

**BEFORE THE MINNESOTA**

**BOARD OF DENTISTRY**

In the Matter of  
Gwendolyn Timberlake, D.D.S.  
License No. D8800

**STIPULATION AND ORDER FOR  
STAYED SUSPENSION AND LIMITED  
AND 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 Gwendolyn Timberlake, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Minnesota Attorney General's Office for investigation on more than one occasion. Following the investigations, the Committee held a number of conferences with Licensee. Currently, Licensee is subject to a Stipulation and Order for Stayed Suspension adopted by the Board on June 15, 2007 ("2007 Order"), which Licensee agreed to and signed. Pursuant to the 2007 Order, Licensee's license was suspended, but the suspension was stayed contingent upon Licensee's compliance with all the terms and conditions set forth in the 2007 Order. However, Licensee has failed to comply with one or more of the requirements within her 2007 Order regarding infection control/safety-sanitary conditions, completing a required radiology course, recordkeeping, and the professional development portfolio audit. As a result, 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 she 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:

### Background

1. On January 14, 2000, Licensee entered into an Agreement for Corrective Action ("2000 ACA") with the Committee. The 2000 ACA was based on Licensee's failure to maintain adequate safety and sanitary conditions for a dental office and her failure to make and maintain adequate patient records. Among other things, the 2000 ACA required Licensee to submit to at least one unannounced office inspection by a Board representative to review Licensee's patient records and the safety/sanitary conditions of her office. This was conducted on January 4, 2002.

2. In the meantime, the Board received additional complaints against Licensee, again alleging substandard infection control and recordkeeping. On July 26, 2002, the Committee met with Licensee to discuss the Board representative's inspection report and new complaints. On September 17, 2002, Licensee entered into an Amended Agreement for Corrective Action ("2002 Amended ACA") which replaced her 2000 ACA. It was based upon

inadequate infection control, recordkeeping and diagnostic technique, and lack of knowledge regarding crown and bridge retention.

3. In 2003 and 2004, the Committee received additional complaints against Licensee which were investigated by the Minnesota Attorney General's Office. On October 15, 2004, the Committee held a conference with Licensee to discuss the investigative report and new complaints. During the conference, the Committee found that Licensee failed to complete the coursework requirements of her 2002 Amended ACA within one year of the effective date of the 2002 Amended ACA. Licensee did inform the Committee that she had taken some of the required course hours through home study courses. However, it was determined by the Committee that Licensee failed to fulfill the course hour requirements, failed to obtain pre-approval from the Committee for any of the courses taken, and failed to take requisite non-home study courses, which was only allowed for one of the required courses.

4. On November 19, 2004, the Board adopted a Stipulation and Order for Conditional License ("2004 Order") that placed conditions on Licensee's license to practice dentistry in the State of Minnesota. The 2004 Order addressed the following issues: unprofessional conduct; improper billing; substandard prosthodontic treatment; substandard periodontal treatment; inadequate infection control; and substandard recordkeeping.

5. On December 14, 2006, a Board representative conducted an unannounced inspection of Licensee's dental office pursuant to her 2004 Order to review Licensee's patient records and the safety/sanitary conditions of her office. The Board's representative submitted a report to the Committee. On December 22, 2006, the Board received another complaint against Licensee alleging fraud. On March 9, 2007, the Committee held a disciplinary conference with Licensee to discuss the Board representative's inspection report and the most recent complaint.

6. On June 15, 2007, the Board adopted a Stipulation and Order for Stayed Suspension (“2007 Order”) that placed conditions of the stayed suspension on Licensee’s license to practice dentistry in the State of Minnesota. The 2007 Order addressed the following issues: inadequate infection control; substandard diagnostic/treatment planning/operative care; substandard periodontal care; substandard radiographic diagnosis; unprofessional conduct and fraud; and substandard recordkeeping. The 2007 Order provided that violation of the terms in the order would constitute violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

7. Licensee is currently subject to the 2007 Order.

8. On November 21, 2007, a Board representative conducted an unannounced inspection of Licensee’s dental office pursuant to her 2007 Order to review Licensee’s patient records and the safety/sanitary conditions of her office. A report was submitted to the Committee.

