

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF DENTISTRY

In the Matter of
Jeffrey J. Soule, DDS
License No. 8071

STIPULATION AND ORDER

WHEREAS, the Minnesota Board of Dentistry (hereinafter "Board") is authorized pursuant to Minn. Stat. ch. 150A to license, regulate, and discipline persons who apply for and are licensed as dentists and is further authorized pursuant to Minn. Stat. § 214.10 to investigate complaints against dentists and to initiate appropriate disciplinary action;

WHEREAS, the Board received a complaint indicating that Jeffrey J. Soule, DDS (hereinafter "Licensee"), engaged in fraud and/or deception when he billed for services for a different service than he actually performed, changed the date of service in order to receive payment, performed unnecessary treatment, allowed registered dental assistants and unregistered dental assistants to practice dentistry without a license and to perform services beyond the scope of their practices, and engaged in unprofessional conduct and habitually over-indulged in the use of intoxicating liquors;

WHEREAS, the Board's Complaint Committee (hereinafter "Committee"), established pursuant to Minn. Stat. § 214.10, subd. 2 (1988), reviewed the complaint and referred it for investigation;

WHEREAS, based upon the findings of the investigation, the Committee held a disciplinary conference with Licensee on May 29, 1990, and as a result of the conference and of the mutual covenants and agreements herein, the parties have agreed that no Notice Of And Order For Hearing will be served upon Licensee pursuant to Minn. Stat. ch. 14 and section 150A.08 but that instead the entire matter is being set forth and resolved through the administration of the action to be taken by the Board against Licensee's license to practice dentistry in Minnesota as specified in this stipulation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Board as follows:

1. During all times herein, Licensee has been and is now subject to the jurisdiction of the Board from which he holds a license to practice dentistry in the State of Minnesota;

2. A Notice Of Conference with the Committee was duly served upon Licensee on May 17, 1990. Licensee hereby acknowledges receipt of the Notice of Conference;

3. Licensee and his attorney, David L. Valentini, attended the conference with the Committee on May 29, 1990. Licensee has been represented by counsel throughout these proceedings. Virginia Soule also attended the conference;

4. For the purpose of this stipulation, Licensee waives any further hearings on this matter before the Board to which Licensee may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein. Licensee also waives the right to any judicial review or appeal under the Administrative Procedures Act, by writ of certiorari under Minn. Stat. § 480A.06 or otherwise from the order issued by the Board pursuant to this stipulation;

5. Except as otherwise specified herein, this Stipulation And Order, investigative reports and related documents shall constitute the entire record of the proceedings herein upon which this order is based and shall be filed with the Board. Any reports or other material related to this action and received after the date this Stipulation And Order is executed shall become a part of the record and may be considered by the Board in future aspects of this proceeding. These items shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not be considered a part of this Stipulation And Order and shall not, to the extent they are not already public documents, become public merely because they are referenced herein;

6. In the event the Board in its discretion does not approve this settlement 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; provided, however, that if this should occur and thereafter an administrative contested case is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees he will not raise any objection on any administrative level or in any court action to the Board's proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and record. In exchange for this agreement by Licensee, the Board agrees, in the event it does not approve this stipulation, to grant Licensee all legal rights and remedies available to him under the Minnesota and United States constitutions, Minnesota statutes, and rules of the Board, except as expressly provided in this paragraph;

7. For purposes of this stipulation, both parties agree that the following shall constitute the factual basis for the order:

I. Licensee billed for services not rendered, billed for a different service than that actually performed, changed the date of service in order to receive payment and performed unnecessary treatment. Licensee admits the following occurred:

a. The treatment record for patient LA shows that on October 21, 1986, she had crowns prepared for teeth #30 and #31 along with a build-up on tooth #31. Although the entry on this date also shows that a crown was prepared for tooth #29, an entry dated November 3, 1986, shows that an inlay was placed on this tooth. Licensee billed the insurance company for crowns on teeth #29, #30, and #31, build-ups on teeth #31 and #30 as well as root canal therapy for teeth #30 and #31. A radiograph dated March 31, 1987, shows crowns on teeth #30 and #31 and an inlay on tooth #29. The patient's record does not reflect any root canal therapy and there are no radiographs

which show such treatment. Licensee admitted that he billed for some work which was not actually performed;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

b. On January 26, 1987, patient LA received inlays on teeth #2, #4, #13, and #15. Licensee submitted three claims to the insurance company for work performed on January 26, 1987. Licensee billed for porcelain-fused-to-metal crowns (hereinafter "PFM") on teeth #4, #13, and #15 rather than the inlays that he actually constructed;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

