

**BEFORE THE MINNESOTA  
BOARD OF DENTISTRY**

In the Matter of  
Mahmoud El Deeb, D.D.S.  
License No. D9639

**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's Office ("AGO") for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Mahmoud El Deeb, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the AGO for investigation. Following the investigation, the Committee held a conference with Licensee on May 27, 2004. 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 also holds a license to practice dentistry in Wisconsin, Egypt and Saudi Arabia but does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

**Improper, Unauthorized Personal Use of Controlled Substances**

1. Licensee has personally used controlled substances in an improper, unauthorized manner.

a. On June 1, 2003, Licensee admitted himself for inpatient treatment at Hazelden Mental Health Center ("Hazelden") in Center City, Minnesota for marijuana and cocaine dependency. Licensee was discharged on June 29, 2003.

b. In letters dated October 21 and November 5, 2003, the Health Professionals Services Program ("HPSP") wrote to Licensee regarding a third party report which had been filed against him. However, Licensee failed to respond by HPSP's deadline dates and was discharged on November 24, 2003. HPSP informed the Board that Licensee had been discharged and the Committee referred the matter to the AGO for investigation.

c. On January 16, 2004, during a telephone call with HPSP, Licensee reported that his sobriety date was June 1, 2003. Licensee stated he began smoking marijuana in college and on vacations, but did so only occasionally, however, his use of marijuana and cocaine had increased substantially by May 2003. HPSP recommended that Licensee obtain a chemical dependency assessment.

d. On February 27, 2004, Fairview Southdale Hospital contacted HPSP regarding Licensee's HPSP CD assessment. Licensee told the assessor that he had last used marijuana and cocaine three to four weeks earlier. On March 8, 2004, the assessor recommended that Licensee complete an aftercare program, attend self-help and Dentists Concerned for Dentists (DCD) meetings.

e. On March 8, 2004, Licensee signed a Participation Agreement/Monitoring Plan with HPSP for monitoring his substance disorder and submitted to a toxicology screen.

f. Licensee's March 8, 2004 toxicology screen was positive for cocaine. Licensee told HPSP that he had not used cocaine since early February. HPSP asked Licensee to return to Fairview Southdale for a re-assessment. HPSP allowed Licensee to remain in the program as long as he followed treatment recommendations after the re-assessment, but prohibited him from practicing dentistry until further notice.

g. On March 31, 2004, HPSP was contacted by Fairview Southdale regarding Licensee's CD re-assessment. The assessor recommended that Licensee attend a relapse program and DCD meetings and have random toxicology screens.

h. On April 6, 2004, HPSP contacted Licensee after receiving a report that he had practiced dentistry the evening before at his Edina office. Licensee explained that he was working on his techniques with extracted teeth and taking pictures in preparation for a lecture he would be giving in Egypt. In his response to the Notice of Conference, Licensee wrote that he was not made aware of the scope of his agreement with HPSP and he did not intend to provide patient care or practice dentistry.

i. On April 7, 2004, Licensee was discharged from HPSP for noncompliance with his Participation Agreement/Monitoring Plan by failing to refrain from practicing dentistry. Licensee admitted to taking radiographs of a friend for his lecture.

j. On April 13, 2004, HPSP was notified that Licensee's toxicology screen taken April 7, 2004 was positive for cocaine and marijuana.

k. In his response to the April 23, 2004 Notice of Conference, Licensee stated that he did not receive the November 5, 2003 letter from HPSP in a timely fashion. He also said that he attempted to respond to the October 21, 2003 letter by leaving a voice-mail message for HPSP staff, but received no response.

l. Following his May 27, 2004 conference with the Committee, Licensee contacted HPSP on May 28, 2004 and signed a Participation Agreement/Monitoring Plan on June 9, 2004.

m. From June 15, 2004 through August 4, 2004, Licensee was responsible for submitting seven urine specimens. Of those specimens:

1. One, a June 15, 2004 screen, was positive for methamphetamine,
2. One was completed and the results were negative,
3. Two were provided with results pending as of August 5, 2004, and
4. Three were not completed on the dates they were requested.

Licensee initially contested the validity of the June 15, 2004 screen, denied that he had relapsed and wanted the specimen retested. However, Licensee did not contact HPSP further, to discuss retesting options.

n. Licensee has been directed to attend his relapse prevention group twice a week, but he does not attend on a consistent basis. Licensee also does not attend DCD as required in his Participation Agreement/Monitoring Plan. As a result of these allegations, his positive screen for methamphetamine and Licensee failing to comply with HPSP's Participation Agreement/Monitoring Plan, HPSP discharged Licensee from its program on August 5, 2004.

**I.**

**ISSUES**

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. §150A.08, subd. 1(5) (improper unauthorized use of a legend drug, chemical or controlled substance) and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order as follows:

**II.**

**CONDITIONS**

1. 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 lawfully prescribed for Licensee by a licensed physician or dentist, who is aware of licensee's illness history and as part of a course of treatment. Licensee shall provide to HPSP and Minnesota Monitoring, Inc., a detailed list of any such legend drugs and controlled substances before the monitoring begins. Licensee shall also abstain from all foods that are known to interfere with toxicology screens such as poppy seeds.

2. Licensee shall totally abstain from having direct patient contact. Licensee shall also comply with the terms and conditions contained in HPSP's Participation Agreement/Monitoring Plan that concern the practice of dentistry. This prohibition shall be in

affect immediately upon execution of this document and shall remain in affect until HPSP determines that this term may be modified.

3. Licensee shall provide HPSP and Minnesota Monitoring, Inc., with a copy of this stipulation and order within five days of its effective date. Licensee shall be monitored by HPSP and by Minnesota Monitoring, Inc. as directed by HPSP, until he has successfully completed the terms of his Participation Agreement/Monitoring Plan.

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

5. License is prohibited from prescribing, administering, or dispensing any legend drugs for Licensee's own use or for his family members' use

6. Upon request, Licensee shall sign releases allowing the Board or the Committee to obtain Licensee's medical, mental health or chemical abuse/dependency records from any treating professional, evaluator, or facility.

7. 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. 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.

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 after Licensee has successfully completed his Participation Agreement and been discharged from HPSP 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 his Participation Agreement/Monitoring Plan with HPSP and the conditions of this stipulation and order and that Licensee is qualified to practice without conditions. Licensee's compliance with these conditions 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 limitations 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 27, 2004. The following Committee members attended the conference: Linda Boyum, R.D.A., John Bengtson, D.D.S., and Susan Gross, D.D.S. Assistant Attorney General Rosellen Condon represented the Committee at the conference. Dr. El Deeb is represented by Allan H. Caplan 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. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner 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's legal counsel. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

  
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MAHMOUD EL DEEB, D.D.S.

Dated: 9/27/04, 2004

COMPLAINT COMMITTEE

By:   
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MARSHALL SHRAGG  
Executive Director

Dated: 10/14/04, 2004

## 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 it effective this 15<sup>th</sup> day of October, 2004.

MINNESOTA BOARD  
OF DENTISTRY

By:

  
LINDA BOYUM, R.D.A.  
PRESIDENT

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