#### **Non-compliance with 2007 Order**

9. On April 18, 2008, the Committee held a disciplinary conference with Licensee to discuss her non-compliance with certain terms, conditions, and requirements of her 2007 Order. Specifically, Licensee failed to be in compliance with the following: certain infection control/safety-sanitary conditions including the infection control consultant’s recommendations; completing a required course; recordkeeping; and the professional development portfolio audit, as described below.

a. Licensee failed to appropriately comply with the infection control consultant’s recommendations within 30 days of the consultant’s report, as outlined in paragraph E.1. of her 2007 Order, as follows:

1) On September 12, 2007, Licensee had an infection control consultant (“consultant”) conduct an evaluation of her dental office. On September 13, 2007, the Committee received the consultant’s report which indicated numerous problems throughout Licensee’s office and made several recommendations to resolve these issues. On September 18, 2007, the Committee sent to Licensee a letter regarding the consultant’s report requesting her to provide proof of complying with the list of recommendations by October 12, 2007.

2) On October 12, 2007, Licensee had the same consultant conduct a second evaluation of her office. On that same date, the Committee received the second report from the consultant indicating that Licensee had resolved many of the problems from the initial report. However, the consultant still recommended the following: training on infection control; expand written manual including exposure control plan, hazard communications, and x-ray; implement x-ray quality assurance testing; place internal chemical indicators in all sterilization bags; and label all secondary containers (ultrasonic, cold sterile, developer/fixer). The consultant also indicated her concern that Licensee does not fully understand the importance of good infection control and the risks involved, such as cross contamination.

3) On October 22, 2007, the Committee sent a letter to Licensee regarding the consultant’s second infection control report and her recommendations. The Committee expected Licensee to immediately comply with all of the consultant’s recommendations as well as full compliance with the most current infection control recommendations and guidelines of the Centers for Disease Control.

b. On November 21, 2007, the Board’s representative conducted an infection control inspection of Licensee’s dental office, as outlined in paragraph E.2. of her 2007 Order. Based upon this inspection, Licensee failed to comply with the infection control

consultant's recommendations, maintain adequate safety and sanitary conditions, and comply with the most current infection control recommendations and guidelines of the Centers for Disease Control, as follows:

1) Licensee failed to properly perform weekly biological monitoring (spore testing) of her autoclave and maintain a current weekly monitoring record. Licensee placed a spore test ampule into the autoclave load on a weekly basis. However, after autoclaving the load, Licensee failed to incubate the spore test ampule upon removal to provide evidence of the sterility of the autoclave load. In addition, Licensee failed to maintain a current weekly biological monitoring record showing the results of her spore testing. During the infection control inspection conducted by the Board's representative at Licensee's office, Licensee added some additional dates to her weekly monitoring record to bring it up-to-date.

2) Licensee failed to properly sterilize bagged instruments found in a drawer based upon the external indicator located on the outside of the bag remaining unchanged in color.

3) Licensee failed to obtain and utilize an internal chemical indicator to be placed inside the sterilization bag as recommended by the infection control consultant.

4) Licensee failed to follow proper procedures when utilizing the cold sterilizing/disinfecting solutions in her dental office when she failed to completely immerse contaminated dental items into the solution.

5) Licensee failed to properly label certain secondary containers such as the ultrasonic unit, the cold sterilizing/disinfecting container, and the automatic

radiographic processor containing developer and fixer solutions with hazardous material labels in her dental office as recommended by the infection control consultant.

6) Licensee failed to create and implement, specifically for her office, a written manual indicating appropriate training and protocols for an infection control program, exposure control plan, hazard communication program, and dental radiography as recommended by the infection control consultant. This written manual should have included, but not be limited to, the following: instrument sterilization processing; operatory clean-up; management of injuries or exposure incidents; dental healthcare provider orientation; blood or chemical spill procedures; hazardous material labeling; radiographic quality assurance testing; and other proper recordkeeping procedures. Licensee's current manual only contained three pages of information.

c. Licensee failed to complete the six hours of one-on-one instruction by a dental professional in dental radiographs by December 15, 2007, as outlined in paragraph E.5.a. of her 2007 Order, as follows:

1) On October 4, 2007, the Committee received and reviewed information regarding a six hour radiographic interpretation course offered by Mansur Ahmad, B.D.S., Ph.D. at the University of Minnesota School of Dentistry to be taken by Licensee. In its October 15, 2007, letter, the Committee granted approval to Licensee to complete the course regarding dental radiographs.

