

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF DENTAL EXAMINERS**

IN RE:	)	
MELISSA HESS	)	Docket No: DE 23-0306
License No. 014-0002103	)	

STIPULATION AND CONSENT ORDER
TO RESOLVE REQUEST FOR SUMMARY SUSPENSION

The State of Vermont, Represented by prosecuting attorney Robert H. Backus, and the Respondent, Melissa Hess, appear before this Board and enter into the following Stipulation and Consent Order. The purpose of the agreement is to resolve the request for summary suspension filed by the state by imposing conditions on Respondent's license to protect the health, safety and welfare of the citizens of the state of Vermont.

The parties agree that these conditions shall remain in effect pending the resolution of charges of unprofessional conduct which shall be filed in a timely manner and which shall be based upon, but not limited to, the facts below. Respondents agrees that the facts below are true.

Authority

1. The Board of Dental Examiners ("Board") has jurisdiction to investigate and adjudicate complaints of unprofessional conduct against dentists pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§767 and 809; the Administrative Rules of the Board of Dental Examiners; and the Rules of the Office of Professional Regulation.
2. The Board is authorized by 3 V.S.A. §814 to summarily suspend, or otherwise condition, the license of a Dental Assistant when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. The Respondent, Melissa Hess, is a Dental Assistant licensed in Vermont as a under license number 014-0002103.
- 4 At all relevant times Respondent worked for Dr. G.M. in Morrisville.
- 5 On March 15, 2006 she was interviewed by C.P. and J.H. from the Federal Department of Drug Enforcement. She admitted that on several occasions she,

working with V.M., another dental assistant in the office, placed orders for Hydrocodone through the office account.

- i) On September 6, 2005 they placed an order for two one hundred count bottles of Hydrocodone 7.5/750
- ii) On November 11, 2005 they placed an order for two one hundred count bottles of Hydrocodone 7.5/750
- iii) On November 29, 2005 they placed an order for two one hundred count bottles of Hydrocodone 10/660
- iv) On February 3, 2006 they placed an order for one, one hundred count bottle of Hydrocodone 10/66.

6. Respondent further admitted that these orders were placed without authorization and that she and V.M. diverted the drugs to their own use and that the office accounts paid for the drugs but they reimbursed this account. The total cost of the drugs was about ninety eight (98) dollars.

7. The Hydrocodone illegally ordered and diverted totaled seven hundred (700) tablets.

Charges

8. The facts as set out above establish that the public health, safety, or welfare imperatively requires emergency action.

Understandings

- 9. The Respondent understands that the Board of Dental Examiners must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- 10. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 11. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- 12. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- 13. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Dental Examiners.
- 14. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Dental Examiners.

Consent Order

15. Based on the above stipulations, it is **ORDERED AND ADJUDGED** as follows:

The "Facts" listed above are true and establish that the public health, safety, or welfare imperatively requires emergency action.

16. The Board of Dental Examiners hereby **conditions** the Respondent's dental assistant registration as follows.

(a) Length of Time Conditions Imposed.

These conditions shall remain in place until removed by further action of this Board.

(b) Place of Employment

For the time these conditions are in effect Respondent may work with Dr. Gary Morris. Should she wish to work for any other dentist she must satisfy the Board that such dentist is fully informed of the fact of this case and able to comply with the other conditions of this Order, prior to beginning work with that dentist.

(c) Reports from Employers

While these conditions are in effect Respondent's employer shall file a monthly report with the Board. These reports shall address Respondent's current job status, whether or not there are any indications of drug or alcohol use and the employer's continued ability to provide a workspace as further required by this Order. The first report is due by April 13, 2006.

(d) Access to Narcotics in the Work Place

Respondent shall have no access to any narcotic drug, including but not limited to Schedule II and III narcotics such as Hydrcodone (Vicadon), Percoet, etc.

(e) Treatment.

Respondent shall have an appropriate drug and alcohol assessment performed by a professional or organization approved by the Board or its designee. Respondent shall comply with all treatment recommendations, including recommendations for other types of counseling or evaluations, made by that professional or organization. Behavioral Medicine through Copley Professional Services is approved.

