

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Steven A. Selchow, D.D.S.
License No. D9967

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

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

The Board received a complaint(s) against Steven A. Selchow, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Attorney General for investigation. Following the investigation, the Committee held a conference with Licensee on December 18, 2003. 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 dentistry 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 he does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

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

Improper, Unauthorized Personal Use of Controlled Substances

1. Licensee has personally used controlled substances in an improper, unauthorized manner.

a. In 1995, Licensee underwent inpatient chemical dependency treatment and four months of aftercare. He maintained sobriety for approximately two years.

b. In 1997, Licensee relapsed and went to a chemical dependency counselor, maintaining sobriety for approximately a year or a year and a half.

c. In 2002, Licensee relapsed again. He regularly used Hydrocodone in steadily increasing amounts. His pattern increased to five to ten hydrocodone/acetaminophen tablets (7.5/500) on the evenings he used these substances. He also combined opioid analgesics with alcohol. He did not use the substances while he was at work.

d. Licensee entered a chemical dependency treatment program on November 5, 2003. He successfully completed the program and was discharged on December 2, 2003. The Committee reviewed the after care recommendations and discharge summary.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. §150A.08, subd. 1(5) (improper unauthorized use of a legend drug, chemical or controlled substance) and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order as follows:

CONDITIONS

Licensee's license shall be subject to the following conditions:

1. In early January 2004, Licensee enrolled in the Health Professional Services Program ("HPSP") and signed a Participation Agreement for monitoring of his chemical dependency recovery. Licensee shall provide HPSP with a copy of this stipulation and order within five days of its effective date.
2. Licensee shall be monitored by HPSP for a minimum of five years.
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 abstain from alcohol and all mood-altering chemicals unless they are prescribed and/or approved by a physician or dentist who has first been informed of Licensee's drug-use history.
5. Licensee is prohibited from prescribing, administering, or dispensing any legend drugs for Licensee's own use or for his family members' use or prescribing, administering, or dispensing any legend drugs to patients for conditions not related to dentistry.
6. Licensee may direct staff to call in prescriptions to pharmacies for controlled substances.
7. Upon request, Licensee shall sign releases allowing the Board or the Committee to obtain Licensee's medical, mental health or chemical abuse/dependency records from any treating professional, evaluator, or facility.

8. Written Reports. Licensee shall submit the following reports to the Committee for its approval:

a. Within 30 days of the effective date of this stipulation and order Licensee must provide his business partners, associates and employees a copy of this stipulation and order and submit a statement to the Committee verifying that he has done so.

b. Within 30 days of the effective date of this stipulation and order, Licensee must submit to the Committee a written protocol for the management of pain for dental patients as agreed to by his partners or associates.

9. Reimbursement of Costs. Licensee shall pay the Board the sum of \$16,000 as partial reimbursement for the Board's costs in this matter. Payments shall be made by certified check, cashier's check, or money order made payable to the Minnesota Board of Dentistry as follows: \$8,000 within six months of the effective date of this order and the additional \$8,000 within eighteen months of the effective date of this order.

10. Civil Penalty. The Board imposes a civil penalty in the amount of \$7,500 for the conduct described above. The civil penalty shall be paid by cashier's check or money order made payable to the Minnesota Board of Dentistry and shall be delivered personally or by mail to the Minnesota Board of Dentistry, c/o Marshall Shragg, Executive Director, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414, within 90 days of the effective date of this stipulation and order.

11. Jurisprudence Examination. Within 90 days of the effective date of this stipulation and order, Licensee shall take and pass the Minnesota jurisprudence examination with a score of at least 90 percent. Licensee may take the jurisprudence examination within the

90-day period as many times as necessary to attain a score of 90 percent, however, Licensee may take the examination only once each day. Within 10 days of each date Licensee takes the jurisprudence examination, Board staff will notify Licensee in writing of the score attained.

12. Other Conditions.

a. 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.

b. 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, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

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.

d. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five 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.

E. Removal of Conditions. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting after Licensee has complied with all the conditions of his Participation Agreement with HPSP, provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. At the time of Licensee's petition, he shall provide evidence of five years of documented sobriety. Licensee shall have the burden of proof proving that Licensee has complied with his Participation Agreement with HPSP and the conditions of this stipulation and order and that the Licensee is qualified to practice without conditions. Licensee's compliance with these conditions shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

F. Fine for Violation of Order. 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 Minn. Stat. § 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.

G. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. 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 alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. 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.

H. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or

(2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Conference. Licensee attended a conference with the Committee on December 18, 2003. The following Committee members attended the conference: Linda Boyum, R.D.A. and John Bengtson, D.D.S. Assistant Attorney General Rosellen Condon represented the Committee at the conference. Licensee is represented by Timothy D. Webb in this matter, who has advised Licensee regarding this stipulation and order.

J. Waiver of Licensee's Rights. For the purpose of this stipulation, 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 adequateness 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. 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 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 Minn. Stat.

ch. 14 and section 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 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. 4. 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. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank.

N. Entire Agreement. Licensee 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. 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's legal counsel. The order

shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE



STEVEN A. SELCHOW, D.D.S.

Dated: 6-15-04, 2004

COMPLAINT COMMITTEE

By:



MARSHALL SHRAGG
Executive Director

Dated: 6/21, 2004

ORDER

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

The terms of the stipulation are approved and adopted; the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board placing CONDITIONS on it effective this 18th day of June, 2004.

MINNESOTA BOARD
OF DENTISTRY

By: Linda Boyum RDA
LINDA BOYUM, R.D.A.
PRESIDENT

AG: #968030-v1