c. Although the treatment record for patient LA indicates that the proposed treatment was to place veneers on teeth #6 through #11, the pretreatment authorization sent to the insurance company was for three-surface composite restorations for teeth #6 through #9. Licensee admits he placed veneers on teeth #6 through #11 rather than the three-surface composites for which he billed. Licensee had no anterior x-rays with respect to these procedures;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), and (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

d. On July 29, 1987, patient RD received laminate veneers on teeth #8 and #9. Licensee billed the insurance company for PFM crowns on these teeth. Also, the date of service given to the insurance company was July 10, 1987, rather than July 29, 1987, when the service was actually completed. Licensee stated patient RD had broken down

anterior teeth. He was an apprehensive patient who wanted cosmetic results without going through the procedure;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

e. The treatment record for patient RD shows that he received "Coltene" inlays on teeth #20, and #21 on July 10, 1987. Licensee stated that "Coltene" inlays is a direct inlay process of a high bond composite. Licensee billed the insurance company for porcelain inlays on these teeth;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pt. 3100.6200A, D, H, I.

f. On October 26, 1987, patient WD received a porcelain inlay on tooth #14. On May 20, 1987, patient WD received a laminate (veneer) on tooth #8. Licensee submitted insurance claims, however, for PFM crowns on teeth #8 and #14. The treatment record of patient WD indicates that the laminate on tooth #8 was \$300; however, Licensee billed the insurance company \$400 for this procedure. A notation on the insurance claim for the "crown" on tooth #8 indicates that the incisal edge was fractured, although there is no indication of that on the treatment record of patient WD;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

g. On October 20, 1986, patient WD received a laminate on tooth #9. However, Licensee billed the insurance company for a three-surface composite restoration on tooth #9;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

h. On December 19, 1984, patient PL received a veneer on tooth #10, but Licensee billed the insurance company for a three-surface composite on tooth #10; See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pt. 3100.6200A, B, D, E, H, and I.

i. On January 7, 1987, Licensee resubmitted the claim for a crown on tooth #3 for patient PL. A notation on the claim stated that "We [Licensee] billed this crown in error dated November 17, 1986 was to be authorized only actual service date 1-5-87." However, there is no office visit documented in the treatment record for January 5, 1987. Licensee explained that the crowns were placed on December 31, 1986, and that insurance benefits were reinstated on January 1, 1987, therefore he changed the dates of service; See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

j. On April 23, 1987, Licensee submitted a claim for PFM crowns on teeth #4 and #5 for patient RL which were allegedly placed May 6, 1987. However, the treatment record for patient RL dated May 6, 1987, states "placed laminates #4, 5"; See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

k. On April 23, 1987, Licensee also submitted a claim for PFM crowns on teeth #11 and #12 for patient RL allegedly performed on May 6, 1987. However, the treatment record for patient RL states "11 & 12 c YO silux," and indicates laminates were placed on teeth #11 and #12. The insurance

company paid \$452 which was the maximum amount left payable for that year. Thus, the company was billed and paid for services not rendered;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

l. On August 29, 1985, Licensee submitted a claim to Delta Dental for two-surface amalgam restorations on teeth #29 and #31 for patient DN. However, treatment records for patient DN documented composite restorations for teeth #29 and #31. In addition, radiographs dated August 31 and September 4, 1987, show the restorations as composites;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

m. This allegation has been deleted;

n. On July 30, 1984, Licensee submitted a claim to Delta Dental for \$250 for one surface amalgam restorations placed on teeth #31, #18, and #19 and two-surface amalgam restorations placed on teeth #2, #3, #30, #14, and #15 for patient JW who was 28 years old. The claim stated the work was performed on July 25 and 26, 1984. Progress notes dated January 25 and 26, 1984, however, show that patient JW had composite restorations done on teeth #30, #31, #3, #2, #14, #15, #18 and #19. Licensee noted that there was "decay in all grooves and recurrent decay around old amalgams." A radiograph dated July 16, 1984, for patient JW shows that the only existing restorations that patient JW had were relatively small amalgams on teeth #3, #14, #19 and #30. After examining the radiographs submitted by Licensee, Delta

determined that they were unable to detect any carious lesions in any of the teeth in question and therefore denied the claim. A radiograph is not a sufficient tool for diagnosing occlusal decay. In addition, the panorex radiograph for this patient was "burned out." Licensee also stated he was not basing his comments on the chart but on his recollection;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

