

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

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

**FINDINGS OF FACT,
CONCLUSIONS, AND ORDER
OF DENIAL OF PETITION**

The Minnesota Board of Dentistry (“Board”) convened on December 2, 2011, to review and consider the evidence submitted by Charles W. Sims, D.D.S. (“Licensee”), in support of his petition for removal of the indefinite suspension placed upon his license to practice dentistry in the State of Minnesota. Licensee appeared without legal counsel and presented oral argument. Geoffrey Karls, Assistant Attorney General, appeared and presented oral argument on behalf of the Complaint Committee. Board members Neal U. Benjamin, D.D.S., Candace Mensing, D.D.S., and Nancy A. Kearns, D.H., did not participate in deliberations and did not vote in the matter. Karen Andrews, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. On February 6, 2009, the Board issued an order indefinitely suspending Licensee’s license to practice dentistry (“2009 Order”). Paragraph 10 of the 2009 Order provides that Licensee may petition the Board to have the suspended status removed from his license upon providing the Board with the following: (a) a functional capacity re-evaluation performed within 60 days of the petition; and (b) a multidisciplinary assessment performed within 60 days of the petition. Paragraph 10 of the 2009 Order further provides that Licensee’s

license would “be reinstated, if at all, as the evidence dictates and based upon the need to protect the public.”

2. The burden of proof is upon Licensee to demonstrate by a preponderance of the evidence that he is capable of practicing dentistry with reasonable skill and safety.

3. Licensee provided the Board with a functional capacity evaluation dated November 23-24, 2009, and a report of work ability dated December 8, 2009. He did not provide the Board with a more recent functional capacity re-evaluation pursuant to paragraph 10 of the 2009 Order. The 2009 evaluations provided by Licensee indentified several concerns regarding Licensee’s functional ability to practice dentistry and recommended a follow-up evaluation in one year.

4. Licensee provided the Board with a multidisciplinary assessment dated April 4-6, 2011. The report identifies multiple concerns regarding Licensee’s ability to return to the practice of dentistry, including the absence of evidence that Licensee is “working a healthy program of recovery from chemical dependence” and “concern that [Licensee] believes that he is functioning at a higher level than he has previously demonstrated . . . [and] may attempt procedures that he may not be qualified to undertake.” The evaluation also noted that “it is clear from the neuropsychological testing that he will not be able to perform any dentistry that requires ‘intricacy’ using his right hand.”

5. Licensee provided the Board with a letter from Freeman Waynewood, D.D.S., in support of his petition. Dr. Waynewood also provided a statement to the Board at the hearing.

CONCLUSIONS

Based on the foregoing findings of fact, the Board concludes that:

1. Licensee has not met his burden of proof to demonstrate that he is capable of practicing dentistry with reasonable skill and safety.

2. The Board has the authority to deny Licensee's petition and continue the suspension of his license based on Licensee's failure to meet the burden of proof, pursuant to paragraph 11 of the 2009 Order.

ORDER

Therefore, based on the foregoing findings of fact and conclusions, the Board issues the following ORDER:

1. IT IS HEREBY ORDERED that Licensee's petition for removal of the indefinite suspension of his license to practice dentistry in the State of Minnesota is **DENIED**;

2. IT IS FURTHER ORDERED that the Order of Indefinite Suspension issued to Licensee on February 6, 2009, remains in full force and effect.

Dated: Dec. 2, 2011

MINNESOTA BOARD
OF DENTISTRY



DAVID A. LINDE, D.D.S.
President