BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Julie A. Flicek, L.D.A.
License No. A4321

STIPULATION AND ORDER FOR CONDITIONAL LICENSE

STIPULATION

Julie A. Flicek, L.D.A. ("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 Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate licensed dental assistants and to take disciplinary action when appropriate.

2. Licensee holds a license to practice dental assisting 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 and Order.

II.

CONFERENCE

3. On May 11, 2012, Licensee appeared before the Committee, composed of Board members Candace Mensing, D.D.S. and Neal Benjamin, D.D.S., to discuss allegations made in a Notice of Conference dated April 19, 2012. Geoffrey S. Karls, Assistant Attorney General, represented the Committee at the conference.

4. Although Licensee was informed at the conference that she could be represented by legal counsel, Licensee has knowingly and voluntarily waived that opportunity.

III.

FACTS

5. The parties agree this Stipulation and Order is based upon the following facts:

Unprofessional Conduct / Inability to Practice with Reasonable Skill and Safety

a. Licensee has engaged in personal conduct which brings discredit to the profession of dental assisting and may be unable to practice dental assisting with reasonable skill and safety due to a physical, mental, emotional, or other disability.

1) On February 24, 2012, Licensee self-reported to the Health Professionals Services Program ("HPSP"). The HPSP later received a third party report regarding Licensee. During her intake interview with the HPSP, Licensee stated that she recently overdosed on a combination of prescription medication and alcohol. Subsequently, Licensee entered a four-day psychiatric hospitalization.

2) On February 29, 2012, Licensee completed a mental health assessment at Le Sueur County Department of Human Services ("Le Sueur County DHS"). Licensee told the assessor that she was previously diagnosed with depression and currently takes Zoloft. Additionally, Licensee admitted that her use of alcohol has been excessive, with increased use in recent months. The assessor determined that Licensee is susceptible to impulsive action and decision-making and denying her emotions. Therefore, the assessor recommended that Licensee attend individual outpatient psychotherapy for her psychiatric care.

3) On March 1, 2012, Licensee completed a chemical use assessment at Le Sueur County DHS. Licensee also informed this assessor that her use of alcohol has been

excessive, with increased use in recent months. The assessor diagnosed Licensee with alcohol dependence. Additionally, the assessor recommended Licensee undertake the following: abstain from all mood-altering chemicals, including alcohol, unless the medication has been prescribed by a physician; complete an outpatient chemical dependency treatment program; attend weekly AA or NA meetings; and obtain an AA or NA sponsor.

4) On March 20, 2012, the HPSP contacted Licensee about the recommendations from the two assessors at the Le Sueur County DHS. In response, Licensee stated that she was unaware that the assessors recommended outpatient treatment for her and she would contact them for clarification.

5) On March 23, 2012, the HPSP learned that Licensee had cancelled her appointment with the psychiatrist for that day. The HPSP contacted Licensee's work site monitor about Licensee's ability to practice safely and the importance of completing the treatment recommended in her assessments. Licensee's work site monitor told the HPSP that he would speak to Licensee about the matter.

6) On March 26, 2012, Licensee left a voicemail message with the HPSP stating that she now understood the need for outpatient treatment.

7) When contacted by the HPSP on April 3, 2012, Licensee stated that she did not agree that her drinking was a problem that needed to be treated or monitored as recommended by her assessors. Licensee also disagreed with the need for abstinence and found the HPSP requirements excessive. The HPSP informed Licensee that she had the option to withdraw from the program. In response, Licensee chose not to participate in the HPSP.

8) On April 5, 2012, the HPSP discharged Licensee from the program due to her non-cooperation for declining to participate.

9) On May 11, 2012, the Committee held a disciplinary conference with Licensee to discuss her chemical dependency and psychiatric issues. At the end of the conference, the Committee decided to close the matter so long as Licensee re-enrolled with the HPSP for monitoring purposes. However, if Licensee failed to comply with the HPSP, the Committee indicated that it would reopen the matter and proceed with disciplinary action.

10) On June 25, 2012, the HPSP received Licensee's signed Participation Agreement for monitoring purposes.

11) On July 16, 2012, the HPSP discharged Licensee from the program due to her non-compliance. Licensee failed to enter an outpatient treatment program for substance dependency by July 9, 2012. Therefore, the Committee and Licensee agree that the matter may be resolved without the necessity and expense of further proceedings by entering into this stipulation and order placing conditions on Licensee's license.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minn. Stat. §150A.08, subd. 1(6) and (8), Minn. R. 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:

CONDITIONS

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

a. Participation in HPSP.

1) Within 14 days after the effective date of this Order, Licensee shall enroll in HPSP in the State of Minnesota for monitoring of her chemical dependency recovery. Licensee shall provide HPSP with a copy of this Stipulation and Order at the time of enrollment. Licensee must return the signed Participation Agreement to HPSP within 14 days of receiving the Participation Agreement from HPSP. Failure to meet either of these deadlines will be considered a violation of this Order.

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

3) Licensee shall comply with all provisions of her HPSP Participation Agreement, including revisions subsequent to this Order. Licensee's failure to comply with her HPSP Participation Agreement shall be considered a violation of this 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 alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Licensee by a licensed physician or dentist as part of a course of treatment.

Removal of Conditions

8. The conditions upon 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 conditions from Licensee's license to practice dental assisting.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. 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.

10. In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minnesota Rules parts 3100.6300 and 6950.1000 to 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, and the United States Department of Health and Human Services.

11. 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.

12. 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.

Imposition of Fine

13. 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 Minnesota Statutes section 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.

Noncompliance or Violation With Stipulation and Order

14. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

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

22. 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.

23. 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.

24. 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.

VIII.

DATA PRACTICES NOTICES

25. 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.

26. 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		COMPLAINT COMMITTEE
_____	By:	_____
JULIE A. FLICEK, L.D.A.		MARSHALL SHRAGG, MPH Executive Director
Dated: 9/6/, 2012		Dated: SEPTEMBER 10TH, 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 DDS
NEAL BENJAMIN, D.D.S.
President