

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Richard Riemenschneider, D.D.S.
License No. D7348

**ORDER FOR SUMMARY
SUSPENSION AND
NOTICE OF HEARING**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A to license and regulate persons who hold licenses to practice dentistry in the State of Minnesota, and is further authorized pursuant to Minn. Stat. §§ 214.10 and 214.103 to review complaints against licensed dentists and to initiate appropriate disciplinary action.

Background

Since June 14, 1968, Richard Riemenschneider, D.D.S. ("Licensee") has been and now is subject to the jurisdiction of the Board from which he holds a license to practice dentistry in the State of Minnesota.

Licensee was subject to a Stipulation and Order for Conditional License between June 7, 1991, and September 9, 1994, based on substandard infection control. In 1992, the Board received information that violations continued to exist in Licensee's practice. The new allegations were investigated and a conference was held in May 1994. The matter was resolved through an Agreement for Corrective Action dated August 2, 1994. Dr. Riemenschneider completed the requirements of the Agreement and was granted an unconditional license on May 9, 1995.

October 3, 2003 Stipulation and Order for Limited and Conditional License

On October 3, 2003, the Board adopted a Stipulation and Order for Limited and Conditional License ("2003 Stipulation and Order") which limited and placed conditions on Dr. Riemenschneider's license. (A true and accurate copy of the 2003 Stipulation and Order is attached and incorporated herein as Exhibit A. The 2003 Stipulation and Order remains in effect.) The 2003 Stipulation and Order was based on evidence that Licensee was unable to practice dentistry with reasonable skill and safety to patients due to gross ignorance or incompetence and repeated performance of dental treatment which falls below accepted standards. In addition, the 2003 Stipulation and Order authorized the Board to take further disciplinary action if Licensee violated its terms.

Paragraphs E.1., 2., and 3. of the October 3, 2003 Stipulation and Order provide:

E.1. Licensee is prohibited from providing dental care to any patient in an independent practice or non-group practice setting unless this has been approved by the Board.

E.2. Licensee is prohibited from providing dental care to any patient in a clinic or group practice unless another dentist is present.

E.3. Licensee is required to employ a pulse oximeter when treating any patient who has been premedicated for the purpose of receiving dental care or who is under the influence of nitrous oxide during dental treatment.

Paragraph E.7. of the October 3, 2003 Stipulation and Order provides, in relevant part:

E.7. Within 10 days of hire, new association or partnership, Licensee shall inform the Board in writing of the hire, new association or partnership[;] within 30 days he shall submit to the Board a signed written statement from the new partner, associate, or employer verifying that he/she has received and reviewed a copy of this stipulation and order.

Paragraph 11 of the October 3, 2003 Stipulation and Order provides:

11. Summary Suspension for Violating Order. In addition to or in lieu of the procedures described in paragraphs 13 and 14 below, the Committee may, if

it concludes that Licensee has failed to observe the limitation and meet the conditions of this Order, immediately and summarily suspend Licensee's license to practice dentistry. The Committee's Order for Summary Suspension shall constitute a final order of the Board. The suspension is effective upon written notice by the Committee to Licensee and Licensee's attorney. Service of notice on Licensee is complete upon mailing the notice to Licensee and his attorney. Such suspension shall remain in full force and effect until Licensee meets with the Committee to discuss the bases for the summary suspension and a new Order is issued by the Board.

In addition, paragraph 8.c. of the 2003 Stipulation and Order states:

c. If the Board receives a complaint alleging additional misconduct or deems it necessary to evaluate Licensee's compliance with this stipulation and order, the Board's authorized representatives shall have the right to inspect Licensee's dental office(s) during normal office hours without prior notification and to select and temporarily remove original patient records for duplication. Licensee shall fully and timely cooperate with such inspections of Licensee's office and patient records.

ALLEGATIONS

The Complaint Review Committee has received information indicating that Licensee has violated Paragraphs E.2., E.3., and E.7. of the October 3, 2003 Stipulation and Order and Minn. Stat. §150.A08, subd.1(13) as shown by the following:

1. On December 8, 2005, Board staff learned that Licensee was practicing dentistry at a dental clinic in Princeton, Minnesota without another dentist present. (Affidavit of Deborah A. Endly)

2. On Friday December 9, 2005, a member of the Board's staff visited the dental clinic and spoke with Licensee who was treating patients in the clinic. No other dentist was in the clinic. The daily schedule for Friday, December 9, 2005 shows that Licensee was the only dentist in the office all day. (Affidavit of Deborah A. Endly, Exhibit B).

