistry in that Licensee has inappropriately authorized and permitted registered dental assistants to perform tasks which exceeded their legal scope of practice. For example, Licensee has authorized and permitted registered dental assistants employed in his office to cement bands and brackets to the patient's teeth.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of 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(11) and 150A.11, subd. 1 and Minn. R. 3100.8100 and 3100.8500 (employed, assisted, or enabled an unlicensed person to practice dentistry); 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 which places CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

CONDITIONS

1. Jurisprudence Examination. Within 90 days of the effective date of this Order, Licensee shall take and pass the Minnesota jurisprudence examination with a score of at least 75 percent. Licensee may take the jurisprudence examination within the 90-day period as many times as necessary to attain a score of 75 percent, however, Licensee may take the examination only once each day. Within 10 days of each date Licensee takes the jurisprudence examination, Board staff will notify Licensee in writing of the score attained.

2. Allied Dental Professional Duties/Supervision Report. Within 90 days of the effective date of this Order, Licensee shall review and submit to the Committee a written report regarding the levels of supervision and delegation of duties which unregistered and registered dental assistants and licensed dental hygienists are authorized to perform in his dental practice in accordance with Minnesota Rules parts 3100.8400, 3100.8500, and 3100.8700. Licensee's report shall be typewritten in his own words, double-spaced, and at least two pages and no more than three pages in length.

3. Coursework and Seminar. Licensee shall successfully complete the coursework and seminar described below. The coursework and seminar must be approved in advance by the Committee. Licensee is responsible for locating, registering for, and paying for the coursework and seminar taken pursuant to this stipulation and order. None of the coursework or the seminar taken pursuant to this stipulation and order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minn. R. 3100.5100, subpart 2. The coursework and seminar are as follows:

a. Treatment Planning / Recordkeeping Course. Within six months of the effective date of this Order, Licensee shall personally attend and successfully complete the treatment planning / recordkeeping course entitled "Dental Patient Management: Dental Records and Treatment Planning Fundamentals" offered through the University of Minnesota School of Dentistry or an equivalent course. Licensee must provide the instructor with a copy of this stipulation and order prior to commencing the course. Licensee shall pass this course with a grade of 70 percent or a letter grade "C" or better. Licensee's signature on this stipulation and order constitutes authorization for the course instructor to provide the Committee with a copy of the final examination and answers for this course taken by Licensee. Licensee's signature also

authorizes the Committee to communicate with the instructor before, during, and after Licensee takes the course about Licensee's needs, performance and progress.

b. Orthodontic Seminar. Within nine months of the effective date of this Order, Licensee shall personally attend and successfully complete at least a one- or two-day seminar on orthodontics which focuses on orthodontic principles regarding case finishing techniques.

4. Written Reports on Coursework and Seminar. Within 30 days after completing the coursework and the seminar, Licensee shall submit to the Board (a) a transcript or other documentation verifying that Licensee has successfully completed the course or attended the seminar, (b) a copy of all materials used and/or distributed in the course or the seminar, and (c) a written report summarizing how Licensee has implemented this knowledge into Licensee's practice. Licensee's reports shall be typewritten in Licensee's own words, double-spaced, at least two pages and no more than three pages in length, and shall list references used to prepare the report. All reports are subject to approval by the Committee.

5. Review of Orthodontic Cases. After successful completion of the aforementioned orthodontic course above, Licensee agrees to submit a total of twelve (12) completed orthodontic cases for review by an orthodontic expert who has been pre-approved by the Committee. To obtain pre-approval from the Committee, Licensee must submit one or more names of orthodontists to the Committee for review and approval. Once an orthodontic expert has been approved by the Committee, Licensee shall intermittently submit the 12 completed orthodontic cases to this particular orthodontist for review over an extended period of one year. For each completed orthodontic case received from Licensee, the orthodontic expert shall review the case evaluating the records, treatment plans, treatment progress, and completion results to

determine if Licensee is providing appropriate orthodontic care to his patients. Within 30 days after the orthodontic expert has performed each case review and prepared a written report, Licensee shall have the orthodontic expert submit the report to the Committee for each of the 12 completed orthodontic cases.

In addition, Licensee must provide the orthodontic expert with a copy of this stipulation and order. Licensee's signature on this stipulation and order constitutes authorization for the orthodontic expert to provide the Committee with copies of all written evaluation reports. Licensee's signature also authorizes the Committee to communicate with the orthodontic expert, before, during, and after the review of Licensee's orthodontic cases about Licensee's needs, performance, and progress. Licensee shall bear all costs associated with complying with this condition as stated pursuant to this stipulation and order.

6. 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 Centers for Disease Control and Prevention, Public Health Service, United

States Department of Health and Human Services, *Guidelines for Infection Control in Dental Health-Care Settings - 2003*, Morbidity and Mortality Weekly Report, December 19, 2003 at 1.

d. If the Board receives a complaint alleging additional misconduct or deems it necessary to evaluate Licensee's compliance with this stipulation and order, the Board's authorized representatives shall have the right to inspect Licensee's dental office(s) during normal office hours without prior notification and to select and temporarily remove original patient records for duplication. Licensee shall fully and timely cooperate with such inspections of Licensee's office and patient records.

e. 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 attended a conference with the Committee on May 18, 2007. The following Committee members attended the conference: Nadene Bunge, D.H.; Candace Mensing, D.D.S.; and Freeman Rosenblum, D.D.S. Assistant Attorney General Manuel J. Cervantes and Assistant Attorney General Daphne A. Lundstrom represented the Committee at the conference. At the conference, Licensee was represented by Michael J. Weber in this matter. Following the conference, Licensee retained a subsequent attorney, T. Michael Speidel, 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


GREGORY W. DUNN, D.D.S.

Dated: 8-13, 2008

COMPLAINT COMMITTEE

By: 
MARSHALL SHRAGG
Executive Director

Dated: August 20th, 2008

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 12 day of September, 2008.

MINNESOTA BOARD
OF DENTISTRY

By:

Nadene Bunge

NADENE BUNGE, D.H.
President