2) On December 10, 2007, Licensee was sent a letter from the University of Minnesota regarding the radiographic interpretation course requesting a response from her as to scheduling and submitting payment for the course. However, Licensee failed to

complete the radiographic interpretation course by the designated deadline of December 15, 2007, or thereafter.

d. On November 21, 2007, the Board's representative conducted a recordkeeping inspection to review Licensee's patient records, as outlined in paragraph E.7. of her 2007 Order. Based upon this inspection, Licensee failed to make or maintain adequate dental records on her patients, as follows:

1) Licensee failed to obtain the name and phone number of the emergency contact person for patients 1 through 5.

2) Licensee failed to properly document a complete record of the patient's existing oral health status including, but not limited to, dental caries, missing or unerupted teeth, restorations, oral cancer examination, and periodontal conditions for patients 1 through 5.

3) Licensee failed to make or maintain adequate radiographic records for her patients. The radiographic records failed to contain a sufficient number of radiographs to make a proper diagnosis, radiographs taken were of poor diagnostic quality, or some records were missing radiographs for patients 1 through 5.

4) Licensee failed to document her diagnoses for dental treatment for patients 1 through 5.

5) Licensee failed to document appropriate treatment plans for providing dental treatment for patients 1 through 5.

6) Licensee failed to obtain the patient's informed consent prior to performing dental services for patients 3, 4, and 5.

e. On December 3, 2007, pursuant to paragraph E.8.a. of Licensee's 2007 Order, the Board conducted a designated portfolio audit of Licensee's professional development due to allegations against Licensee being non-compliant with her 2007 Order. Based upon this audit, Licensee failed to meet certain professional development requirements for her cycle period July 1, 2004, to September 30, 2007, as follows:

1) Licensee failed to obtain the required number of professional development hours for a dentist which is a minimum of 50 hours for a cycle period. Licensee only obtained a total of 16 fundamental hours.

2) Licensee failed to timely complete one self-assessment within her professional development cycle period.

3) Licensee failed to complete a minimum of two core subject categories within her professional development cycle period.

C. Violations. Licensee admits that pursuant to Minn. Stat. § 150A.08, subd. 1(13) and her 2007 Stipulation and Order for Stayed Suspension that the facts and conduct specified above are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order **RESCINDING** the 2007 Stipulation and Order for Stayed Suspension and places a **STAYED SUSPENSION**, as follows:

Stayed Suspension. Licensee's license to practice dentistry in the State of Minnesota is hereby **SUSPENDED**. The suspension is **STAYED** contingent upon Licensee's compliance with all of the limitations and conditions set forth in paragraph E. below.

E. Limitations and Conditions of Stayed Suspension. Licensee and the Committee recommend that the Board issue an order which places LIMITATIONS and CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

### LIMITATIONS

1. Licensee's license shall be subject to the following limitations:

a. Limitations to Practice Dentistry. Licensee is specifically prohibited from engaging in the following conduct:

1) Owning, operating, or managing an active dental practice or clinic;

2) Providing or participating in the provision of dental care to any patient within an independent/private dental practice, a group dental practice, or a dental clinic unless the dental practice or clinic has been approved by the Committee;

3) Providing or participating in the provision of dental care to any patient unless under the indirect supervision of another Minnesota licensed dentist who is present on the premises; and

4) Providing or participating in the provision of dental care to any patients unless Licensee has provided each employer with a copy of this stipulation and order prior to employment.

