

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Michael Gene Johnson, D.D.S.
License No. D10999

**STIPULATION AND ORDER FOR
STAYED SUSPENSION, LIMITED,
AND CONDITIONAL LICENSE**

STIPULATION

Michael Gene Johnson, D.D.S. ("Licensee") and the Minnesota Board of Dentistry's Complaint Committee ("Committee") agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minnesota Statutes chapter 150A, section 214.10, and section 214.103 to license and regulate dentists and to take disciplinary action when appropriate.

2. Licensee holds a license from the Board to practice dentistry in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

CONFERENCE

3. On September 19, 2013, Licensee appeared before the Committee, composed of Board member Joan Sheppard, D.D.S., for a disciplinary conference to discuss allegations made in a Notice of Hearing for Alleged Noncompliance with Stipulation and Order, dated August 14, 2013. Sara P. Boeshans, Assistant Attorney General, represented the Committee at the conference.

4. Although Licensee was informed at the conference that he could be represented by legal counsel, Licensee has knowingly and voluntarily waived that opportunity.

III.

FACTS

5. The parties agree this Stipulation and Order is based upon the following facts:

a. Licensee has engaged in unprofessional conduct, abandoned patients, failed to provide patients with their records, and failed to cooperate with the Board, its agents, or those working on behalf of the Board, as follows:

1) On January 1, 2013, Licensee failed to file an annual report with the Board relative to the status of his professional corporation. Licensee subsequently failed to respond to letters from the Board relative to this issue.

2) Beginning in January 2013, Licensee failed to appear at his dental office to perform scheduled dental services. Licensee has only intermittently responded to his patients' attempts to contact him since this time.

3) On or about March 7, 2013, Licensee's office was seized by the commercial real estate company from whom Licensee was renting his office space.

4) Licensee initially failed to respond to inquiries from his patients or the Board. Licensee did not provide the Board or the Postal Service with a forwarding address.

5) Licensee failed to take steps to provide his patients with access to their dental records, or coordinate their continuing care with subsequent providers.

6) Licensee received payment for services that he has only partially completed, including payment for prepared, but unseated, crowns and bridgework that patients must now pay to subsequent providers to fabricate and place.

b. On June 14, 2013, the Board adopted a Stipulation and Order for Limited and Conditional License (“June 14, 2013 Order”) that placed a limitation and conditions on Licensee’s dental license due to his unprofessional behavior. Among other things, paragraph 8a of the June 14, 2013 Order requires Licensee to continue his participation in the Health Professionals Services Program (“HPSP”) for monitoring of his mental health recovery. In addition, Licensee had to comply with all the HPSP recommendations associated with evaluation, treatment, and monitoring. According to paragraph 15 of the June 14, 2013 Order, Licensee is subject to additional discipline if he fails to comply with or violates the June 14, 2013 Order as determined by the Complaint Committee. Licensee is currently subject to the June 14, 2013 Order, which he agreed to and signed.

c. On June 26, 2013, the HPSP sent Licensee a letter indicating that if he did not contact the HPSP or complete the chemical and mental health assessments as previously requested by them he would be discharged from the HPSP.

d. On July 9, 2013, when Licensee did not respond to the HPSP or complete the assessments, the HPSP discharged Licensee from the program. On this same date, the HPSP also informed the Board of Licensee’s discharge.

e. By August 14, 2013, Licensee failed to submit to the Committee his written verification that he complied with transferring patient records, as outlined in paragraph 8.b. of his June 14, 2013 Order.

f. On August 27, 2013, the Board issued Licensee an Order of Suspension (“August 27, 2013 Order”) for suspension of his dental license based upon child support matters.

g. On September 5, 2013, the Board issued Licensee an Order of Suspension (“September 5, 2013 Order”) for suspension of his dental license due to an income tax liability.

h. At the September 19, 2013, conference with Licensee, the Committee determined that Licensee violated the June 14, 2013 Order when he failed to complete the assessments or respond to the HPSP, and was discharged from the HPSP. Licensee also failed to provide verification of having transferred patient records.

IV.

LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of the June 14, 2013 Order and Minnesota Statutes section 150A.08, subdivision 1(13), and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

STAYED SUSPENSION

7. The Board hereby **SUSPENDS** Licensee's license to practice dentistry. The suspension is **STAYED** so long as Licensee complies with the following limitation and conditions:

LIMITATION OF STAYED SUSPENSION

8. The Board places the following **LIMITATION** on Licensee's license:

a. Licensee may not own, manage or operate an active dental practice for at least three years after reinstatement of Licensee's license to practice dentistry pursuant to the August 27, 2013 Order and the September 5, 2013 Order.

CONDITIONS OF STAYED SUSPENSION

9. The Board places the following **CONDITIONS** on Licensee's license:

a. Participation in Health Professionals Services Program (“HPSP”).

1) Within 14 days after reinstatement of Licensee’s license to practice dentistry pursuant to the August 27, 2013 Order and the September 5, 2013 Order, Licensee shall enroll in the HPSP in the State of Minnesota for monitoring of his mental health recovery. Licensee shall provide the HPSP with a copy of this Stipulation and Order at the time of enrollment. Licensee must return the signed Participation Agreement to the HPSP within 14 days of receiving the Participation Agreement from the HPSP. Failure to meet either of these deadlines will be considered a violation of this Order.