o. Delta Dental paid for amalgam restorations on teeth #3 (MOL) and #4 (DO), along with a build-up on tooth #14 for patient JB which was done on March 15, 1984. In addition, Licensee submitted a claim for a three-surface amalgam restoration on tooth #28 which was done on September 19, 1983. Radiographs dated March 19, 1985, however, show that the restorations on teeth #3, #4, and #28 are composites;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

p. On September 25, 1985, Licensee submitted a pretreatment estimate for PFM crowns on teeth #30 and #31 for patient JB. Delta denied payment stating that no need was seen or reported. By letter dated November 11, 1985, Licensee requested Delta to reconsider. On December 26, 1985, Delta explained their reasons for denying payment inasmuch as Licensee previously received payment fraudulently and no new need for dental treatment was seen. In addition, their letter stated: "If the unaccepted material you used has failed to maintain the contour or is unhygienic, it would seem to

be incumbent upon you to replace it without cost to the patient, using the accepted material you reported to us in 1983.";

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, D, H, I.

q. According to the treatment record of patient JB, the following discrepancies are evident in regard to Licensee's treatment of patient JB:

<u>Treatment Performed</u>	<u>Payment Received</u>
June 22, 1983, composite restorations teeth #29, #30, #31	Amalgam restorations
August 1, 1983, composite restoration tooth #14	Amalgam restoration
September 19, 1983, composite restoration tooth #28	Amalgam restoration
March 15, 1984, composite restoration teeth #3, #4	Amalgam restorations
July 11, 1984, composite restoration tooth #13	Amalgam restoration
May 6, 1985, composite restorations teeth #20 and #21	Amalgam restorations

In 1984 and 1985 Delta Dental did not reimburse for composite restorations. Although Licensee placed composite restorations he submitted claims to the insurance company for amalgam restorations which were covered. At that time, Licensee fraudulently billed Delta Dental for and received payment for amalgam restorations although he placed composite restorations. Licensee denied the allegation of fraudulent

billing, in that the billing was done prior to the time when the company had no code;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pt. 3100.6200A, D, H, I.

r. In May 1987 Licensee placed a porcelain inlay on tooth #29 for patient EM. However, it is recorded in the patient's treatment record and Licensee billed the insurance company for a PFM crown for this patient. Radiographs for patient EM in 1988 show an inlay on tooth #29. Radiographs for this patient indicated decay on the distal of tooth #13 which was not recorded in the chart. Licensee stated he does not diagram decay on teeth;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

s. On March 17, 1983, patient JS received "light plastic crown(s) - - Silux" on teeth #7 through #10. Licensee billed the insurance company and received payment for prefabricated crowns. On August 13, 1987, Licensee submitted a pretreatment statement to Prudential Insurance Company for PFM crowns on teeth #6 through #11 for patient JS, even though he intended to place laminate veneers on those teeth. A subsequently treating dentist saw no need to replace the existing veneers and his insurance claim was denied. During the conference it was noted that the chart of patient JS documented that she had a heart murmur; however, there is no documentation that Licensee consulted patient JS's physician;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, E, H, I.

t. On October 25, 1983, Licensee submitted a preauthorization for three-surface composite restorations on teeth #5 through #12 for patient SD. On February 27, 1984, Licensee placed veneers on teeth #5 through #12 of patient SD. However, Licensee received payment for three-surface composites on those teeth. The Committee was unable to see the need for the composite restorations based on the radiographs examined at the conference;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, E, H, I.

u. On May 6, 1987, patient SW received laminates on teeth #8 and #9. Licensee billed, however, for three-surface composite restorations on teeth #8 and #9. A notation in the treatment record dated April 24, 1987 states: "(Pt. notes bonding is failing--tooth was bonded to fill diastema)." In addition, National Life Insurance Company paid Licensee for work allegedly performed on April 27, 1987; however, the laminates were not placed until May 6, 1987;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

v. Patient records for patient MB indicated that on October 15, 1985, there was a "LSCL" (long-standing carious lesion) on tooth #2 and the pulp was exposed. Licensee performed the final root canal treatment, filled three canals with gutta percha and did a maximum build-up on the tooth. There is no entry in the patient's record, however, to show a crown was placed on tooth #2. On March 31, 1986, Licensee submitted a pretreatment estimate for a PFM crown on tooth #2. In April

1986 Delta Dental paid Licensee for a crown and build-up on tooth #2. Radiographs dated April 13, 1988, do not show a crown or a build-up on this tooth. Licensee stated this claim was submitted in error;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

w. Treatment plans dated June 4, 1987, April 13, 1988, and August 11, 1988, for patient MB show that a PFM crown was recommended for tooth #2. On April 14, 1988, Licensee submitted another pretreatment estimate for a PFM crown on tooth #2 as well as a PFM crown and pin build-up on tooth #31. By letter dated May 13, 1988, Delta Dental informed Licensee of their refusal to pay for all of these services until Licensee refunded \$348 which was previously paid in error. Licensee contends that the treatment for tooth #2 has been completed.