### CONDITIONS

2. Licensee's license shall be subject to the following terms, conditions, and requirements.

a. Coursework. Licensee shall successfully complete the coursework described below. **All coursework must be approved in advance by the Committee.** None of

the coursework may be home study. Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this stipulation and order. If Licensee attends an undergraduate or graduate dental school course, Licensee must provide each instructor with a copy of this stipulation and order prior to commencing a course. Licensee shall pass all courses with a grade of 70 percent or a letter grade "C" or better. Licensee's signature on this stipulation and order constitutes authorization for the course instructor(s) to provide the Committee with a copy of the final examination and answers for any course Licensee takes. Licensee's signature also authorizes the Committee to communicate with the instructor(s) before, during, and after Licensee takes the course about Licensee's needs, performance and progress. None of the coursework taken pursuant to this stipulation and order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minn. R. 3100.5100, subpart 2. The coursework is as follows:

1) Radiology. Within 90 days of the effective date of this Order, Licensee shall successfully complete six hours of one-on-one instruction offered by a dental professional regarding dental radiographs focusing on diagnosis, technique, and interpretation relative to dental treatment.

b. Written Coursework Report. Within 30 days of completing coursework, Licensee shall submit to the Board (a) a transcript or other documentation verifying that Licensee has successfully completed the course, (b) a copy of all materials used and/or distributed in the course, and (c) a written report summarizing how Licensee has implemented this knowledge into Licensee's practice. Licensee's report shall be typewritten in Licensee's own words, double-spaced, at least two pages and no more than three pages in length, and shall list references used to prepare the report. All reports are subject to approval by the Committee.

c. Professional Development Requirements. Within 90 days of the effective date of this Order, Licensee must provide to the Committee documented proof of having successfully completed a total of 34 additional professional development hours (to include a minimum of two core subject categories) for her cycle period July 1, 2004, to September 30, 2007, as described within Minnesota Rules part 3100.5100. Licensee previously provided to the Committee a total of 16 fundament professional development hours that included dental lectures, CPR, and the self-assessment towards the 50-hour requirement for this cycle period.

d. Other Conditions.

1) 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.

2) 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.

3) In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minn. R. 3100.6300 and 6950.1000 through 6950.1080, and with the Centers for Disease Control and Prevention, Public Health Service, United States Department of Health and Human Services, *Guidelines for Infection Control in Dental Health-Care Settings – 2003*, Morbidity and Mortality Weekly Report, December 19, 2003 at 1.

4) 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.

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. Removal of Stay. If the Committee has probable cause to believe Licensee failed to comply with or violated any of the conditions for staying the suspension, the Committee may remove the stayed suspension pursuant to the procedures outlined below:

1. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Committee is authorized to issue an Order of Removal, which will remain in effect and have the full force of an order of the Board until the Board makes a final determination or until the complaint is dismissed and the order is rescinded by the Committee. Licensee further agrees an

Order of Removal issued pursuant to this paragraph is a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

2. The Committee must schedule the hearing before the Board to be held within 60 days of service of the Order of Removal.

H. 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.

I. 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.

J. Attendance at Conference. Licensee attended a conference with the Committee on April 18, 2008. The following Committee members attended the conference: Nadene Bunge, D.H.; Candace Mensing, D.D.S.; and Freeman Rosenblum, D.D.S. Assistant Attorney Generals Daphne A. Lundstrom and Careen H. Martin represented the Committee at the conference. Licensee was represented by Alexander M. McKinney III in this matter, who has advised Licensee regarding this stipulation and order.

K. 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.

L. 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.

M. 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.

N. 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. 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.

O. 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.

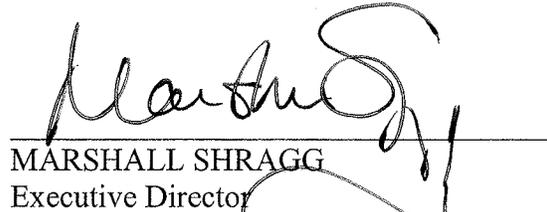
P. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

 By:  
GWENDOLYN TIMBERLAKE, D.D.S.

Dated: May 12, '08, 2008

COMPLAINT COMMITTEE

  
MARSHALL SHRAGG  
Executive Director

Dated: MAY 13<sup>TH</sup>, 2008

**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, and the recommended disciplinary action set forth in the Stipulation is hereby issued as an Order of this Board effective this 23 day of May, 2008.

MINNESOTA BOARD  
OF DENTISTRY

By: Nadene Bunge  
NADENE BUNGE, D.H.  
President