

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Russell A. Wivell, D.D.S.
License No. D6075

**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's Office for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Russell A. Wivell, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaints along with patient records and decided to have a conference with the Licensee. Thereafter, Licensee asked to voluntarily surrender his dental license. 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 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. On September 2, 2004, Licensee entered into an Agreement for Corrective Action ("2004 ACA") with the Committee based on substandard recordkeeping. Licensee successfully completed all of the requirements of his 2004 ACA on April 4, 2005.

2. In August 2005 and April 2006, the Board received additional complaints against Licensee. After reviewing the complaints and pertinent patient records submitted by Licensee, the Committee decided to have a conference with Licensee to discuss substandard recordkeeping and access to health records.

3. On or about October 10, 2006, Licensee contacted the Board to request a voluntary surrender of his license to practice dentistry in the State of Minnesota. Licensee indicated that he has retired from the practice of dentistry and will not apply for relicensure in the future.

C. Violations. Licensee admits that pursuant to Minn. Stat. § 150A.08, subd. 1(13) 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 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 effective date of this order, Licensee shall notify his 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. 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.

F. Right to an Attorney. Through this stipulation and order, Licensee is further notified that Licensee may choose to be represented by legal counsel in this matter. Licensee has elected not to be represented by counsel. The Committee involved with this matter is comprised of Board members Ronald King, D.D.S., Nadene Bunge, D.H., and Candace Mensing, D.D.S. Assistant Attorney General Rosellen Condon is representing the Committee.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

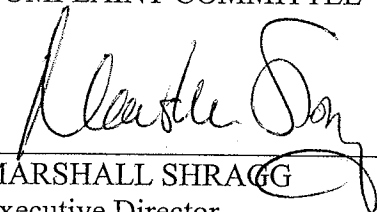
LICENSEE



RUSSELL A. WIVELL, D.D.S.

Dated: 11-2, 2006

COMPLAINT COMMITTEE

By: 

MARSHALL SHRAGG
Executive Director

Dated: 11/17/06, 2006

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 _____ day of 11-17-06, 2006.

MINNESOTA BOARD
OF DENTISTRY

By: 

MARK W. HARRIS, D.D.S.
President