3. The staff member spoke with the majority owner of the practice ("owner"). The owner said that when Licensee came to work for the Princeton Dental Center, Licensee

inferred that he (“Licensee”) had been working for the Minnesota Dental Association as a *locum tenens* for various practices. Licensee told the owner that he was looking for a part-time job. He did not tell him that he (Licensee) had a limited and conditional license. Licensee did not inform the Board of his new employment, nor did he submit a signed written statement from his new employer verifying that the new employer had received and reviewed a copy of the 2003 Stipulation and Order. (Affidavit of Dirk Posthumus, D.D.S.)

4. Licensee began working at the Princeton clinic in mid-August 2005. He worked Wednesdays and Fridays. On Wednesdays, another dentist was in the clinic; on Fridays, Licensee worked alone. (Affidavit of Dirk Posthumus, D.D.S.)

5. The Board’s staff member selected seven patient charts for review. Patient TF’s chart shows that on Friday, September 2, 2005, Licensee administered nitrous oxide to patient TF when he provided dental treatment. The chart does not state the flow rate or duration of the nitrous oxide. There is no indication that Licensee used a pulse oximeter on patient TF. (Affidavit of Deborah A. Endly, Exhibit C)

6. Patient SK’s chart shows that on Friday, December 9, 2005, Licensee administered nitrous oxide to patient SK. The chart does not state the flow rate or duration of the nitrous oxide. There is no indication that Licensee used a pulse oximeter on patient SK. (Affidavit of Deborah A. Endly, Exhibit D)

Imposition of Suspension

Based upon its consideration of this matter, the above materials, and its suspension authority under the October 3, 2003 Stipulation and Order, the Committee finds that Licensee has violated the October 3, 2003 Stipulation and Order and hereby orders and Licensee is hereby notified as follows:

1. Suspension. Licensee's license to practice dentistry in the State of Minnesota is hereby indefinitely SUSPENDED. During the period of suspension, Licensee shall not engage in any act which constitutes the practice of dentistry as defined in Minn. Stat. § 150A.05 and shall not imply to former patients or other persons by words or conduct that he is licensed to practice dentistry.

2. Prohibitions. While the suspension is in effect, Licensee is specifically prohibited from engaging in the following conduct:

- a. providing or participating in the provision of dental services;
- b. owning or operating an active dental practice;
- c. benefitting financially from the operation of an active dental practice;
- d. supervising or influencing others, or being in a position to influence others, in the practice of dentistry.

Grounds for Additional Disciplinary Action

The conduct described above would constitute grounds for additional disciplinary action based on Licensee's violation of paragraphs E.2., E.3., and E.7 of the 2003 Stipulation and Order and Minn. Stat. §150A.08, subd.1(13).

HEARING

LICENSEE IS FURTHER NOTIFIED that the Complaint Review Committee has initiated a hearing before the Board to address this matter. This hearing could affect Licensee's license to practice dentistry in the State of Minnesota, since the allegations discussed above may be grounds for additional disciplinary action.

The Board hearing will be held on Friday, January 20, 2006, at 1:00 p.m. in Conference Room A (fourth floor), University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota 55414.

The issues to be determined at the hearing are:

1. Whether Licensee engaged in the conduct alleged above; and
2. Whether Licensee's conduct provides grounds justifying the Board to take

additional disciplinary action,

At the hearing before the Board, the Committee will submit any affidavits served herewith and may submit additional affidavits and written and oral argument in support of its position. Licensee has the right to appear at the hearing and to submit a response to this Order for Summary Suspension and Notice of Hearing ("Order and Notice"), affidavits made on the personal knowledge of the affiant, and written and oral argument.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension or revocation of Licensee's license to practice dentistry in the State of Minnesota.

Licensee must submit a response to the allegations above within 10 days after this Order and Notice is mailed. If Licensee does not submit a timely response to the Board, the information discussed above may be deemed admitted.

