

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Mark W. Harris, M.S.D.
License Number: D9219

**STIPULATION AND
ORDER FOR VOLUNTARY
SURRENDER OF LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minnesota Statutes chapter 150A, sections 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 against Mark W. Harris, M.S.D. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint and referred the matter to the Attorney General's Office for investigation. On February 15, 2011, the Committee filed a petition for temporary suspension. The Board conducted a hearing on the petition for temporary suspension and on February 25, 2011, issued an Order for Temporary Suspension of License. The parties agreed that the matter may 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.** For the purpose of this Stipulation, the Board may consider the following facts as true:

1. Licensee was licensed to practice dentistry in the State of Minnesota on September 16, 1981.

2. Licensee became an owner of an oral surgery practice in Maplewood, Minnesota, on or about April 30, 2010.

3. Between May 1, 2010, and January 31, 2011, Licensee took sedating hypnotic, narcotic, and benzodiazepine medications for his own use.

4. On February 15, 2011, pursuant to Minnesota Statutes section 150A.08, subdivision 8 (2010), the Committee filed a Notice of Petition for Temporary Suspension of Licensee's license. On February 25, 2011, the Board heard the Committee's motion and issued an Order of Temporary Suspension.

C. **Violations.** Licensee acknowledges, for the purpose of settlement only and not for use in any other proceeding, that the facts and conduct specified above constitute violations of Minnesota Statutes section 150A.08, subdivision 1(5), (6), and (8), and Minnesota Rules part 3100.6200 B and are sufficient grounds for the disciplinary action specified below.

D. **Disciplinary Action.** Licensee and the Committee recommend that the Board issue an order accepting the VOLUNTARY SURRENDER of Licensee's license to practice dentistry in the State of Minnesota in accordance with the following terms:

1. Surrender. Effective the date of the order, Licensee's license to practice dentistry in the State of Minnesota is terminated. Within ten days of the date the order is adopted by the Board, Licensee shall surrender to the Board Licensee's original license and renewal certificate in his possession by delivering them personally or by first-class mail to Marshall

Shragg, Executive Director, Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414.

2. Prohibitions. Licensee shall not engage in any act which constitutes the practice of dentistry as defined in Minnesota Statutes section 150A.05 and shall not imply to former patients or other persons by words or conduct that Licensee is licensed to practice dentistry.

E. **Requirements for Relicensure.** Licensee may apply to the Board for relicensure at any regularly scheduled Board meeting no earlier than six months after the effective date of the Board's order. Licensee must comply fully with the applicable statutes and rules in effect at the time of Licensee's application, including paying all fees related to relicensure and completing the Professional Development requirements.

1. Documented Sobriety and Chemical Dependency Evaluation. In addition to the reinstatement requirements contained in the applicable statutes and rules in effect at the time of Licensee's application, Licensee shall have the burden of proving that he has successfully addressed the causes of the conduct described in this order and that he is fit to practice dentistry in compliance with accepted standards. Licensee shall comply with the following requirements, including but not limited to:

a. Licensee must submit proof that he has maintained documented, uninterrupted sobriety for a period of at least one year prior to submitting his application for relicensure.

b. Within 60 days prior to submission of a relicensure application to the Board, Licensee shall undergo a chemical dependency evaluation performed by an addictionologist or chemical dependency assessor. Licensee shall submit, or cause to be

submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Licensee is responsible for all costs associated with this evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this stipulation and order, all medical, mental health, and chemical dependency treatment records, and any investigative data deemed pertinent by the evaluator or the Board prior to the evaluation. Licensee shall comply with any recommendations for additional evaluation and treatment made by the evaluator.

c. Licensee must provide any additional documented proof that he has completely abstained from ingesting, injecting, or otherwise taking any mood-altering chemicals or drugs, including alcohol, unless prescribed by a physician or dentist who has been previously informed of Licensee's drug abuse history and with whom Licensee has a formal healthcare provider/patient relationship.