2) Licensee shall be monitored by the HPSP until the HPSP determines Licensee is qualified to practice without conditions.

3) Licensee shall comply with all provisions of his HPSP Participation Agreement, including revisions subsequent to this Order. Licensee's failure to comply with his HPSP Participation Agreement shall be considered a violation of this Stipulation and Order.

4) Licensee shall totally abstain from ingesting, injecting, or otherwise taking or using any mood-altering chemical or drug, including, but not limited to alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Licensee by a licensed physician or dentist as part of a course of treatment.

b. Closure of Dental Practice and Correspondence to Patients. Within 30 days after reinstatement of Licensee’s license to practice dentistry pursuant to the August 27, 2013 Order and the September 5, 2013 Order, Licensee shall submit to the Committee the following: (1) a copy of the document showing the sale of Licensee’s dental practice to Park Dental; (2) a copy of the correspondence (letter) sent by Park Dental to Licensee’s patients

regarding the sale transaction and the release of patient records; (3) a written attestation from Park Dental that the aforementioned letter was distributed to all of Licensee's former patients; and (4) a dated written statement from Licensee regarding having discontinued the services of Demandforce for contacting patients.

Removal of Stayed Suspension

10. Licensee may petition to have the stayed suspension removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee has complied with the limitation and conditions of his stayed suspension. Moreover, Licensee's petition must be received by the Board at least 30 days prior to the Board meeting. Licensee has the burden of proving that Licensee has complied with the limitation and conditions of this Stipulation and Order and that Licensee is qualified to practice without a stayed suspension. Licensee's compliance with the foregoing requirements does not create a presumption that the stayed suspension should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the stayed suspension imposed by this Stipulation and Order.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

11. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this Stipulation and Order.

12. In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minnesota Rules parts 3100.6300 and 6950.1000 to 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, and the United States Department of Health and Human Services.

13. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this Stipulation and Order, including requests for explanations, documents, office inspections, or appearances at conferences. Minnesota Rules part 3100.6350 shall be applicable to such requests.

14. It is Licensee's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the payment, report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

Imposition of Fine

15. If information or a report required by this Stipulation and Order is not submitted to the Board by the due date, or if Licensee otherwise violates this Stipulation and Order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minnesota Statutes section 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

Noncompliance or Violation With Stipulation and Order

16. If Licensee fails to comply with or violates this Stipulation and Order or it is determined Licensee has further violated Minnesota Statutes chapter 150A or Minnesota Rules chapter 3100, the Committee may, in its discretion, seek additional discipline either by initiating

a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with the Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through the procedures of Minnesota Statutes Section 214.103, subdivision 6.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. The Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek

discipline when it first learns of a violation will not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while this order is in effect.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Licensee's practice, suspension, or revocation of Licensee's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 150A.08, subdivision 8, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

17. Within ten days of execution of this Stipulation and Order, Licensee shall provide the Board with the names of all states in which Licensee is licensed to practice as a dental professional or holds any other professional or occupational license or registration.

18. If while residing or practicing in Minnesota, Licensee should become employed at any other dental clinic or facility or move, Licensee shall notify the Board in writing of the new address and telephone number within ten days.

19. In the event Licensee should leave Minnesota to reside or to practice outside of the state, Licensee shall notify the Board in writing of the new address and telephone number within ten days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that

practice in another state conforms completely to this Stipulation and Order. If Licensee leaves the state, the terms of this order continue to apply unless waived in writing.

20. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

21. Licensee waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

22. This Stipulation and Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

23. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

24. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed this Stipulation and Order. Licensee is aware this Stipulation and Order must be approved by the Board before it goes into effect. The Board may approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

25. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee

will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

26. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

27. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

28. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

LICENSEE

Michael Gene Johnson DDS
MICHAEL GENE JOHNSON, D.D.S.

By:

COMPLAINT COMMITTEE

Marshall Shragg
MARSHALL SHRAGG, MPH
Executive Director

Dated: September 23rd, 2013

Dated: SEPTEMBER 23RD, 2013

ORDER

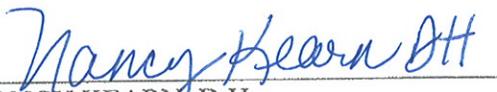
Upon consideration of the foregoing Stipulation and based upon all the files, records, and proceedings herein,

1. **IT IS HEREBY ORDERED**, that the June 14, 2013 Order issued to Licensee is hereby RESCINDED and shall have no future force or effect;
2. **IT IS HEREBY ORDERED**, that the August 27, 2013 Order and the September 5, 2013 Order remain in force and are not affected by the completion of this Order;
3. **IT IS HEREBY ORDERED**, that the terms of the Stipulation and Order for Stayed Suspension, Limited, and Conditional License are approved and adopted, and the recommended disciplinary action set forth in the Stipulation is hereby issued as an Order of this Board, but that this Stipulation is in abeyance until such time as Licensee complies with the August 27, 2013 Order and the September 5, 2013 Order and the Board has received proper notification that Licensee's license to practice dentistry in the State of Minnesota is reinstated pursuant to the August 27, 2013 Order and the September 5, 2013 Order. This Order will become effective once Licensee's license to practice dentistry is reinstated pursuant to the August 27, 2013 Order and the September 5, 2013 Order.

MINNESOTA BOARD
OF DENTISTRY

September 27, 2013

By:



NANCY KEARN, D.H.
President