

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Charles W. Sims, D.D.S.
License No. D9005

**ORDER OF
INDEFINITE SUSPENSION**

The above-entitled matter came on for hearing before the Minnesota Board of Dentistry (“Board”) on January 30, 2009, upon the Complaint Committee (“Committee”) of the Minnesota Board of Dentistry’s Notice of Removal of Stay of Suspension, Imposition of Sentence, and Hearing filed January 7, 2009. Charles W. Sims (“Respondent”) appeared and presented oral argument on his behalf. The Committee was represented by Daphne Lundstrom, Assistant Attorney General. Based upon the affidavits submitted, the arguments presented, and upon all of the files and the record herein, the Board makes the following findings of fact and conclusions of law:

1. 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.

2. On March 28, 2008, the Board approved a Stipulation and Order for Stayed Suspension and Limited and Conditional License to Respondent (“2008 Order”). The 2008 Order was a settlement agreement signed by Respondent and the Board’s Executive Director and approved by the Board. The 2008 Order was based on findings that Respondent engaged in unprofessional conduct and had the inability to practice dentistry with reasonable skill and safety. The 2008 Order was based on Respondent’s history of chemical dependency and April

2007 stroke and heart attack, which caused physical impairments and neurocognitive impairments that were expected to impair his ability to practice dentistry.

3. Respondent expressly acknowledged and agreed in paragraph H of the 2008 Order that if he violated the 2008 Order, it would be considered a violation of Minn. Stat. § 150A.08, subd. 1(13) and constitute grounds for additional disciplinary action. Respondent expressly acknowledged and agreed in paragraph H of the 2008 Order that, in the event the Board received evidence that Respondent violated the terms of the 2008 Order, he would be notified of such allegations in writing and, following opportunity to contest the allegations at a hearing before the Board, the Board may impose additional disciplinary action against Licensee's license.

4. In the 2008 Order, Respondent agreed to, and the Board ordered that Respondent, not personally perform the clinical practice of dentistry in the State of Minnesota including, but not limited to, hands-on treatment, diagnosing radiographs, and writing prescriptions and remains in full force and effect until and unless amended or rescinded by the Board.

5. In its January 7, 2009, submission, the Committee presented affidavit testimony indicating Respondent failed to comply with the terms of the 2008 Order. Respondent did not dispute the evidence presented in the affidavit.

6. The Board finds that Respondent violated the 2008 Order when, from March 31 to April 14, 2008, Respondent submitted 46 claims for payment of dental services he performed during the period of his limited and conditional license, including limited examinations, comprehensive oral evaluations, composites, emergency examinations, recementing a crown, denture repair, extraction, and maxillary partial denture. Of the 46 claims, Respondent submitted 23 claims for treatment performed on Sunday, Monday, or Tuesday.

Based on the above findings of fact and conclusions of law, the Board makes the following order:

ORDER

7. IT IS ORDERED that the 2008 Order approved by the Board on March 28, 2008, is hereby **RESCINDED** and shall have no future force or effect.

8. IT IS FURTHER ORDERED that the license of Respondent to practice dentistry in the State of Minnesota is **SUSPENDED** immediately.

9. IT IS FURTHER ORDERED that Respondent's violation of this order shall provide grounds for further disciplinary action pursuant to Minn. Stat. § 150A.08, subd. 1(13) (2008);

10. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from his license at such time as Respondent complies with the following:

a. Respondent shall undergo a functional capacity re-evaluation within 60 days of petitioning the board for reinstatement. Within 14 days after completion of this re-evaluation, Respondent shall cause the evaluator to provide to the Committee a report of the re-evaluation and any subsequent recommendations. Respondent must bear the cost of any evaluation and preparation of any report. Furthermore, Licensee must sign all necessary releases allowing the Board access to all evaluations, monitoring, or other records from any health professional or evaluator. Licensee shall allow the Board or its designee to communicate with all of Licensee's health professionals or evaluators; and

b. Respondent shall undergo a multidisciplinary assessment at a facility approved in advance by the Committee within 60 days of petitioning the Board for reinstatement. The

nature, scope, and duration of the evaluation shall be determined by the evaluator and may include chemical dependency, mental health, and a physical evaluation. Prior to the evaluation, Respondent shall provide the evaluator with a copy of this Order and copies of medical releases and medical records for any prior medical treatment for consideration in the complete evaluation. Within 14 days after completion of the evaluation, Respondent shall cause the evaluator to provide to the Committee a report of the evaluation and any subsequent treatment recommendations. Respondent shall comply with all recommendations the evaluator may make. Respondent shall bear the costs of the evaluation, the preparation of the report, and compliance with any recommendations. Respondent shall sign all necessary releases allowing the Board or its designee access to all medical and/or mental health evaluations, monitoring or other records from any treating professional or evaluator. Respondent shall allow the Board or its designee to communicate with all of Respondent's treating professionals or evaluators.

Respondent's license may be reinstated, 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 he is capable of practicing dentistry with reasonable skill and safety. Prior to petitioning, Respondent must meet with the Committee to review the reports.

11. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting at which Respondent has presented evidence, take any of the following actions:

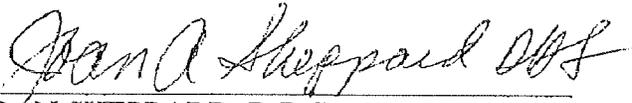
- a. Reinstatement Respondent's license to practice dentistry;
- b. Reinstatement Respondent's license to practice dentistry, but with limitations and conditions.

c. Continue the suspension of Respondent's license if Respondent fails to meet the burden of proof.

12. IT IS FURTHER ORDERED that, during the period of suspension, Respondent is deemed to be in "retired status" and therefore his continuing education requirements, for the period of suspension, are waived. Upon reinstatement of his license to practice dentistry, Respondent will be required to comply with future continuing education requirements.

Dated: February 6, 2009

MINNESOTA BOARD
OF DENTISTRY



JOAN SHEPPARD, D.D.S.
Secretary for the Board
Presiding Board Member

AG: #2383239-v1