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

x. By letter dated April 16, 1987, Delta Dental informed Licensee that after reviewing the treatment report and all the submitted information they concluded the following for patient JD:

There are only two remaining molars on the lower right but on various claims you have reported services for 3 molars #'s 30, 31 and 32. The two molars which appear to be in tooth #'s 30 and 31 positions show RCT's that are not condensed to the lateral walls nor do they appear filled to the apices on all canals. . .The appearance is that of a paste type procedure which is not acceptable since a seal is not created. The decision, as directed by the dentist members of the Professional Review and Relations Committee of the Board of Directors, is that situations such as these are not to be allowed benefits, nor is the patient to be responsible for such treatment. Hence, a refund of

the RCT's done 4/24/86 submitted for tooth #'s 31 and 32 must be requested.

Licensee's May 30, 1989 x-rays show there was some work done but raise questions as to the quality of the work with regard to the crown on #31 and the root canal on #31 and #32. Licensee admitted the work did not look good on the x-rays but stated the patient was symptom-free. Licensee stated he did not use a paste fill and never had and that gutta percha was used as shown by the chart;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

y. On August 19, 1986, Licensee examined patient CAK and told her that "a couple" of her old fillings were loose and she should have them replaced. Licensee then removed all of patient CAK's fillings on one side. Licensee failed to inform patient CAK that he was going to remove all of her fillings;

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pt. 3100.6200B.

z. Licensee submitted a claim to Delta Dental for composite restorations on teeth #12, #13, #14, #15, #18, #19, and #20. A notation on the claim stated that "all existing restorations showed marginal leakage and marginal decay." Licensee also submitted a claim for composite restorations on teeth #30 and #31;

aa. By letter dated February 1, 1988, Delta Dental informed Licensee of their refusal to pay for the restorations because "neither the pre-op bitewing x-ray nor the

post-op photo demonstrates a condition for which benefits could be allowed for the restoration of any of the tooth #'s 12-15, 18-20, 30 or 31." Furthermore Delta Dental's letter stated:

It has frequently been observed that your office is removing most or all of the existing amalgams and replacing them with composite on many patients. Such a service in the absence of a demonstrated restorative need is not a benefit of any of the Delta contracts and hence Delta has no alternative but to deny those services unless caries or fracture can be demonstrated. Since such treatment does not seem to meet the accepted standards of your peers, as reported to Delta, no fee can be benefited nor listed for patient payment.

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

bb. On January 13, 1988, Licensee submitted a pretreatment estimate to Delta Dental for composite restorations for teeth #12-15 and 18-20 for patient CAK. By letter dated February 1, 1988, Delta Dental reiterated their position as set out above.

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (13); Minn. Rules pts. 3100.6200A, B, D, H, I.

II. Licensee allowed a registered dental assistant to practice dentistry without a license and perform services beyond the scope of her practice when he allowed her to perform the following services:

- a. Polish restorations using a disk;
- b. Replace temporary restorations;
- c. Apply pit and fissure sealants;
- d. Use a slow-speed handpiece to smooth a removable appliance. If a patient experienced a problem such as a sore spot, the assistant would mark the appliance with ink where it was rubbing and smooth it down;

e. On at least one occasion, change ligature wires when the dentist was not present in the office;

f. Replace a ligature wire.

See: Minn. Stat. §§ 150A.08, subd. 1(1), (6), (11), (13); 150A.10, subd. 1, 150A.11, subd. 1; Minn. Rules pts. 3100.8100, 3100.8300.

III. Licensee allowed an unregistered assistant to practice dentistry without a license and perform services beyond the scope of her practice when he instructed her to monitor patients induced into nitrous oxide-oxygen relative analgesia;

See: Minn. Stat. §§ 150A.08, subd. 1(1), (6), (11), (13), 150A.10, subd. 1, 150A.11, subd. 1; and Minn. Rules pts. 3100.8100; 3100.8300.

