

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Jane Odgers, D.D.S.
License No.: D9999

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Dentistry ("Board") on January 15, 2016, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph 18 of the Second Amended Stipulation and Order for Limited and Conditional License issued by the Board to Jane Odgers, D.D.S. ("Respondent"), on July 25, 2014. At the hearing, the Complaint Committee presented affidavit evidence of Respondent's violations of the 2014 Order. Caitlin M. Grom, Assistant Attorney General, appeared and presented oral argument on behalf of the Complaint Committee. Respondent did not appear. Board members David S. Gesko, D.D.S., Terese M. Youngdahl, L.D.A., John M. Manahan, J.D., and Douglas Wolff, D.D.S., J.D., did not participate in deliberations and did not vote in the matter. Hans A. Anderson, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes sections 150A.01 to 105A.22 to license, regulate, and discipline persons who apply for, petition, or hold licenses as dentists, dental therapists, dental hygienists, and dental assistants and is further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against

dentists, dental therapists, dental hygienists, and dental assistants, to investigate such complaints, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed a Second Amended Stipulation and Order for Limited and Conditional License that was adopted by the Board on July 25, 2014 (“2014 Order”). In paragraph 18 of the 2014 Order, Respondent expressly acknowledged and agreed to several procedures the Board Complaint Committee may use to resolve alleged noncompliance with or violation of the 2014 Order. The 2014 Order remained in full force and effect at the time the conduct described in paragraph 4 below occurred.

3. Respondent expressly acknowledged and agreed in paragraph 18 of the 2014 Order that in the event the Board received evidence Respondent violated the terms of the 2014 Order, she would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

4. The Board received information Respondent violated the terms of the 2014 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 150A.08 as follows:

a. On July 25, 2014, the Board adopted the 2014 Order placing limitations and conditions on Respondent's license to practice dentistry. The basis of the 2014 Order was Respondent's intentional and persistent pattern of falsifying records with the goal of defrauding third-party payers for her own financial gain, engaging in performance of dental treatment that fell below acceptable standards, failing to maintain adequate dental records, failing to maintain safe and sanitary conditions, and failing to comply with the most current infection control recommendations from the Centers for Disease Control.

- b. Paragraph 9.a. of the 2014 Order required Respondent to sell her dental practice no later than 12 months from the date of the 2014 Order.
- c. Paragraph 9.b. of the 2014 Order states that after the sale of her practice, Licensee must not practice in an independent or private dental practice, a group practice, or dental clinic, unless the practice or clinic was approved in advance by the Committee.
- d. Paragraph 9.c. of the 2014 Order states that after the sale of her practice, Licensee may only provide dental care while under the direct supervision of another dentist licensed in the State of Minnesota or pursuant to a contract for monitoring through Affiliated Monitors, Inc.
- e. Paragraph 10.a. of the 2014 Order states that within 60 days from the sale of Licensee's practice, Licensee shall pay a civil penalty in the amount of \$30,000.
- f. On July 9, 2015, Respondent's counsel contacted the Complaint Committee to request an extension of the deadline for Respondent to sell her practice.
- g. On July 24, 2015, the Complaint Committee granted an extension allowing Respondent until September 21, 2015 to sell her practice. The Committee directed Respondent to submit documentation of her efforts to sell her practice in order to consider an extension beyond September 21, 2015.
- h. On July 22, 2015, and August 28, 2015, the Complaint Committee received information from Respondent relating to her efforts to sell her practice.
- i. On October 20, 2015, the Complaint Committee determined that the information provided by Respondent did not justify an extension beyond September 21, 2015, and communicated the same to Respondent via letter.
- j. To date, Respondent has failed to sell her practice.

k. To date, Respondent has not paid the \$30,000 civil penalty.

5. The Board finds that Respondent violated the 2014 Order by failing to sell her practice within the time set forth in the 2014 Order and the extension granted by the Complaint Committee, and has failed to pay the civil penalty in the timeframe allowed by the 2014 Order and extension granted by the Complaint Committee.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 105A.08, 214.10, and 214.103.
2. The Board Complaint Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph 18 of the 2014 Consent Order.
4. The Board Complaint Committee has the burden of establishing the statutory violations charged by a preponderance of the evidence.
5. The Board Complaint Committee has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes 150A.08, subdivision 1(13) and the 2014 Consent Order.
6. As a result of the violations set forth above and pursuant to the terms of the 2014 Consent Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice dentistry.
7. The Board concludes that, given Respondent's conduct under the facts of the 2014 Consent Order and Respondent's failure to comply with the requirements of the 2014 Consent Order, the only way to ensure the public is adequately protected from Respondent's conduct is to revoke Respondent's license for a minimum of 60 months.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the 2014 Order issued to Respondent on July 25, 2014, is hereby **RESCINDED** and shall have no future force or effect except as incorporated and restated herein.
2. IT IS FURTHER ORDERED that Respondent's license to practice dentistry in the State of Minnesota is **REVOKED** immediately for an indefinite period of time.
3. IT IS FURTHER ORDERED that during the period of revocation, Respondent shall not engage in any conduct which constitutes the practice of dentistry as defined in Minnesota Statutes section 150A.05, subdivision 1, and shall not imply or suggest to any persons by words or conduct that Respondent is authorized to practice dentistry in the State of Minnesota.
4. IT IS FURTHER ORDERED that Respondent may re-apply for licensure following 60 months from the date of this Order and upon demonstration satisfactory to the Board of rehabilitation and fitness to practice. At the time of Respondent's application, Respondent shall meet with the Complaint Committee and comply with, at a minimum, the following:
 - a. Licensure Application and Licensure Fee. Respondent shall submit a completed application for licensure, pay all required application and licensure fees, and meet all other licensure requirements in effect at the time of her application.
 - b. Fitness to Practice. Respondent must prove by a preponderance of the evidence that she is fit and competent to practice dentistry. Respondent's mere completion of the

requirements set forth above does not in any way require the Board to find that Respondent is currently rehabilitated and fit and competent to practice dentistry. The Board shall be the sole determiner of whether Respondent is rehabilitated and fit and competent to practice dentistry.

c. Self Report. Respondent shall submit to the Board a report from Respondent herself. The report shall be submitted at the time of Respondent's application. The report shall provide and address:

- i) The sale or closure of Respondent's dental business as required by the 2014 Consent Order;
- ii) Respondent's work schedule;
- iii) Respondent's future plans in dentistry and the steps she has taken to prepare herself to return to practice; and
- iv) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

d. Report from Employer. If requested by Board staff, Respondent must cause to be submitted to the Board a report from any employer who has employed Respondent while this Order is in effect. The report(s) are due within one month of any such request from the Board. The report(s) must provide and address:

- i) Respondent's ability to perform assigned tasks, and if any performance deficiencies are identified, the actions taken to address them;
- ii) Respondent's attendance and reliability;
- iii) Respondent's typical work schedule;
- iv) Any other information reasonably requested by the Board; and

v) Any other information the employer believes would assist the Board in its ultimate review of this matter.

e. Additional Information. Respondent shall provide any additional information relevant to her application reasonably requested by the Complaint Committee.

IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's application for licensure pursuant to paragraph 4 above, take any of the following actions:

- a. Grant a license to Respondent to practice dentistry;
- b. Grant a license to Respondent with limitations upon the scope of Respondent's practice and/or with conditions for Respondent's practice; or
- c. Continue the revocation of Respondent's license upon her failure to meet the burden of proof.

Dated: 2/10/2016

STATE OF MINNESOTA
BOARD OF DENTISTRY


Steven W. Sperling, D.D.S., M.A.G.D.,
F.I.C.O.I.
Board Chair