

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

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

**FINDINGS OF FACT,
CONCLUSIONS, AND
FINAL ORDER**

The above-entitled matter came on for hearing at a meeting of the Minnesota Board of Dentistry ("Board") on March 1, 2013, convened at 2829 University Avenue S.E., Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph 14 of the Stipulation and Order issued by the Board to Julie A. Flicek, L.D.A. ("Respondent"), on September 21, 2012 ("2012 Order"). At the hearing, the Board's Complaint Committee presented by affidavit evidence of Respondent's violations of the 2012 Order. Geoffrey S. Karls, Assistant Attorney General, appeared and presented oral argument on behalf of the Board's Complaint Committee. Respondent appeared and presented oral argument on her own behalf. Complaint Committee members Candace Mensing, D.D.S., Nancy Kearns, D.H., and Neal Benjamin, D.D.S., did not participate in deliberations and did not vote in the matter. Benjamin R. Garbe, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes chapter 150A to license, regulate, and discipline persons who apply for, petition, or hold licenses as dental assistants and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against dental assistants, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the 2012 Order issued by the Board on September 21, 2012. In paragraph 14 of the 2012 Order, Respondent expressly acknowledged and agreed to several procedures the Board's Complaint Committee may use to resolve alleged noncompliance with or violation of the 2012 Order, Minnesota Statutes chapter 150A, or Minnesota Rules chapter 3100. The 2012 Order remained in full force and effect at the time the conduct described in paragraph 5 below occurred.

3. Respondent expressly acknowledged and agreed in paragraph 14 of the 2012 Order that if Respondent violates the 2012 Order, the Board Complaint Committee may seek additional disciplinary action.

4. Respondent expressly acknowledged and agreed in paragraph 14 of the 2012 Order that in the event the Board received evidence Respondent violated the terms of the 2012 Order, Minnesota Statutes chapter 150A, or Minnesota Rules chapter 3100, she would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

5. The Board received information that Respondent violated the terms of the 2012 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 150A.08 as follows:

a. The 2012 Order placed conditions on Respondent's dental assisting license due to her chemical dependency. Among other things, paragraph 7a of the 2012 Order requires Respondent to enroll in the Health Professionals Services Program ("HPSP") for monitoring of her chemical dependency recovery. In addition, Respondent was required to comply with all HPSP recommendations associated with evaluation, treatment, and monitoring.

b. On January 22, 2013, Respondent was discharged from the HPSP due to non-compliance with her HPSP Participation Agreement and Monitoring Plan. Specifically, Respondent failed to enter an outpatient chemical dependency treatment program by January 22, 2013. The HPSP informed the Board by facsimile of Respondent's discharge from the program.

6. After submission of all written and oral argument, the Board finds that the Committee's allegations are supported by the record.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes chapter 150A and Minnesota Statutes sections 150A.08, subdivision 1, 214.10, and 214.103.

2. The Board Complaint Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph 14 of the 2012 Order.

3. The Board Complaint Committee has the burden of establishing the statutory violations charged by a preponderance of the evidence.

4. The Board Complaint Committee has proved by a preponderance of the evidence that Respondent has violated the 2012 Order.

5. As a result of the violations set forth above and pursuant to the terms of the 2012 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice dental assisting.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Respondent as a licensed dental assistant in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of licensed dental assisting as defined in Minn. Stat. § 150A.10, subd. 2, and Minn. R. part 3100.8500 and shall not imply to former patients or other persons by words or conduct that Respondent is licensed to practice dental assisting.

3. IT IS FURTHER ORDERED that if Respondent is in possession of her dental assisting license and renewal certificate, Respondent shall surrender and personally deliver or mail the license and certificate to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

4. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her license at such time as she is willing to respond to the Findings of Fact set forth above and following 12 months from the date of this Order. Her license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that she is capable of conducting herself in a fit and competent manner in the practice of licensed dental assisting, is successfully participating in a program of chemical dependency rehabilitation, and has been sober and free from mood-altering chemicals during the 12 months immediately preceding her petition. At the time of Respondent's petition, Respondent must meet with a Board Complaint Committee to review her response to the Findings of Fact and provide

documentation of 12 months of uninterrupted sobriety. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact set forth in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order. As part of the

proof of compliance, Respondent shall submit the following in support of her petition:

- 1) Reports from two adult persons, at least one of whom is not related to Respondent, who can attest to Respondent's sobriety. Each report shall provide and address:

- a) Respondent's active participation in a chemical dependency rehabilitation program;

- b) Respondent's sobriety, including the date she last used mood-altering chemicals, including alcohol; and

- c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

- 2) A report from Respondent's employment supervisor(s), if any, during the 12 months immediately preceding the petition. This report shall provide and address:

- a) Respondent's attendance and reliability;

- b) Respondent's ability to carry out assigned functions;

- c) Respondent's ability to handle stress;

- d) Respondent's sobriety; and

- e) Any other information the supervisor believes would assist the Board in its ultimate review of this matter.

3) A report from Respondent herself. This report shall provide and address:

a) Respondent's sobriety, including the date she last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this Order is in effect;

b) Respondent's treatment and weekly participation in a chemical dependency support group such as Alcoholics Anonymous during the 12 months preceding the petition. Evidence of participation shall include, but need not be limited to, attendance sheets (on a form provided by the Board) which have been signed or initialed and dated by a participant who has attended the weekly meeting;

c) Respondent's ability to handle stress;

d) Respondent's employment, if any;

e) Respondent's future plans for licensed dental assisting and the steps she has taken to prepare herself to return to practice;

f) Evidence Respondent has maintained the knowledge, skills, and ability to practice licensed dental assisting safely; and

g) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

4) A report from any and all physicians and dentists and any other health professionals who have prescribed mood-altering chemicals to Respondent during the 12 months preceding her petition. This report shall provide and address:

a) The name, dosage, frequency, and purpose of the mood-altering chemicals prescribed to Respondent;

b) Confirmation the prescribing health professional has been informed of Respondent's chemical dependency history; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

5) Within 60 days prior to petitioning, Respondent shall complete a chemical dependency evaluation performed by a chemical dependency professional. Respondent shall submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Order prior to the evaluation.

6) Respondent shall comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

7) At any time while this Order is in effect and at the request of the Board, Respondent shall complete and sign health records waivers and chemical dependency waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, and chemical dependency records from her physician, therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained support or assistance.

8) Any additional information relevant to Respondent's petition reasonably requested by the Board's Complaint Committee.

5. IT IS FURTHER ORDERED that Respondent shall meet all licensure requirements in effect at the time of her petition, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

6. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of her license and her meeting with a Board Complaint Committee, take any of the following actions:

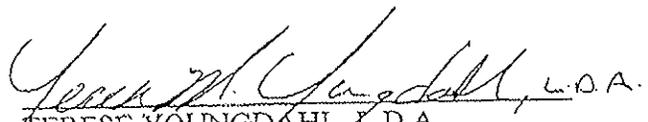
- a. Issue a dental assisting license to Respondent.
- b. Issue a dental assisting license to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Continue the suspension of Respondent's license upon her failure to meet the burden of proof.

8. This Order constitutes disciplinary action against Respondent.

9. This Order is a public document and will be forwarded to all appropriate databanks as required by law.

Dated: March 4, 2013

MINNESOTA BOARD
OF DENTISTRY


TERESE YOUNGDAHL, L.D.A.
Vice President and Presiding Chair