IV. Licensee stated he was not aware of the duties a registered dental assistant or unregistered dental assistant were allowed to perform;

See: Minn. Stat. §§ 150A.08, subd. 1(1), (6), (11), (13), 150A.10, subd. 1, 150A.11, subd. 1; and Minn. Rules pts. 3100.8100; 3100.8300.

V. Licensee engaged in unprofessional conduct toward his staff as follows. On at least one occasion for each person, Licensee placed his hand on two staff members' breasts. On another occasion, Licensee placed his hand on an employee's thigh and attempted to move his hand up her leg. Licensee stated that this conduct occurred at an office Christmas party, and Licensee acknowledged that he was drunk at this time.

See: Minn. Stat. § 150A.08, subd. 1(4), (6); Minn. Rules pts. 3100.6200A.

VI. Following an intervention, Licensee voluntarily entered and completed outpatient chemical dependency treatment from June 22, 1987, to July 28, 1987. Licensee attended aftercare and regularly attends Alcoholics Anonymous meetings. Licensee represents that he has maintained his sobriety since treatment began to the present date;

VII. Based upon the patient records submitted to the Complaint Committee and the discussion at the conference Licensee admits the following:

a. Licensee committed fraud when he billed insurance companies for a different service than he actually rendered. Examples from patients set out above are as follows:

<u>Patient</u>	<u>Billed Insurance</u>	<u>Treatment Performed</u>
LA	crowns RCT PFM crown three-surface composite restorations	inlays None performed inlays veneers
RD	PFM crown	veneers
WD	crown crown three-surface composite restoration	porcelain inlay veneer laminate
PL	three-surface composite	veneer
RL	PFM crowns	laminates
DN	two-surface amalgam restoration	composite restoration
JW	one-surface amalgam restoration two-surface amalgam restoration	composite composite
JB	three-surface amalgam restoration	composite
EM	PFM crown	inlay
SD	three-surface composite restoration	veneers
SW	three-surface composite restoration	laminates

See: Minn. Stat. § 150A.08, subd. 1(1), (6), (11), (13); Minn. Rules pt. 3100.6200A, D, E, H, I.

b. Licensee routinely billed insurance companies on the preparation date not on the date of insertion

or completion even though he certified on the insurance claim the treatment had been completed;

See Minn. Stat. § 150A.08, subd. 1(1), (6), (13), Minn. Rules pts. 3100.6200A, H, I.

c. Based upon patient records provided to the Complaint Committee, Licensee's oral diagnoses skills were inadequate as evidenced by his clinical and radiographic examinations and his documentation of the patients' dental history. Licensee admitted that the radiographs he used were of poor diagnostic quality. At the conference Licensee stated he would like to improve his radiograph examination skills;

See: Minn. Stat. § 150A.08, subd. 1(6), (13); Minn. Rules pt. 3100.6200B.

d. At the conference Licensee produced pictures of restorations taken with a camera he recently acquired. Licensee stated the pictures showed failing margins. The Committee indicated that while the pictures might be useful for patient education, they were not diagnostic;

See: Minn. Stat. § 150A.08, subd. 1(6), (13); Minn. Rules pt. 3100.6200B.

e. Licensee failed to maintain adequate patient records for patients. Examples are as follows:

1) Licensee failed to record the anesthetic he administered. Licensee stated he recorded only the nitrous-oxide oxygen analgesia because he charged his patients for that anesthetic;

2) Based upon patient records Licensee presented to the Complaint Committee, he was unable

to chart decay and restorations. At the conference, Licensee stated that he needed to learn how to chart decay and restorations.

See: Minn. Stat. § 150A.08, subd. 1(6), (13); Minn. Rules pt. 3100.6200B.

f. The Complaint Committee noted that Licensee's patient charts do not contain timely referrals to a periodontist. When questioned about referrals, Licensee admitted he was not sure about periodontal classifications and that his dental hygienist does not do a lot of root planing. Licensee kept advanced periodontal cases in his practice without referring them in a timely manner. As a result, patient periodontal conditions deteriorated.

See: Minn. Stat. § 150A.08, subd. 1(6), (13); Minn. Rules pt. 3100.6200B.

