

**BEFORE THE MINNESOTA**

**BOARD OF DENTISTRY**

In the Matter of  
Richard J. Swenson, D.D.S.  
License No. D 4896

**STIPULATION AND ORDER  
ACCEPTING VOLUNTARY  
SURRENDER OF 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 Richard J. Swenson, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred it to the Attorney General for investigation. Following the investigation, the Committee held an informational conference with Licensee which resulted in a closure of the matter by the Committee. Subsequently, the Board received additional complaint(s) against Licensee which it forwarded to the Committee for review. Thereafter, Licensee submitted to the Board his request for a voluntary surrender of his dental license. Thus, 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 quit practicing dentistry in the

summer of 2004. Licensee also 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. Allegations. This stipulation is based upon the following alleged violations:

### **Background**

1. In May and September 2002, the Committee received two complaints against Licensee. The Committee reviewed the complaints and referred the matter to the Minnesota Attorney General's Office ("AGO") for investigation. Following the investigation, the AGO investigator submitted an investigative report of the findings to the Committee.

2. On November 7, 2003, Licensee met with the Committee for an informational conference to discuss the allegations from complaint(s) received against him and the findings of the investigative report from the AGO investigation to include substandard care, inadequate infection control, and substandard recordkeeping. Following the conference, the Committee closed the matter. The closure letter to Licensee indicated, "Should the Board receive future complaints, a Board Complaint Committee may chose to reopen the matters."

3. In April 2004, the Committee received two complaints and in July 2004, the Committee received one complaint against Licensee. In a letter dated April 21, 2004, the Committee notified Licensee of the first two complaints, and in a letter dated July 27, 2004, notified him of the third complaint. The complaints alleged substandard care and inadequate infection control as described below. Licensee provided written responses to the allegations in these complaints.

4. On November 17, 2004, the Board received Licensee's Application for Dentist License Renewal for 2005 on which he indicated the voluntary termination of his license. Licensee informed the Board that he is no longer practicing dentistry and retired in September 2004.

5. On July 22, 2005, the Committee met to review the allegations from complaint(s) received against Licensee and other relevant correspondence from Licensee and his attorney. Based on this review, the Committee decided to allow Licensee to voluntarily surrender his dental license through this stipulation and order.

#### **Substandard Oral Surgery**

6. Licensee failed to provide adequate oral surgery care to his patients, as follows:

a. After completely reviewing patient 1's record and Licensee's response, the Committee concluded that Licensee provided substandard oral surgery care as follows: failed to place sutures in the extraction site and utilize other appropriate means to control the bleeding; failed to refer the patient to an oral surgeon in a timely manner; and made unsubstantiated medical claims about the patient's medication history.

b. After completely reviewing patient 2's record and Licensee's response, the Committee concluded that Licensee provided substandard oral surgery care as follows: failed to document in the patient's progress notes and/or provide treatment to the patient's dry sockets at subsequent appointments; and failed to properly treat the removal of excessive bone fragments for the patient.

c. For patient 3, the Committee concluded that Licensee failed to prescribe antibiotics or pain medications following the extraction of two teeth. In addition, Licensee failed to contact patient 3's physician regarding her allergies or ask the patient for additional information.

d. After completely reviewing patient 4's record and Licensee's response, the Committee concluded that Licensee provided substandard oral surgery care based on the clinical findings indicated by the subsequently treating oral surgeon, as follows: patient

had exposed buccal bone, a displaced palatal root tip into tuberosity bone, and multiple bone fragments.

### **Substandard Infection Control**

7. Licensee failed to maintain adequate safety and sanitary conditions for a dental office. Licensee also failed to comply with the most current infection control recommendations and guidelines of the Centers for Disease Control (CDC) regarding the following issues: wearing heavy-duty, puncture-resistant utility gloves; wearing appropriate personal protection equipment; placing protective barriers; properly maintaining, bagging, and sterilizing all instruments; and properly equipping a dental lathe.

### **Substandard Recordkeeping**

8. Upon reviewing patient records submitted by Licensee, the Committee found that Licensee failed to make or maintain adequate patient records for one or more of his patients. For example, Licensee failed to properly document the following: reason for visit; record of existing oral status; his diagnosis; treatment plan; informed consent; medications used/materials placed; periodontal probing/charting; identity of provider; and contact with patient's physician regarding health history.

