

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Jennifer J. Hartzell, D.H.
License Number: H4121

**ORDER FOR CONTINUED
TEMPORARY SUSPENSION
OF LICENSE**

The Minnesota Board of Dentistry (“Board”) is authorized pursuant to Minn. Stat. §§ 150A.01 - 150A.22, 214.10, and 214.103 to license, regulate, and discipline persons who apply for, petition, or hold licenses to practice dental hygiene in the State of Minnesota and to review complaints against dental hygienists, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action. In addition, the Board is authorized to temporarily suspend a license pursuant to Minn. Stat. § 150A.08, subd. 8, if the Board finds that a regulated person has violated a statute or rule the Board is empowered to enforce and that continued practice by the regulated person would create an imminent risk of harm to others.

The above-entitled matter came on for consideration by the Board (“Board”) on May 23, 2008, pursuant to the Complaint Committee’s (“Committee’s”) petition for temporary suspension of Jennifer J. Hartzell’s (“Respondent’s”) license to practice dental hygiene the State of Minnesota pursuant to Minn. Stat. § 150A.08, subd. 8. Daphne Lundstrom, Assistant Attorney General, appeared for the Committee. Phillip Villaume, Villaume & Schiek, P.A., appeared on behalf of Respondent. Committee members Linda Boyum, R.D.A., Joan Sheppard, D.D.S, Kristin Heebner, J.D., did not participate in the Board’s deliberations and did not vote in the matter. Tiernee Murphy, Assistant Attorney General, was present as legal advisor to the Board. All affidavits and documents offered by each party and considered by the Board were

admitted without objection. There were no objections to the legal instructions given to the Board.

The following Findings of Fact and Conclusions and Order are based upon limited evidence from affidavits and documents submitted by the parties, admitted, and considered by the Board. These Findings and Conclusions apply only to the issue of whether the temporary suspension should remain in effect until a full hearing on the merits and the Board's final order is issued. These Findings and Conclusions have no res judicata, collateral estoppel, or preclusion effect on any issue, including but not limited to, what evidence should be received and considered and what law should be applied, to be determined in a full hearing on the merits in this matter, which is *de novo*.

Based on the arguments of counsel and the affidavits and documents submitted by the parties herein, the Board hereby makes the following:

FINDINGS OF FACT

1. Respondent was licensed by the Board to practice dental hygiene in the State of Minnesota on August 22, 1985 and is subject to the jurisdiction of the Board.
2. On March 28, 2008, the Board adopted a Stipulation and Order for Conditional License ("2008 Order") that placed conditions on Respondent's licence to practice dental hygiene due to her chemical dependency. Among other things, the 2008 Order requires Respondent to enroll in the Health Professional Services Program ("HPSP"), to be monitored by the HPSP, and to comply with all provisions of her HPSP Participation Agreement. The 2008 Order states that Respondent will be subject to additional discipline and, if warranted, temporary suspension, if she fails to comply with or violates her 2008 Order. Respondent is currently subject to the 2008 Order, which she agreed to and signed.

3. On April 15, 2008, Respondent was discharged from the HPSP due to non-compliance. Respondent failed to enroll in the HPSP within the time period set by the Board and the HPSP.

4. Respondent has undergone four chemical dependency evaluations since May 2006. Her most recent evaluation, dated June 7, 2007, indicates that Respondent has been diagnosed with alcohol dependence, as opposed to previous diagnosis of alcohol abuse. Respondent's attorney represented at the hearing that Respondent has recently undergone a fifth evaluation in which the evaluator recommended that Respondent undergo treatment.

5. Respondent has, on five different occasions since November 2005, been discharged from the HPSP for non-compliance.

6. Respondent's most recent employer terminated her employment on April 28, 2008, after Respondent exhibited behaviors consistent with continued alcohol use and Respondent failed to document compliance with her 2008 Order and the HPSP.

CONCLUSIONS

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

1. Respondent has violated the following statutes and rules that the Board is empowered to enforce in that she:

a. Has a physical, mental, emotional or other disability that adversely affects her ability to perform as a dental hygienist, within the meaning of Minn. Stat. § 150A.08, subd. 1(8); and

b. Violated a statute or rule enforced by the Board or any disciplinary order issued by the Board, specifically paragraph D.1. of her 2008 Order, within the meaning of Minn. Stat. § 150A.08, subd. 1(13).

2. Respondent's continued practice would create an imminent risk of harm to others.

ORDER

Based upon the foregoing Findings of Fact and Conclusions, it is hereby ordered, and Licensee is hereby notified, as follows:

1. The temporary suspension of Respondent's license to practice dental hygiene in the State of Minnesota shall **CONTINUE** during the pendency of the disciplinary proceedings herein. Respondent shall not engage in the practice of dental hygiene within the meaning of Minn. Stat. § 150A.05 unless and until authorized to do so by future order of the Board. While the suspension is in effect, Respondent shall not imply to former patients or other persons by word or conduct that she is licensed to practice dental hygiene, shall not provide or participate in the provision of dental services, and shall not supervise or influence others in the practice of dentistry.

2. The Committee shall initiate a contested case proceeding pursuant to the Administrative Procedure Act within 45 days of the date of this Order, unless the deadline is waived by Respondent. The findings and conclusions herein are based upon the evidentiary record presently before the Board and shall not be given a presumption of correctness in the hearing before the administrative law judge, which shall be *de novo*. After the administrative law judge issues findings, conclusions, and a recommendation in this matter, a hearing before the Board will be scheduled to consider the final resolution of this matter. The Board is obligated under Minn. Stat. § 150A.08, subd. 8, to issue final decision on this matter within 30 days of receipt of the administrative law judge's report.

3. Any further interviews or questioning of the parties shall be in accordance with the discovery rules governing procedures before the Minnesota Office of Administrative Hearings.

4. This Order will only remain in force and effect until the Board issues a final order based upon evidence submitted at the time of a full hearing on the merits.

5. This document is public under the Minnesota Data Practice Act, Minn. Stat. §§ 13.39, subd. 1, 2(a); 13.41, subd. 5.

Dated: May 23, 2008

MINNESOTA BOARD OF
DENTISTRY

By: Nadene Bunge
NADENE BUNGE, D.H.
President