

**BEFORE THE MINNESOTA**

**BOARD OF DENTISTRY**

In the Matter of  
Lori A. Matheny, R.D.A.  
Registration No. A4629

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

The Minnesota Board of Dentistry (“Board”) is authorized pursuant to Minnesota Statutes chapter 150A, sections 214.10 and 214.103 to license and regulate registered dental assistants, to refer complaints against registered dental assistants to the Attorney General for investigation, and to take disciplinary action when appropriate including accepting a voluntary surrender of registration.

Lori A. Matheny, R.D.A. (“Registrant”) desires to voluntarily surrender her registration to practice dental assisting in the State of Minnesota. The Board’s Complaint Committee (“Committee”) and Registrant agree that the matter may be resolved by this stipulation and order accepting voluntary surrender of Registrant’s registration.

**STIPULATION**

IT IS HEREBY STIPULATED AND AGREED by and between Registrant and the Committee as follows:

A. Jurisdiction. Registrant holds a registration to practice dental assisting 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. Registrant states that she does not hold a license or a registration to practice dental assisting 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. Registrant is a registered dental assistant, registered in the State of Minnesota.

2. On January 31, 2007, Registrant self-reported to the Health Professionals Services Program ("HPSP"). During her intake interview with HPSP, Registrant reported a history of alcohol abuse and inhalation of nitrous oxide analgesia in a dental office in which she was employed in or around the Fall of 2004. The HPSP recommended Registrant complete a chemical dependency ("CD") evaluation.

3. On February 13, 2007, Registrant completed a CD evaluation. The evaluator's diagnosis for Registrant was alcohol abuse.

4. On April 18, 2007, Registrant signed a Participation Agreement and Monitoring Plan with the HPSP for monitoring of her substance disorder.

5. On May 19, 2007 Registrant's urine specimen tested positive for ethyl glucuronide (EtG) at a level 2,400 ng/mL. On May 21, 2007, Registrant contacted the HPSP and her counselor regarding a relapse with alcohol. Registrant also tested positive for propoxyphene at a level 6,800 ng/mL. On June 4, 2007, the HPSP contacted Registrant regarding her positive toxicology screens. Registrant admitted that she took Darvon from an old prescription. The HPSP notified the Board about Registrant's positive toxicology screens and continued monitoring.

6. On August 18, 2007, Registrant missed a toxicology screen. The HPSP sent a letter to Registrant requesting a response by September 21, 2007. Registrant complied and contacted HPSP on September 17, 2007.

7. On October 3, 2007, HPSP amended Registrant's Monitoring Plan to allow her to practice without restrictions and required her to contact the HPSP and be available on a certain day every other week.

8. On October 13, 2007, Registrant's urine specimen tested positive for EtG at a level 2,030 ng/mL. On October 19, 2007 the HPSP notified the Board that Registrant was discharged from the program due to non-compliance.

9. On November 21, 2007, the Committee sent a letter to Registrant requesting a written explanation regarding her intentions for her dental assisting registration and her current employment information by December 7, 2007.

10. On December 4, 2007, Registrant responded to the Committee's letter admitting to the positive screens and relapse with alcohol.

11. On December 21, 2007, the Committee referred Registrant to the HPSP. On January 25, 2008, Registrant contacted the HPSP. During the HPSP intake assessment, Registrant reported that her date of sobriety was October 2007. The HPSP requested Registrant obtain a CD evaluation within two weeks and referred her to her county for a Rule 25 CD evaluation.

12. On February 29, 2008, Registrant informed the HPSP that she had not completed the CD evaluation. On March 13, 2008, Registrant was discharged from the HPSP due to non-compliance.

13. The Committee scheduled a disciplinary conference on May 13, 2008 with Registrant to discuss her chemical dependency. On May 5, 2008 Registrant telephoned the Board office and indicated that she would not be able to attend the May 13, 2008 disciplinary

conference. The Committee granted Registrant a continuance and rescheduled the disciplinary conference for September 11, 2008.

14. In a letter dated June 4, 2008, the Committee advised Registrant that they had been notified by the Board's Licensure and Professional Development Supervisor of Registrant's failure to respond to the Board's request for information relating to her professional development portfolio. Registrant also failed to submit a written response to the Notice of Conference mailed to her on April 15, 2008.

15. Registrant failed to attend the September 11, 2008 disciplinary conference or notify the Committee she would be unable to attend.

16. On November 12, 2008, the Committee served upon Registrant a Notice of and Order for Prehearing Conference and Hearing notifying Registrant of a prehearing conference scheduled for January 7, 2009. On January 7, 2009, Registrant failed to appear at the prehearing conference or make any attempt to contact anyone.