8. Licensee admits and acknowledges that for the purpose of this stipulation, the facts and conduct specified in paragraph 7 hereinabove constitute violations of Minn. Stat. §§ 150A.08, subd. 1(1), (4), (6), (11), and (13), 150A.10, subd. 1 and 2, 150A.11, subd. 1 (1988) and Minn. Rules pts. 3100.6200A, B, D, E, H, and I, 3100.8100 and 3100.8300 (1989) and are grounds for disciplinary action by the Board. Licensee further acknowledges and admits that the Board has a reasonable basis in law and fact to justify the action specified in the order and waives any argument that no such reasonable basis exists. Licensee's factual admissions are only for the purposes of this proceeding and do not constitute factual admissions for the purposes of any other proceeding initiated by a party other than the Board, and Licensee makes no admission of a violation of any other statute or rule which is not enforced by the Board.

9. Upon this Stipulation And Order and all of the files, records, and proceedings herein, and without further notice or hearing herein, Licensee does hereby

consent that the Board may make and enter an order affecting Licensee's license to practice dentistry in the State of Minnesota as follows:

IT IS HEREBY ORDERED that Licensee's license to practice dentistry in the State of Minnesota is hereby SUSPENDED. Licensee's suspension is for an indefinite period; provided, however, that the suspension of Licensee's license shall be stayed following 30 days after the date of this order and shall continue to be stayed upon Licensee's compliance with the following provisions:

a. Licensee shall maintain a state of sobriety. "State of sobriety," "sobriety," or similar terms used in this order shall mean to completely and totally abstain from ingesting, injecting or otherwise taking any mood-altering chemical or drug, including alcohol. This prohibition does not apply to legend drugs, including controlled substances, which are prescribed for Licensee by a physician licensed by the State of Minnesota as part of a course of treatment. If controlled substances are prescribed for Licensee, he shall inform the Board and have the physician submit a report to the Board which shall include the diagnosis, treatment and need for controlled substance;

b. Licensee shall attend Alcoholics Anonymous meetings (hereinafter "AA") or Dentists Concerned for Dentists meeting on a regular weekly basis;

c. The Board may direct Licensee to submit to laboratory screening to determine the presence or absence of alcohol or drugs. The Board may order, without advance notice, blood and urine tests of Licensee on a random basis. The blood and urine specimens shall be:

- 1) Observed in their drawing;
- 2) Provided at a place designated by
the Board;
- 3) Handled through legal chain of

custody methods;

4) Analyzed by a forensic laboratory

approved by the Board;

5) Screened and tested for opiates, cocaine, barbiturates, amphetamines, benzodiazepines, marijuana, and other drugs of abuse, including alcohol.

The Board shall contact Licensee by telephone or letter or personally and direct him to submit to the tests and will tell him where he is to go for the tests. If Licensee changes his residence or office address while this stipulation is in effect, he shall inform the Board of his new address and telephone number within five days of this move. Licensee shall submit to the tests within one hour after he is contacted by the Board. The tests shall be conducted on behalf of the Board. Licensee shall be responsible for paying for the tests; however, the results of the tests shall be sent directly to the Board;

d. The Board may direct licensee to submit to the laboratory screening tests specified in paragraph 9.f herein a maximum of three times each calendar month; provided, however, that if Licensee has already submitted to the tests and thereafter during the same month the Board receives information which in the sole judgment of the Committee is reliable and which raises serious questions about whether Licensee is remaining chemically free, the Committee may again direct Licensee to submit to the tests;

e. In accordance with paragraph 9.c and 9.d above, licensee is to submit the names of three licensed physicians from which the Committee will select one to fulfill the duties and responsibilities as contained in Addendum A to this order. In the alternative, Licensee may report, when directed to do so, directly to Hennepin County Medical Center for the purpose of complying with paragraph 9.c of this order.

f. Licensee shall obtain and complete the following courses, within 24 months of the date of this order, at an institution accredited by the Commission on the Accreditation of the American Dental Association:

1) A periodontal course which shall cover diagnosis and treatment of periodontal conditions, taught by a preiodontist approved by the Complaint Committee;

2) A course in endodontics taught by an endodontist approved by the Complaint Committee;

3) A course which covers acceptable diagnostic procedures and materials including the technique of taking radiographs taught by an instructor approved by the Complaint Committee;

4) A course in recordkeeping taught by an instructor approved by the Complaint Committee;

5) A radiographic interpretation course taught by an instructor approved by the Complaint Committee;

6) A course in practical pharmacology taught by an instructor approved by the Committee;