C. Violations. Licensee admits the facts and conduct specified above constitute violations of Minn. Stat. § 150A.08, subd. 1(6) (10); Minn. R. 3100.6200B, 3100.6200K, 3100.6300, 3100.9600; and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order accepting the **VOLUNTARY SURRENDER** of Licensee's license to practice dentistry in the State of Minnesota in accordance with the following terms:

1. Surrender. Effective the date of the order, Licensee's license to practice dentistry in the State of Minnesota is terminated. Within ten days of the date the order is adopted

by the Board, Licensee shall surrender to the Board Licensee's original license and current renewal certificate by delivering them personally or by first-class mail to Marshall Shragg, Executive Director, Minnesota Board of Dentistry, 2829 University Avenue S.E., Suite 450, Minneapolis, Minnesota 55414.

2. Prohibitions. 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 Licensee is licensed to practice dentistry.

3. Transfer of Patient Records. No later than 30 days after the date of this order, if Licensee has retained any patient records in his possession, Licensee shall notify these patients that he is no longer practicing and they may request that their patient records be provided to them or their new treating dentists. Licensee shall comply with record requests within 15 days of receipt. Within 30 days after the date of this order, Licensee shall provide the Board with written verification he has complied with this paragraph.

E. Application for Relicensure. Licensee may apply to the Board for relicensure at any regularly scheduled Board meeting no earlier than one year after the effective date of the Board's order. Licensee must comply fully with the applicable statutes and rules in effect at the time of Licensee's application, including the payment of all fees relating to relicensure. Minnesota Rule 3100.1850 does not apply to an application for relicensure following the issuance of a stipulation and order for voluntary surrender of license.

In addition, if Licensee is out of practice for more than two (2) years after the effective date of this stipulation and order, he shall attain a passing score on the regional clinical examination. Licensee's compliance with the above-referenced requirements shall not create a presumption that he should be granted a license to practice dentistry in the State of Minnesota. Upon Licensee's application for relicensure, the burden of proof shall be upon him to

demonstrate to the Board by clear and convincing evidence that he is capable of conducting himself in a qualified and competent manner, is able to perform the duties of a dentist with reasonable skill and safety, and has complied fully with the terms of the Board's order.

F. Meeting with a Complaint Committee. Licensee shall meet with a complaint committee of the Board at least 30 days prior to the Board meeting to consider Licensee's application for relicensure. The complaint committee shall review and discuss Licensee's application and fitness to resume the practice of dentistry. After meeting with Licensee, the complaint committee shall forward a report containing its recommendations to the Board.

G. Board Action. At any regularly scheduled Board meeting following Licensee's application for relicensure and meeting with a complaint committee, the Board may take any of the following actions:

1. Reissue a license to Licensee;
2. Reissue a license to Licensee with limitations and/or conditions placed upon the scope of Licensee's practice; or
3. Deny the application for relicensure upon Licensee's failure to meet the burden of proof.

H. Judicial Relief. If Licensee violates paragraph D above, a district court of this state may, upon application of the Committee, enter an order enjoining Licensee from such practice and grant the Board costs, reasonable attorney fees, and other appropriate relief.

I. Attendance at Conference. Licensee and Licensee's attorney, Kent G. Harbison, attended an informational conference with the Committee on November 7, 2003. The following Committee members attended the conference: Freeman Rosenblum, D.D.S.; Ron King, D.D.S.; and Nadene Bunge, D.H. Assistant Attorney General Rosellen Condon represented the

Committee at the conference. Licensee continues to be represented by Kent G. Harbison 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 appropriateness 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 § 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. 5. 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. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection 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. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

Richard J. Swenson DDS  
RICHARD J. SWENSON, D.D.S.

Dated: Nov 9, 2005

COMPLAINT COMMITTEE

By: Marshall Shragg  
MARSHALL SHRAGG  
Executive Director

Dated: November 15<sup>th</sup> 2005



## ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records and proceedings herein, the Board approves and adopts the terms of the stipulation, orders the recommended action set forth in the stipulation, and accepts the **VOLUNTARY SURRENDER** of Licensee's license to practice dentistry in the State of Minnesota effective this 18<sup>th</sup> day of November, 2005.

MINNESOTA BOARD  
OF DENTISTRY

By: Linda R. Boyum R.D.A.  
LINDA BOYUM, R.D.A.  
President

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