17. On January 28, 2009, Administrative Law Judge ("ALJ") Richard C. Luis issued to the Board a Findings of Fact, Conclusions and Recommendation regarding Registrant. The ALJ indicated that Registrant's failure to appear at the prehearing conference resulted in her being in default and the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are taken as true.

18. On or about February 10, 2009, Registrant contacted the Committee's attorney stating that she no longer desired to maintain her dental assisting registration due to ongoing medical conditions.

C. Violations. Registrant admits the facts and conduct specified above constitute violations of Minnesota Statutes section 150A.08, subd. 1(4),(5),(6),(8),(13), Minnesota Statutes

section 150A.09, subd. 3, Minn. R. 3100.6200A, 3100.6200J, and 3100.6350, and are sufficient grounds for the disciplinary action specified below.

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

1. Surrender. Effective the date of this Order, Registrant's registration to practice dental assisting in the State of Minnesota is terminated. Within ten days of the date the Order is adopted by the Board, Registrant shall surrender to the Board her original registration 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 Southeast, Suite 450, Minneapolis, Minnesota 55414.

2. Prohibitions. Registrant shall not engage in any act which constitutes the practice of dental assisting as defined in Minnesota Statutes section 150A.10, subd. 2. and Minnesota Rules part 3100.8500 and shall not imply to former patients or other persons by words or conduct that Registrant is registered to practice dental assisting.

E. Application for Re-registration. Registrant may apply to the Board for re-registration at any regularly scheduled Board meeting no earlier than one year of the effective date of the Board's order. Registrant must comply fully with the applicable statutes and rules in effect at the time of Registrant's application, including the payment of all fees relating to re-registration and completing the Professional Development requirements.

Moreover, if Registrant is out of practice for more than two (2) years after the effective date of this stipulation and order, she shall successfully complete the registration examination specified in Minnesota Rules part 3100.1300, item C. Registrant's compliance with the above-

referenced requirements shall not create a presumption that she should be granted registration to practice as a registered dental assistant in the State of Minnesota.

In addition to the reinstatement requirements contained in the applicable statutes and rules in effect at the time of Registrant's application, Registrant shall have the burden of proving that she has successfully addressed the causes of the conduct described in this Order, and that she is fit to practice dental assisting in compliance with accepted standards. Registrant must submit proof that, after the effective date of this Order, she has maintained documented, uninterrupted sobriety for a period of at least one year prior to submitting her application for re-registration. Registrant must prove that she 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 Registrant's drug abuse history and with whom Registrant has a formal healthcare provider/patient relationship.

F. Meeting with a Complaint Committee. Registrant shall meet with a Complaint Committee of the Board at least 30 days prior to the Board meeting to consider Registrant's application for re-registration. The Complaint Committee shall review and discuss with Registrant her application and supporting evidence. After meeting with Registrant, the Complaint Committee shall forward a report containing its recommendations to the Board.

G. Board Action. At any regularly scheduled Board meeting following Registrant's application for re-registration and meeting with a Complaint Committee, the Board may take any of the following actions:

1. Reissue a registration to Registrant;
2. Reissue a registration to Registrant with limitations and/or conditions placed upon the scope of Registrant's practice of dental assisting; or

3. Deny the application for re-registration upon Registrant's failure to meet the burden of proof.

H. Judicial Relief. If Registrant violates paragraph D above, a district court of this state may, upon application of the Committee, enter an order enjoining Registrant 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, Registrant is further notified that Registrant may choose to be represented by legal counsel in this matter. Registrant has elected not to be represented by counsel. 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 Angelina M. Barnes is representing the Committee.

J. Waiver of Registrant's Rights. For the purpose of this stipulation, Registrant waives all procedures and proceedings before the Board to which Registrant 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. Registrant agrees that upon the application of the Committee without notice to or an appearance by Registrant, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Registrant 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, Registrant 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. 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. Registrant 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. Registrant 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 Registrant. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

REGISTRANT

Lori A. Matheny

LORI A. MATHENY, R.D.A.

Registrant

Dated: 1-27-09, 2009

COMPLAINT COMMITTEE

Marshall Shragg

MARSHALL SHRAGG

Executive Director

Dated: MARCH 2<sup>ND</sup>, 2009

**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 action set forth in the stipulation, and accepts the **VOLUNTARY SURRENDER** of Registrant's registration to practice dental assisting in the State of Minnesota effective this 27<sup>th</sup> day of March, 2009.

MINNESOTA BOARD  
OF DENTISTRY

By: Candace Mensing D.D.S.  
CANDACE MENSING, D.D.S.  
President