

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Quynh T. Hoang, R.D.A.
Registration No. A11039

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

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Dentistry ("Board") on June 26, 2009, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph G of the Amended Stipulation and Order for Stayed Suspension and Conditional Registration ("2009 Order") issued by the Board to Quynh T. Hoang, R.D.A. ("Respondent") on January 30, 2009. At the hearing, the Board Complaint Committee presented by affidavit evidence of Respondent's violations of the 2009 Order. Careen Martin, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Complaint Committee. Respondent appeared pro se and presented oral argument. Board members Linda Boyum, R.D.A., Joan Sheppard, D.D.S., and David Linde, D.D.S. did not participate in deliberations and did not vote in the matter. Karen Andrews, 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 sections 150A *et seq.* to regulate and discipline persons who hold registration as registered dental assistants and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints

against registered dental assistants, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent has held a registration to practice registered dental assisting in the State of Minnesota since November 17, 2003, and is subject to the jurisdiction of the Board with respect to the matters described herein.

3. Respondent agreed to and signed the 2009 Order issued by the Board on January 30, 2009. In paragraph G of the 2009 Order, Respondent expressly acknowledged and agreed to several procedures the Board Complaint Committee may use to resolve alleged noncompliance with or violation of the 2009 Order, Minnesota Statutes sections 150A.01 to 150A.22, or Minnesota Rules 3100.0100 to 3100.9600. The 2009 Order remained in full force and effect at the time the conduct described in paragraph 6 below occurred.

4. Respondent expressly acknowledged and agreed in paragraph G of the 2009 Consent that if Respondent violates the 2009 Order, the Board Complaint Committee may seek additional disciplinary action.

5. Respondent expressly acknowledged and agreed in paragraph G of the 2009 Order that in the event the Board received evidence Respondent violated the terms of the 2009 Order, Minnesota Statutes sections 150A.01 to 150A.22, or Minnesota Rules 3100.0100 to 3100.9600, 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 registration.

6. The Board received information Respondent violated the terms of the 2009 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 150A.08 as follows:

a. On September 8, 2008, the Health Professionals Services Program (“HPSP”) received Respondent’s signed Participation Agreement for monitoring her substance disorder. Among other things, the terms of Respondent’s Monitoring Plan included: report prior to making any employment changes; abstain from using all mood-altering chemicals unless prescribed; meet with a therapist at least twice monthly; obtain a sponsor and attend AA meetings at least twice weekly; respond to toxicology screens; and 24 months of monitoring.

b. On November 18, 2008, Respondent appeared before the Committee to discuss the allegations contained in the Notice of Conference and Respondent’s failure to respond to the Board’s request for certain documentation relative to a designated professional development audit. During the conference, Respondent admitted that she failed to comply with the HPSP and the Board’s professional development audit.

c. On January 30, 2009, the Board adopted an Amended Stipulation and Order for Stayed Suspension and Conditional Registration (“2009 Order”) that placed conditions of the stayed suspension on Respondent’s registration to practice registered dental assisting due to her chemical dependency. Among other things, Respondent’s 2009 Order required continued participation with the HPSP and compliance with the provisions of her HPSP Participation Agreement. The 2009 Order provided that violation of the terms in the order would constitute violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

d. Respondent was excused from screens from April 2 to April 4, 2009 to attend a bachelorette party in Las Vegas.

e. On April 7, 2009, Respondent provided a late collected urine specimen and tested positive for benzoylecgonine, cocaine metabolite, at 0.20 mg/L.

f. On April 9, 2009, the HPSP received a report from On Assignment, Respondent's current temporary employment agency, indicating that Respondent accepted a permanent employment position at a dental facility located in Blaine, Minnesota on March 16, 2009. Based upon Respondent's monitoring plan, Respondent must inform the HPSP of any new employment prior to making the actual employment change. Respondent failed to inform the HPSP of her employment change. Respondent submitted a quarterly update to the HPSP on April 8, 2009 and indicated on the update that she had not had an employment change.

