

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Thomas R. Trutna, D.D.S.
License No. D4316

**STIPULATION AND
ORDER FOR VOLUNTARY
SURRENDER OF LICENSE**

The Minnesota Board of Dentistry (“Board”) is authorized pursuant to Minnesota Statutes chapter 150A, section 214.10, and section 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.

Licensee agreed to enter into an Agreement for Corrective Action (“Agreement”) which became effective on April 17, 2000. The Agreement contained several provisions including paragraphs C.5. and 6., which required Licensee to submit an infection and exposure control protocol and a typewritten report on adequate recordkeeping, respectively. In paragraph C.8. of the Agreement, Licensee agreed that after he submitted his protocol and report to the Committee, he would cooperate with at least one unannounced recordkeeping audit and infection control inspection of his office. Pursuant to paragraph C.8., a Board representative conducted an inspection of Licensee’s office on August 24, 2000, and subsequently provided the Committee with a report of that inspection. On August 8, 2001, the Committee’s Notice of Conference (“Notice”) was served on Licensee. On September 6, 2001, Licensee met with the Committee regarding allegations in the Notice that, since the effective date of the Agreement, Licensee has failed to provide appropriate engaged diagnostic treatment, failed to keep adequate patient records, and has failed to satisfactory complete the corrective action required by his Agreement. Licensee signed a Stipulation and Order for Conditional License which was issued by the Board

December 26, 2001. It was based on Licensee's failure to meet the Board's standard for infection control, diagnostic treatment and recordkeeping. Licensee has not yet completed the remedial actions required by the December Stipulation and Order.

By letter dated February 12, 2002, Licensee informed the Board that he is planning to close his office and give up his dental license. The Committee and Licensee have agreed that this 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 Licensee 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:

1. Licensee is currently under a Stipulation and Order for Conditional License effective December 26, 2001. It is based on facts demonstrating that Licensee had failed to meet Board standards for infection control, diagnostic treatment, and record keeping in violation of Minn. Stat. §§214.20 and 150A.08, subds. 1(6) and 10 and Minn. R. 3100.6200J and K and 3100. 6300, 3100.6350, and 3100.9600.

C. Disciplinary Action. Licensee and the Committee recommend that the Board rescind its December 26, 2001 Stipulation and Order for Conditional License and 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 Southeast, Suite 450, Minneapolis, Minnesota 55414.

2. Prohibitions. Licensee shall not engage in any act which constitutes the practice of dentistry as defined in Minnesota Statutes section 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, Licensee shall notify his patients that he has closed his practice and that 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 that 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.

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 his 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. Right to an Attorney Licensee has been informed that he could be represented by legal counsel, but has knowingly and voluntarily waived that opportunity.

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 Minnesota Statutes chapter 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 Minnesota Statutes chapter 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.

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. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes chapter 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. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner 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. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee or Licensee's attorney. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

COMPLAINT COMMITTEE

Thomas R. Trutna, D.D.S.

By: _____
MARSHALL SHRAGG
Executive Director

Dated: _____

Dated: _____

* * *

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, rescinds its December 26, 2002 Stipulation and Order for Conditional License in this matter and orders the recommended disciplinary action set forth in this stipulation, and accepts the voluntary SURRENDER of Licensee's license to practice dentistry in the State of Minnesota effective this _____ day of _____, 2002.

MINNESOTA BOARD
OF DENTISTRY

By: _____
Freeman Rosenblum, D.D.S.
President