(f) Treatment Commencement

Treatment shall commence immediately upon recommendation of the professional providing the drug and alcohol assesment. If treatment has not commenced by ~~the next regularly scheduled meeting of the Board~~, April 12, 2006, Respondent shall present herself to the Board for reconsideration of these conditions. Prior to April 12, 2006 Respondent shall provide the Board with proof that she has begun treatment as recommended. Respondent shall take all drug/alcohol screenings recommended or required by the treatment provider. In this context treatment means drug and alcohol treatment and counseling or any other treatment and counseling recommended by a

drug and alcohol treatment/counselor or by any counselor recommended as a result of intakes and evaluations performed pursuant to this Order.

(g) Releases and Reports

Respondent shall arrange to have her treatment providers (as defined above) send a monthly report to the Board which shall inform the Board about her participation in the treatment plan recommended for her advising the Board of the level of her participation and results of treatment to date. Copies of all drug/alcohol screens shall be provided to the Board within ten days. Respondent shall provide to the Board all releases needed to allow the Board to verify participation in treatment as recommended. Such releases cannot be revoked. Should they expire by their own terms updated releases must be provided to the Board prior to expiration.

17. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

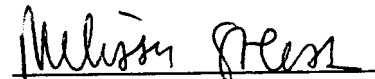
18. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

19. Violation of the Stipulation and Consent Order is grounds for further disciplinary action.

AGREED TO:

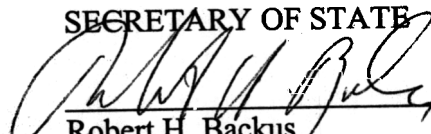
Date: 3/30/06

**BY: MELISSA HESS
RESPONDENT**


Melissa Hess

**AND BY: STATE OF VERMONT
SECRETARY OF STATE**

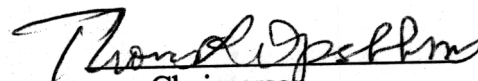
Date: 3/30/06


Robert H. Backus
State Prosecuting Attorney

ACCEPTED AND SO ORDERED:

BOARD OF DENTAL EXAMINERS

Date: 3/30/06


Chairperson

Dated entered: 4/5/06

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF DENTAL EXAMINERS**

IN RE:)
MELISSA HESS) **Docket No: DE 23-0306**
License No. 014-0002103)

AMENDED REQUEST FOR SUMMARY SUSPENSION

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Prosecuting Attorney
Office of
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9 Baldwin Street
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05609-1107

6. Respondent further admitted that these orders were placed without authorization and that she and V.M. diverted the drugs to their own use and that the office accounts paid for the drugs but they reimbursed this account. The total cost of the drugs was about ninety eight (98) dollars.

7. The Hyrdocodone illegally ordered and diverted totaled seven hundred (700) tablets.

Charges

8. The facts as set out above establish that the public health, safety, or welfare imperatively requires emergency action.

9. The above acts and circumstances, alone or in combination, constitute unprofessional conduct pursuant to:

- (i) 3 V.S.A. §129a(a)(3) (Failing to comply with the provisions of state statutes or rules governing the practice of the profession).
- (ii) 3 V.S.A. §129a(a)(5) (Practicing when medically or psychologically unfit to do so).
- (iii) 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession).
- (iv) 3 V.S.A. §129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions ... failure to practice competently includes ... failure to conform to the essential standards of acceptable and prevailing practice).
- (v) 18 V.S.A. §4234(a)(1) (A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2000.00, or both).
- (vi) 18 V.S.A. §4223(a) (No person shall obtain or attempt to obtain a regulated drug ... (1) by fraud, deceit, misrepresentation, or subterfuge ... (3) by the concealment of a material fact ... (i) A person who violates this section shall be imprisoned not more than two years and one day or fined not more than \$5000.00, or both).

Relief Requested

WHEREFORE, the Respondent's license should be summarily suspended, or otherwise disciplined, pursuant to 3 V.S.A. §814, pending a formal resolution of the above matter(s).

Dated at Montpelier, Vermont this 30th day of March, 2006.

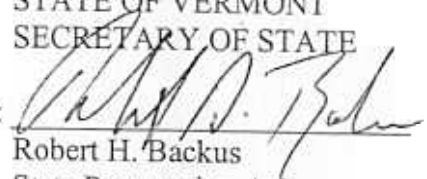
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Prosecuting Attorney
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By:


Robert H. Backus

State Prosecuting Attorney

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