

**BEFORE THE MINNESOTA  
BOARD OF DENTISTRY**

In the Matter of  
Mohamed El Deeb, D.D.S.  
License No. D9508

**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 Mohamed El Deeb, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Attorney General for investigation. Following the investigation, the Committee held a conference with Licensee and his attorney, Paul C. Peterson, on January 27, 2006. No final resolution was agreed upon by the Committee and Licensee and the matter remained in a pending status.

In the interest of settling this matter and avoiding the necessity for further proceedings, the Board may consider the following facts as true for the purpose of this Stipulation and Order. However, it is the intent of the parties that this Stipulation and the facts set forth herein shall have no collateral estoppel effect, res judicata effect, or other preclusive effect, and no evidentiary value in any action or proceeding in any forum or process other than proceedings before the Minnesota Board of Dentistry or another authorized licensing Board or licensing agency. Nothing in this paragraph shall limit or affect the Board's obligation to fulfill any reporting requirements.

On September 5 and 7, 2007, Licensee, his attorney, Richard A. Lind, and the Committee participated in mediation sessions. Assistant Attorneys General Manuel J. Cervantes and Peter

Krieser represent the Committee. 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 also states that he holds a license to practice dentistry in the State of Wisconsin. 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 is based upon the facts set forth hereinafter. Licensee does not make any specific admissions of these facts, but concedes that, if proven, the facts would provide a factual basis to support the claimed violations.

### **Background**

1. On January 21, 2004, Licensee entered into an Agreement for Corrective Action ("2004 ACA") with the Committee. It was based upon findings of substandard recordkeeping relating to substandard care and incorrect billing with regard to three patients. Licensee successfully completed all of the requirements of his 2004 ACA in 2005.

2. In January 2004, the Committee received a complaint against Licensee. The Committee reviewed the complaint and referred the matter to the Minnesota Attorney General's Office for investigation. Following the investigation, the Committee asked an oral surgery and conscious sedation expert ("expert") to review the investigative report along with other pertinent records. The Committee received the expert's report in March 2005. In April

2005, the Committee received and reviewed a subsequent complaint against Licensee which was also referred to the Minnesota Attorney General's Office for investigation. None of the above complaints were received from patients.

### **Oral Surgery Procedures**

3. Over the course of five years of practice, an audit of Licensee's records indicated:

- One tooth was extracted in error;
- One broken elevator tip was left in the extraction site following surgery;
- Roots and tooth remnants were left behind in four patients following extractions;
- With one patient, a misunderstanding existed with respect to the number of wisdom teeth to be extracted; and
- In two cases, there were injuries to adjacent teeth.

In all cases cited above, the problems were discovered by Licensee or his associates and remedied.

### **Recordkeeping**

4. During the period between 2001 to 2006, the Board received a complaint regarding the appropriateness of Licensee's billing procedures. In connection with this complaint, the Committee reviewed certain patient progress notes and relevant radiographs. Of the 16 patient records reviewed by the Committee, records were identified in which Licensee used an oral surgery procedure code (when billing for extractions on patients) which were not supported by or based upon the information documented in the patient's record. Licensee used a procedure code that was for a surgical extraction treatment when the record did not support it.

C. Violations. Licensee admits that, if proven, the above constitutes violations of Minn. Stat. § 150A.08, subd. 1(6) (conduct contrary to the best interest of the public), and provides sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. The Committee recommends that the Board issue an order which places CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota, and the Licensee agrees that the Board may place the following conditions on his license:

### CONDITIONS

1. Monitoring Program. For a period of 12 months (hereafter the "Effective Period"), Licensee agrees to contract with Affiliated Monitors, Inc., or a comparable monitoring company, or oral surgeons certified by the American Board of Oral and Maxillofacial Surgery (hereafter the "evaluator") for monitoring services.

The evaluator will be selected as follows: Licensee shall identify three board-certified oral surgeons available to conduct the monitoring. It is agreed that any expert or experts previously identified in this matter may be included as a proposed evaluator. The Board will choose one of the three proposed oral surgeons to be the evaluator. Licensee may choose Dr. Bruce Templeton as an evaluator. Prior to selection, the Board may request information from or interview one or more of the proposed evaluators, other than Dr. Templeton.

Prior to establishing a contract with the evaluator, Licensee must provide the evaluator with a copy of this stipulation and order. Licensee's signature on this stipulation and order constitutes authorization for the evaluator to provide the Committee with copies of all written monitoring reports. Licensee's signature also authorizes the Committee to communicate with the evaluator, before, during, and after the monitoring of Licensee's comprehensive clinical evaluation about Licensee's needs, performance, and progress.