7) A course with specific emphasis on working with medically compromised patients taught by an instructor approved by the Committee;

g. Licensee shall obtain prior approval from the Committee for the above-referenced courses. It shall be Licensee's responsibility to arrange to take and to pay for these courses. Licensee shall provide a copy of this Stipulation And Order, and related patient records including radiographs, to all instructors from whom he takes an above-referenced courses. Licensee shall provide evidence of successful completion of the courses to the Board. Successful completion shall be determined by the

Board based upon a written report by the instructor. Completion of the courses shall not qualify or count toward compliance with Licensee's obligation specified in Minn. Rules pt. 3100.4100, subps. 1 and 2 to attend or participate in 75 hours of continuing dental education within his current five-year cycle. Failure to complete the courses shall result in further disciplinary action by the Board;

h. Licensee shall not practice any dentistry during the 30-day suspension. Following the 30-day suspension Licensee shall not practice periodontics and endodontics until he successfully completes, as determined by the Complaint Committee, the courses on periodontics and endodontics. Licensee may perform endodontic services on an emergency basis for the sole purpose of relieving pain. Licensee shall then refer emergency patients for further treatment;

i. Following completion of the periodontal, endodontic and recordkeeping courses Licensee shall meet once each month for 24 months with Willard Powell, DDS, who is hereby designated as a supervising dentist. The purpose of the monthly meetings is to review no less than 10 of Licensee's patient records which have been selected at random. Dr. Powell shall submit quarterly reports to the Board which summarize what was covered at each meeting, the treatment planning, including services performed, dates of service and dates of service on the insurance forms, and Licensee's progress with complying with any recommendations. The first report shall be due three months after the date of this order and every three months thereafter;

j. It is solely Licensee's responsibility to make arrangements with Dr. Powell to act as supervising dentist and pay for his services. The agreement of the Board, Licensee and Dr. Powell is attached hereto as Addendum B and made a part hereof. The Board will furnish a copy

of this Stipulation And Order, and related patient records including radiographs, to Dr. Powell for his information;

k. Licensee shall read the American Dental Association's statement concerning amalgams. Within 90 days of the date of this order, Licensee shall submit a five-page typewritten paper to the Board which discusses his understanding of the Dental Association's position and include examples of when he will offer amalgams as a treatment option to patients;

l. Within 10 days of the date of this order, Licensee shall review and discuss with each unregistered assistant and registered dental assistant employed by him, the functions they are authorized to perform according to Minn. Rules pts. 3100.8400 and 3100.8500 (1989). Licensee shall provide a written report to the Board informing the Board that he has completed this review and the report shall be signed and dated by each said employee;

m. Licensee shall have each patient personally sign each insurance claim form each time he submits a claim for payment. Licensee also will personally sign each such claim. Licensee shall not maintain any signature on file for routine insurance usage;

n. Licensee shall obtain a mental health evaluation performed by a licensed psychologist, licensed consulting psychologist or psychiatrist. Licensee shall submit three names to the Board for approval. The evaluation is to be completed within 30 days of approval of a name by the Board. The cost of the evaluation shall be paid for by Licensee; however, the results of the evaluation should be sent directly to the Board;

o. The Board or its authorized representative shall have the right to discuss Licensee's condition with and obtain records from any person with whom Licensee has contact as a result of his compliance with this Stipulation And Order or as a result of being examined, obtaining treatment,

counseling or other assistance or his own initiative or otherwise. Licensee shall execute and provide any health records or other waivers necessary to enable the Board to obtain the information it desires and to authorize the testimony of those contacted by the Board in any proceeding related to this matter;

p. Within 12 months of the date of this order Licensee shall submit a certified or cashiers check in the amount of \$10,000 in the name of the State of Minnesota to the Board. The amount will partially reimburse the Board for the costs incurred in the investigation and handling of this matter.

10. Within thirty days of the date of this Stipulation And Order, Licensee shall pass the jurisprudence examination administered by the Board. It shall be Licensee's responsibility to contact the Board's executive director to arrange to take the examination at Licensee's own expense;

11. In the event the information and reports required by this Stipulation And Order are not submitted to the Board on the required date, Licensee shall pay the Board the sum of \$100 per report within five days of receipt from the Board of notice and demand to pay. In the event that any of the reports from two reporting periods are not received by the Board by the required date, this matter will proceed to a disciplinary conference for determination of further discipline. The only acceptable excuse for late or missing submissions will be documentation that Licensee made reasonable and good faith efforts to see that the reports were submitted. The Committee will be the sole determiner of whether Licensee's efforts were sufficient to avoid paying the fine. If the Committee determines that additional discipline is appropriate, the Committee will submit its recommendation to the Board. The Board, after hearing from Licensee, will make the final determination about additional discipline which may include revocation or suspension. Licensee's rights are limited to appearances before the Committee and Board.