2. Mental Health Evaluation. Within 60 days prior to submission of a relicensure application to the Board, Licensee shall undergo a mental health evaluation performed by a psychiatrist or a licensed psychologist. Licensee shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Licensee is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

- a. Verification the evaluator has reviewed a copy of this stipulation and order;
- b. Diagnosis and any recommended treatment plan;
- c. Licensee's ability to handle stress;
- d. Recommendations for additional evaluation or treatment; and

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

Licensee shall comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

3. Physical Evaluation. Within 60 days prior to submission of a relicensure application to the Board, Licensee shall undergo a physical examination with a physician. Licensee is responsible for the cost of the examination. The results of the examination, including a history and physical from Licensee's physician, shall be sent directly to the Board and must include a statement verifying the physician has reviewed this stipulation and order and any evaluation or investigative records deemed pertinent by the Board or the evaluator prior to the examination. The report shall provide and address:

a. Identification of diagnoses and any plans of treatment, including any medications, devised for Licensee; and

b. Any other information the physician believes would assist the Board in its ultimate review of this matter.

4. Regional Clinical Examination. Moreover, if Licensee is out of practice for more than two (2) years after the effective date of this stipulation and order, Licensee shall take and successfully attain a passing score on the regional clinical examination specified in Minnesota Rules part 3100.1100, subpart 2.

5. Burden of Proof. Licensee's compliance with the above-referenced requirements shall not create a presumption that he should be granted a license to practice dentistry in the State of Minnesota. When applying for relicensure, the burden of proof shall be upon Licensee to demonstrate to the Board by clear and convincing evidence that he is capable

of conducting himself in a qualified and competent manner, is able to perform the duties of a dentist with reasonable skill and safety, and has complied fully with the terms of the Board's order.

F. **Meeting With a Complaint Committee.** Licensee shall meet with a Complaint Committee of the Board at least 60 days prior to the Board meeting to consider Licensee's application for relicensure. The Complaint Committee shall review with Licensee his application and supporting evidence. After meeting with Licensee, the Complaint Committee shall forward a report containing its recommendations to the Board.

G. **Board Action.** At any regularly scheduled Board meeting following Licensee's application for relicensure and meeting with a Complaint Committee, the Board may take any of the following actions:

1. Reissue a license to Licensee;
2. Reissue a license to Licensee with limitations and/or conditions placed upon the scope of Licensee's practice; or
3. Deny the application for relicensure based upon Licensee's failure to meet the burden of proof.

H. **Judicial Relief.** If Licensee violates paragraph D above, a district court of this state may, upon application of the Committee, enter an order enjoining Licensee from such practice and grant the Board costs, reasonable attorney fees, and other appropriate relief.

I. **Parties.** The Committee members are David A. Linde, D.D.S., Joan Sheppard, D.D.S., and Terese M. Youngdahl, L.D.A. The Committee is represented by Daphne A. Lundstrom, Assistant Attorney General. Although Licensee was informed in the notice of

conference that Licensee could be represented by legal counsel, Licensee has knowingly and voluntarily waived that opportunity.

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 appropriateness of discipline in a contested proceeding pursuant to Minnesota Statutes chapter 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 Minnesota Statutes chapter 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. 5. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes chapter 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.** If approved by the Board, a copy of this stipulation and order shall be served personally or by first-class mail on Licensee or Licensee's attorney. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

COMPLAINT COMMITTEE


MARK W. HARRIS, M.S.D.

By: 
MARSHALL SHRAGG
Executive Director

Dated: 1-5-2012

Dated: JANUARY 24TH, 2012

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ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein, the Board approves and adopts the terms of the stipulation, orders the recommended disciplinary action set forth in the stipulation, and accepts the VOLUNTARY SURRENDER of Licensee's license to practice dentistry in the State of Minnesota effective this

27th day of February, 2012

MINNESOTA BOARD
OF DENTISTRY

By: *David L. Lunde*

Presiding Board Member

AG: #2931351-v1