Licensee shall bear all costs associated with and pursuant to the contract agreement with the evaluator including, but not limited to, monitoring evaluations, preparation of reports, and complying with the evaluator's recommendations. None of the conditions 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.

During the Effective Period, Licensee shall contract with and engage the services of the evaluator to perform monitoring of his clinical practice and conduct a review of his recordkeeping, billing, and insurance coding practices, as described below:

a. On-site Observation. Within 45 days from the selection of the evaluator by the Board and continuing thereafter on a quarterly basis throughout the Effective Period, the evaluator will conduct on-site four-hour observation of Licensee's clinical competence, including patient and time management, when rendering dental services to patients at the office of the Licensee chosen by the evaluator.

b. Evaluation of Patient Records. Within 45 days from the selection of the evaluator by the Board and continuing thereafter on a quarterly basis throughout the Effective Period, the evaluator will randomly select twenty-five (25) current patient records and conduct a comprehensive clinical evaluation of these patient records. The comprehensive clinical evaluation shall focus on Licensee's clinical competence when providing dental services to patients and a complete review of his recordkeeping, billing, and insurance coding practices.

c. Written Reports. Once every 195 days (or after two on-site observations) following the effective date of this Order and throughout the Effective Period, Licensee shall arrange for the evaluator to submit to the Committee a written report of the on-site observations, patient record evaluations, and any compliance recommendations made by the evaluator. Within 45 days of each report received by the Committee from the evaluator,

Licensee shall comply with the evaluator's recommendations and submit a written report to the Committee explaining the changes that Licensee has made in his dental practice. Failure to follow all recommendations made by the evaluator shall constitute violation of this Order.

2. Reimbursement of Costs. Licensee shall pay the Board the sum of \$25,000 as partial reimbursement for the Board's costs in this matter. Payments shall be made by certified check, cashier's check, or money order made payable and delivered to the Minnesota Board of Dentistry in two installments as follows: \$12,500 within six months of the effective date of this Order, and the balance of \$12,500 within 12 months of the effective date of this Order, or by the time Licensee petitions to have the conditions removed from Licensee's license, whichever occurs first.

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. If the Board receives a complaint alleging additional misconduct, the Board reserves the right to investigate the allegations in accordance with its own rules.

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 Licensee violates this stipulation and order, the Committee may fine Licensee \$100 per 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 received by Licensee, 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. Meeting Attendance. Licensee attended a conference with the Committee on January 27, 2006. The following Committee members attended the conference: Freeman Rosenblum, D.D.S.; Ron King, D.D.S.; and Nadene Bunge, D.H. Assistant Attorney General

Rosellen Condon represented the Committee at the conference. Licensee was represented by Paul C. Peterson in this matter.

On September 5 and 7, 2007, Licensee, his attorney, Richard A. Lind, and the Committee participated in mediation sessions for further discussion of pending matters. The Committee members present at the mediation session were Nadene Bunge, D.H.; and Candace Mensing, D.D.S. Assistant Attorneys General Manuel J. Cervantes and Peter Krieser represented the Committee at the session. Licensee has been advised by his attorneys regarding this stipulation and order.

On October 27, 2008, the parties successfully negotiated a settlement of this matter. Licensee was represented by Richard A. Lind. The Committee was represented by Peter Krieser and Daphne A. Lundstrom, Assistant Attorneys General.

J. Collateral Estoppel. This stipulation contains the entire agreement regarding the above stated facts, issues, violations, and disciplinary action. The stipulation will be presented to and may be approved by the Board without further notice. The Committee may participate in Board deliberations and may vote concerning the stipulation. Upon approval by the Board, the parties are collaterally estopped from litigating the facts and violations stated above and this stipulation settles, bars, and precludes further administrative or judicial proceedings regarding the issues (except and save stipulation violations referred to in paragraph G above) addressed herein. It is agreed that if there are complaints of same or similar nature to those enumerated in the facts above, arising from the incidents occurring during the period 2001-2007, these complaints will be considered to have been resolved by the remedy herein and will be closed.

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

*Mohammed El Deeb* By: \_\_\_\_\_  
MOHAMMED EL DEEB, D.D.S.

COMPLAINT COMMITTEE

*Marshall Shirag*  
MARSHALL SHIRAG  
Executive Director

Dated: 11/6/08, 2008

Dated: November 6<sup>th</sup>, 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, and 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 6<sup>th</sup> day of November, 2008.

MINNESOTA BOARD  
OF DENTISTRY

By: *Nadene Bunge*  
NADENE BUNGE  
President

AG: #1857627-v1