Licensee waives all appeal rights regarding imposition of the fines or additional discipline under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480.06, or otherwise. This entire process may be repeated if Licensee continues to fail to submit or have submitted on his behalf on a timely basis the reports and other submissions required of him by this order;

12. The Board or its authorized representatives shall have the right to discuss Licensee's condition with and obtain records and reports from any person with whom Licensee has contact as a result of his compliance with this Stipulation And Order or as a result of his being examined or his obtaining treatment, counseling, or other assistance on his own initiative or otherwise. Licensee shall execute and provide any health record or other waivers necessary for submission of the reports referenced in the stipulation to enable the Board to obtain the information it desires and to authorize the testimony of those contacted by the Board in any proceeding related to this matter;

13. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall promptly notify the Board in writing of the new location as well as the dates of departure and return. 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 with this Stipulation And Order;

14. This Stipulation And Order shall not in any way or manner limit or affect the authority of the Board to proceed against Licensee by initiating a contested case hearing or by any other appropriate means on the basis of any act, conduct, or omission of Licensee justifying disciplinary action which is not specifically referenced in paragraph 7 herein;

15. If Licensee fails to comply with the terms, conditions, and requirements specified in paragraph 9 above, the Board may suspend Licensee's license without a hearing or right to judicial review until he successfully completes the requirements. Before suspending Licensee's license, the Board through its Committee

shall inform Licensee of the violation and ask for an explanation. If the explanation is unsatisfactory as determined solely by the Committee or if Licensee does not immediately correct the violation, the Board shall be informed of the violation and of Licensee's explanation. The Board may then suspend Licensee's license. The Board shall be the sole judge of whether Licensee's license should be suspended. Its Order of Suspension shall not be subject to judicial review or appeal under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480A.06, or otherwise. The Board may also initiate a hearing under Minn. Stat. ch. 14 to determine what additional disciplinary action should be taken;

16. After Licensee's license has been suspended pursuant to paragraph 14 above, Licensee may petition to have the suspension lifted. The Board shall consider Licensee's petition at its next regularly scheduled meeting following submission of the petition provided that the petition is received by the Board at least 20 working days before the meeting. The Board shall grant the petition upon a clear showing by Licensee that he has corrected all violations of this Stipulation And Order which were the basis for the suspension of the license. The Board may impose additional conditions upon reinstating Licensee's license;

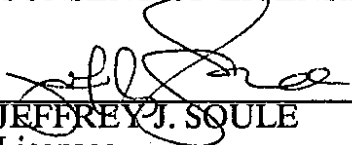
17. Any appropriate federal or state court shall, upon application of the Board, enter an order of enforcement of any or all of the terms of this Stipulation And Order;

18. Licensee hereby acknowledges that he has read, understands, and agrees to this Stipulation And Order and has freely and voluntarily signed it. In signing the Stipulation And Order, Licensee acknowledges that he is fully aware that it must be approved by the Board. The Stipulation And Order will be considered at its next meeting. The Board may either approve the Stipulation And Order as proposed, approve it subject to specified changes or reject it. If the Board approves the stipulation or makes a change acceptable to Licensee, the Board will issue the order and the stipulation will take effect. If the changes are unacceptable to Licensee or the Board rejects the Stipulation And Order, it will be of no effect, except as specified in paragraph 6 above;

19. This Stipulation And Order contains the entire agreement between the parties hereto, there being no other agreement of any kind, verbal or otherwise, which varies this stipulation;

20. Upon this Stipulation And Order and all other evidence made available to the Board, the Board may at any time after it has approved this Stipulation And Order issue it to Licensee without further notice. Copies of the Stipulation And Order when issued by the Board shall be served either personally or by first class mail on Licensee Licensee's legal counsel, which service will be considered personal service on Licensee. This Stipulation And Order is effective upon service.

CONSENT OF LICENSEE:

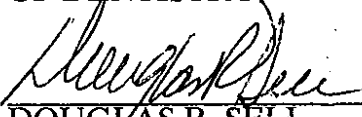

JEFFREY J. SOULE
Licensee

Dated: 6-26, 1991

Upon consideration of this stipulation and all the files, records and proceedings herein by the Board,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 12th day of July, 1991.

MINNESOTA BOARD
OF DENTISTRY


DOUGLAS R. SELL
Executive Director