Conference with the Complaint Review Committee

LICENSEE IS FURTHER NOTIFIED the Complaint Review Committee has scheduled a conference with the Licensee on Tuesday, January 17, 2006, at 6:30 p.m. The conference will be held at the Board office, located at 2829 University Avenue SE, Suite 450, Minneapolis Minnesota 55414. Licensee shall come to the conference prepared to discuss the allegations

above and to attempt to resolve this matter through mutual agreement. Failure to attend the conference could constitute noncooperation in violation of Minn. R. 3100.6350. **If Licensee does not confirm attendance at the conference by contacting Julie Jeppesen at (612) 617-2245 within 10 days after this Order and Notice is mailed, the Complaint Review Committee will cancel the conference and proceed directly to the hearing before the Board.**

IF LICENSEE NEEDS A REASONABLE ACCOMMODATION for a disability in order to participate in this conference, such an accommodation can be made available upon advance request. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print material. To arrange an accommodation, Licensee may contact the Board office at (612) 617-2250.

NOTICE PURSUANT TO MINNESOTA GOVERNMENT DATA PRACTICES ACT

The Board's is seeking data from Licensee in response to this Order for Summary Suspension and Notice of Hearing, including a written response to this Order and Notice and the oral responses at the conference and the hearing, which may be considered private or confidential under the Minnesota Government Data Practices Act, Minnesota Statutes section 13.01, *et seq.* Minnesota Statutes section 13.04, subdivision 2, requires the Board to notify Licensee of the following four matters before Licensee is asked to supply any private or confidential information about himself:

1. The data are requested as part of an investigation into Licensee's conduct and will be used by the Board in evaluating Licensee's conduct to determine whether the Board should take further disciplinary action against his license to practice dentistry in Minnesota.
2. Pursuant to Minnesota Rules 3100.6350, Licensee is required to cooperate fully with the Board. Cooperation includes responding fully and promptly to any reasonable requests

by or on behalf of the Board relating to the investigation, including providing copies of patient records, furnishing a full and complete explanation, and appearing at conferences or hearings. A refusal to answer a question or questions based on a valid assertion under the Fifth Amendment of the Constitution that Licensee's answer would expose Licensee to a substantial and real threat of implicating himself in a crime will not be considered to be non-cooperation. However, if Licensee chooses to assert a right not to answer based on the Fifth Amendment, a decision regarding the matter at issue will be made on the basis of the information available to the Board without Licensee's answers.

3. If Licensee supplies the data requested and they show a violation of any of the statutes or rules enforced by the Board, Licensee may be subject to disciplinary or other action. However, if Licensee refuses to supply requested data (except refusal based on a substantial and real threat of self-incrimination in a criminal proceeding), the Board has the authority under Minnesota Rules 3100.6350 to take disciplinary or other action for failure to cooperate.

4. The data Licensee supplies will be accessible to the Board and the Office of the Attorney General. The data may be released to other persons and/or governmental entities who have legal authority to review the data, investigate specific conduct and/or take appropriate legal action, including but not limited to, consultants retained by the Board, law enforcement agencies, courts, and other regulatory agencies. If the Board institutes a formal disciplinary proceeding against Licensee that is litigated; the information Licensee supplies could become public.

LICENSEE IS FURTHER NOTIFIED that he may choose to be represented by counsel at the conference and/or hearing. If Licensee retains an attorney in this matter, he should inform the Board of the attorney's name, address, and telephone number within 14 days of this Order and Notice. A tape record may be made of the conference and the hearing, and anything Licensee

says may be used as evidence against Licensee should the matter proceed to more formal proceedings.

Rosellen Condon, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575, is representing the Complaint Review Committee in this matter. Licensee or, if Licensee is represented by counsel, Licensee's attorney may contact Ms. Condon to discuss informal disposition of this matter.

The decision to initiate this proceeding was made by the Complaint Review Committee and not by the Board as a whole. Members of the Complaint Review Committee will not participate in the Board's deliberations. In addition, the Board will be advised by an attorney other than Ms. Condon.

Dated: December 22ND 2005

MINNESOTA BOARD OF DENTISTRY
COMPLAINT COMMITTEE

By: _____

MARSHALL SHRAGG
Executive Director