

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Jennifer L. Hartzell, D.H.
License No. H4121

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

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, §§ 214.10 and 214.103, to license and regulate dental hygienists, to refer complaints against dental hygienists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint against Jennifer L. Hartzell, D.H. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint and referred it to the Attorney General for investigation. Following an investigation and a disciplinary conference with Licensee, the Board adopted a Stipulation and Order for Conditional License for Licensee. Licensee is currently subject to the Stipulation and Order for Conditional License, but has been noncompliant with the requirements. Therefore, 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 dental hygiene 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 she does not hold a license to practice

dental hygiene in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

1. Licensee has held a license from the Board to practice dental hygiene in the State of Minnesota since August 22, 1985, and is subject to the jurisdiction of the Board with respect to the matters described herein.

2. On March 28, 2008, the Board adopted a Stipulation and Order for Conditional License (2008 Order), placing conditions on Licensee's license to practice dental hygiene. Among other things, the 2008 Order requires Licensee to enroll in the Health Professionals Services Program ("HPSP"), to be monitored for chemical dependency, and to comply with all provisions of her HPSP Participation Agreement. The 2008 Order states Licensee will be subject to additional discipline if she fails to comply with or violates her 2008 Order. Licensee is currently subject to the 2008 Order, which she agreed to and signed.

3. On April 15, 2008, Licensee was discharged from the HPSP due to her failure to enroll in the HPSP by the designated date of April 14, 2008.

4. Licensee has, on five different occasions since November 2005, been discharged from the HPSP for noncompliance.

C. Violations. Licensee admits that pursuant to Minnesota Statutes section 150A.08, subd. 1(13), the 2008 Order, and the facts and conduct specified above are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order **RESCINDING** the 2008 Order and accepting the **VOLUNTARY SURRENDER**

of Licensee's license to practice dental hygiene in the State of Minnesota in accordance with the following terms:

1. Surrender. Effective on the date of this stipulation and order, Licensee's license to practice dental hygiene in the State of Minnesota is terminated. Within ten days of the date this stipulation and order is adopted by the Board, Licensee shall surrender to the Board her original license and current renewal certificate by delivering them personally or by first-class mail to Marshall Shragg, Executive Director, Minnesota Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414.

2. Prohibitions. Licensee shall not engage in any act which constitutes the practice of dental hygiene as defined in Minn. Stat. § 150A.05, subd. 1a., and Minn. R. 3100.8700 and shall not imply to former patients or other persons by words or conduct that Licensee is licensed to practice dental hygiene.

E. Application for Relicensure.

1. Relicensure Application. Licensee may apply to the Board for relicensure at any regularly scheduled Board meeting no earlier than nine months after the effective date of this stipulation and order. Licensee must comply fully with the applicable statutes and rules in effect at the time of Licensee's application, including the payment of all fees relating to relicensure and completing the Professional Development requirements. Minnesota Rules 3100.1850 does not apply to an application for relicensure following the issuance of a stipulation and order for voluntary surrender of license.

2. Documented Sobriety and Chemical Dependency Evaluation. Along with Licensee's application for relicensure, Licensee shall have the burden of proving that she has successfully addressed the facts described in this stipulation and order, and that she is fit to

practice dental hygiene in compliance with accepted standards. Licensee shall comply with the following requirements including, but not limited to:

a) Licensee must submit proof that, after the effective date of this Order, she has maintained documented, uninterrupted sobriety for a period of at least nine months prior to submitting her application for relicensure. Documentation of uninterrupted sobriety shall consist of satisfactory results of random urinalysis tests administered by an independent monitoring agency.

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 pre-approval 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 and any medical, mental health, and chemical dependency treatment records 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.

3. Regional Clinical Examination. In addition, 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.

4. Licensee's compliance with the above-referenced requirements shall not create a presumption that she should be granted a license to practice dental hygiene in the State of Minnesota. Upon Licensee's application for relicensure, the burden of proof shall be upon her

to demonstrate to the Board by clear and convincing evidence that she is capable of conducting herself in a qualified and competent manner, is able to perform the duties of a dental hygienist with reasonable skill and safety, and has complied fully with the terms of this stipulation and order.

F. Meeting with a Complaint Committee. Licensee shall meet with a Complaint Committee of the Board at least 30 days prior to the Board meeting to consider Licensee's application for relicensure. The Complaint Committee shall review and discuss Licensee's application and fitness to resume the practice of dental hygiene. 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 of dental hygiene; or
3. Deny the application for relicensure 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. Right to an Attorney. Through this stipulation and order, Licensee is further notified that Licensee may choose to be represented by legal counsel in this matter. Licensee is represented by Philip G. Villaume in this matter, who has advised Licensee regarding this

stipulation and order. The Committee involved with this matter is comprised of Board members Linda Boyum, R.D.A., Joan Sheppard, D.D.S., and Kristin Heebner, J.D. Assistant Attorney General Daphne A. Lundstrom is representing the Committee.

J. Waiver of Licensee's Rights. For the purpose of this stipulation and order, 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 Minn. Stat. ch. 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 and order. 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 and order 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 and order is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and § 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 order and the record.

L. Record. This stipulation and order, 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 and order. 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, 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 and order 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

COMPLAINT COMMITTEE



JENNIFER L. HARTZELL, D.H.

By: 

MARSHALL SHRAGG
Executive Director

Dated: 10-23, 2008

Dated: OCTOBER 23RD, 2008

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records and proceedings herein, the Board **RESCINDS** the March 28, 2008, Stipulation and Order for Conditional License, approves and adopts the terms of the stipulation, orders the recommended action set forth in the stipulation, and accepts the **VOLUNTARY SURRENDER** of Licensee's license to practice dental hygiene in the State of Minnesota effective this 6th day of November, 2008.

MINNESOTA BOARD
OF DENTISTRY

By: 

NADENE BUNGE, D.H.
President