g. On April 13, 2009, the HPSP contacted Respondent regarding her employment change and her positive toxicology screen result for cocaine metabolite on April 7, 2009. Respondent admitted to the HPSP that she has been working at the dental facility located in Blaine, Minnesota since mid-March adding that she only worked intermittently. As for the positive screen, Respondent denied any use of cocaine to the HPSP.

h. On April 13, 2009, the HPSP discharged Respondent from the program due to her non-compliance with changing employment, specimen collection by 6:00 p.m., and the positive toxicology screen. The HPSP notified the Committee of Respondent's discharge from the program.

7. On June 1, 2009, Respondent was served with a Notice of Revocation of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") by first-class mail at her last known address on file with the Board. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing. The Notice also informed Respondent she was required to submit a response to the allegations in the Notice within seven days after the Notice was mailed. Respondent failed to submit a response.

8. The Board Complaint Committee had probable cause to remove the stay of suspension.

9. At the hearing before the Board on June 26, 2009, Respondent stated she failed to submit a written response to the Notice because she was attempting to retain legal counsel. Respondent admitted using cocaine prior to the toxicology screen on April 7, 2009.

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 sections 150A.08, 214.10, and 214.103.
2. The Board Complaint Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph G of the 2009 Order.
3. Under paragraph G.1. of the 2009 Order, the allegations contained in the Notice are deemed admitted because of Respondent's failure to submit a written response.
4. The Board Review Panel has the burden of establishing the statutory violations charged by a preponderance of the evidence.
5. The Board Complaint Committee has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 150A.08, subdivision 1(13) and the 2009 Consent Order.
6. As a result of the violations set forth above and pursuant to the terms of the 2009 Order, the Board has the authority to impose additional disciplinary action against Respondent's registration.

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 2009 Order issued to Respondent on January 30, 2009, is hereby **RESCINDED** and shall have no future force or effect.
2. IT IS FURTHER ORDERED that the registration of Respondent to practice registered dental assisting in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.
3. IT IS FURTHER ORDERED that Respondent shall not engage in any conduct which constitutes the practice of registered dental assisting as defined in Minnesota Rule 3100.8500 and shall not imply to any persons by words or conduct that Respondent is authorized to practice registered dental assisting in the State of Minnesota.
4. IT IS FURTHER ORDERED that Respondent surrender to the Board her original registered dental assistant renewal certificate. Respondent shall deliver the certificate personally or by first-class mail to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, Minnesota Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, within ten days of the date of this Order.
5. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from her registration no earlier than one year from the date of this Order. Respondent's registration may be reissued, 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 registered dental assisting. At the time of Respondent's petition, Respondent must meet with a Complaint Committee. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. Evidence of compliance with the provisions of this Order.
- b. Evidence of twelve months of documented, uninterrupted sobriety.
- c. Within 60 days prior to petitioning, Respondent shall undergo a chemical dependency evaluation performed by a chemical dependency treatment 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. Respondent shall comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.
- d. Any additional information relevant to Respondent's petition reasonably requested by the Complaint Committee.

6. IT IS FURTHER ORDERED that if Respondent petitions to have the suspended status removed from her registration two (2) years or more after the date of this Order, Respondent shall be required to attain a passing score on a Board approved regional clinical examination. Respondent's compliance with this requirement shall not create a presumption that she should be granted a registration to practice as a registered dental assistant in the State of Minnesota.

7. IT IS FURTHER ORDERED that Respondent shall meet all reregistration 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 professional development requirements.


8. 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.

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

- a. Reissue to Respondent her registration to practice registered dental assisting.
- b. Reissue a registration to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Deny Respondent's petition for registration based upon her failure to meet the burden of proof.

Dated: 6/30/, 2009

MINNESOTA BOARD
OF DENTISTRY


CANDACE MENSING, D.D.S.
President