

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of
the Medical License of
David D. Gulden, M.D.
Year of Birth: 1954
License Number: 26,397

**STIPULATION
AND ORDER FOR
STAYED SUSPENSION**

IT IS HEREBY STIPULATED AND AGREED, by and between David Delos Gulden, M.D. ("Respondent"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Although aware of his right to representation by counsel, Respondent has knowingly and expressly waived that right. The Committee was represented by Karen D. Olson, Deputy Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on July 31, 1981. Respondent is board certified in anesthesiology.

b. In September 1992, Respondent's license was suspended based upon Respondent's chemical dependency and illness. In December 1992, the Board reinstated Respondent's license under terms and conditions to monitor his chemical dependency and illness. In November 1993, the Board issued Respondent an Amended Stipulation and Order reducing Respondent's monitoring requirements. On November 15, 1997, the Board issued Respondent an Order of Unconditional License.

c. In April 2017, Respondent entered treatment for chemical dependency and mental health issues.

d. In May 2017, Respondent entered into a Participation Agreement and Monitoring Plan with the Health Professionals Services Program ("HPSP") for the monitoring of his chemical dependency and mental health. The terms of the Participation Agreement and Monitoring Plan include, but are not limited to, that Respondent will: abstain from alcohol, controlled substances, and any mood-altering substances; refrain from practice until HPSP lifts or amends the restriction; meet with a therapist at least twice monthly or as mutually agreed upon by HPSP and the therapist; meet with a psychiatrist at least quarterly; obtain a sponsor and attend mutual support groups such as AA/NA at least twice per week; obtain a work-site monitor; and submit to unannounced biological fluid toxicology screens on a periodic basis as requested by HPSP.

e. On March 29, and April 9, 2018, Respondent submitted positive toxicology screens. Respondent failed to contact HPSP following the positive toxicology screens. Once HPSP reached Respondent, he denied relapsing to chemical use. On May 7, and May 9, 2018, Respondent missed required toxicology screens.

f. On May 24, 2018, Respondent informed the Board that he was entering residential chemical dependency treatment on May 25, 2018.

g. On June 24, 2018, Respondent was discharged from residential chemical dependency treatment after successfully completing the program.

h. On October 24, and October 26, 2018, Respondent missed required toxicology screens.

i. On December 13, 2018, Respondent met with the Committee. Respondent admitted his relapse to chemical use in spring 2018. Respondent reported completing outpatient treatment in November 2018.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(l)(1) (inability to practice medicine with reasonable skill and safety to patients due to illness), (r) (becoming addicted or habituated to a drug or intoxicant), and Minn. Stat. § 214.355 (violating the terms of the HPSP participation agreement) (2018), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that the Board may make and enter an Order **SUSPENDING** Respondent's license to practice medicine and surgery in the State of Minnesota. The suspension is **STAYED** contingent upon Respondent's compliance with the following terms and conditions:

a. Respondent shall participate in the Health Professionals Services Program (“HPSP”) and fully comply with all terms and conditions of his HPSP Participation Agreement and Monitoring Plan. A violation of his HPSP Monitoring Plan will constitute a violation of this Order; and,

b. Respondent may petition for reinstatement of an unconditional license no sooner than four years from the date of this Order and upon submission of proof, satisfactory to the Board, of at least four years of documented, uninterrupted recovery. Upon hearing Respondent's petition, the Complaint Review Committee may recommend that the Board continue, modify, or remove the suspension or impose conditions and restrictions as deemed necessary.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven (7) days of any change, Respondent shall provide the Board with new address and telephone number information. The information shall be sent to the Executive Director of the Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless

Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

8. If the Complaint Review Committee has probable cause to believe that Respondent has failed to comply with any of the requirements for staying the suspension of his license as set forth in paragraph 5 above, or has failed to comply with the HPSP Participation Agreement, the Complaint Review Committee may remove the stay of suspension and suspend Respondent's license pursuant to the procedures outlined below:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Respondent agrees that the Complaint Review Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 9 below, or until the suspension is dismissed and the order is rescinded by the Complaint Review Committee. The Order of Removal shall confirm the Complaint Review Committee has probable cause to believe Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's license.

b. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a hearing before removal of the stayed suspension.

c. The Complaint Review Committee shall schedule a hearing before the Board pursuant to paragraph 9 below to be held within 60 days of service of the Order of Removal.

9. If the Complaint Review Committee issues an Order of Removal pursuant to paragraph 8 above, the following shall apply:

a. The Complaint Review Committee shall mail Respondent a notice of the violation alleged by the Complaint Review Committee and of the time and place of the hearing referred to in paragraph 8.c. above. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. At the hearing before the Board, the Complaint Review Committee and Respondent 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. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or revocation of Respondent's license.

d. The Complaint Review Committee, at its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

10. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will

assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

11. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

12. Respondent hereby acknowledges that he has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: 12/21/2018

David D. Gulden, M.D.
David D. Gulden, M.D.
Respondent

Dated: 1/12/19

[Signature]
For the Committee

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein, IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board this 12th day of January, 2019.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: [Signature]