

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
: (LS9503162MED)
:
BRIAN D. KANTER, :
RESPONDENT. :

The parties to this proceeding for the purpose of Wis. Stats., sec. 227.53 are:

Brian D. Kanter, M.D.
1801 West Seventh Street
Red Wing, Minnesota 55066

State of Wisconsin Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue, Room 183
P.O. Box 8935
Madison, WI 53708

The parties in this matter, Brian D. Kanter, M.D., Respondent, and Pamela M. Stach, Attorney for the Complainant, agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Medical Examining Board. The Board has reviewed the Stipulation and considers it acceptable. Accordingly, the Wisconsin Medical Examining Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Brian D. Kanter, 1801 West Seventh Street, Red Wing, Minnesota 55066, is duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin. His license bears number 19225 and was granted on March 24, 1975.
2. Respondent's date of birth is November 23, 1947.
3. At all times relevant hereto Respondent was a physician duly licensed to practice medicine and surgery in the State of Minnesota.
4. On November 14, 1992, Respondent's license to practice medicine and surgery in the State of Minnesota was limited based upon the terms and conditions contained in the Order attached hereto as Exhibit A.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to Wis. Stats., sec. 448.02.

2. Having one's license to practice medicine and surgery limited by another licensing authority constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code Ch. MED 10.02(2)(q).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation executed by the parties hereto is accepted by the Board.

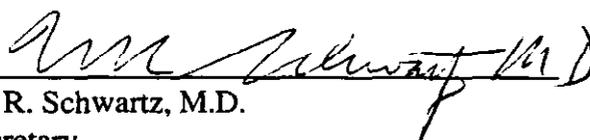
IT IS FURTHER ORDERED that, in lieu of other discipline, the Medical Examining Board accepts the voluntary surrender of the license of Brian Kanter M.D., to practice medicine and surgery in Wisconsin.

IT IS FURTHER ORDERED that should Respondent wish to resume his practice of medicine and surgery in Wisconsin, he shall make his reapplication under the following terms and conditions:

- a. At the time the reapplication, Respondent shall appear before the Medical Examining Board and satisfy the Board as to his fitness and competence to practice medicine and surgery. It shall be the Respondent's responsibility to notify the Board of any intent to reapply for licensure at least sixty (60) days in advance of such application and to make arrangements with the Medical Examining Board for his appearance.
- b. The Medical Examining Board may, in its discretion, deny relicensure or relicense on a limited basis with terms and conditions acceptable to the Board.
- c. The granting of a limited license under subparagraph B, above, shall not be considered a denial of a license within the meaning of Wis. Stats. sec. 227.01(2)(a).

Dated at Madison, Wisconsin this 23rd day of August, 1995.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

by 
W. R. Schwartz, M.D.
Secretary
Medical Examining Board

CO:PMS:daw
ATY-FLG2273



MINNESOTA BOARD OF MEDICAL PRACTICE
2700 University Avenue West, #106 St. Paul, MN 55114-1080 (612) 642-0538

CERTIFICATION OF DISCIPLINARY ACTIONS

ORDER DATED November 13, 1993
IN THE MATTER OF: Brian D. Kanter, M.D.
CITY AND STATE OF: Red Wing, MN

I, H. Leonard Boche, Executive Director of the Minnesota Board of Medical Practice, Do hereby certify that the attached Board Order is a copy of the original official record on file in the office of the Minnesota Board of Medical Practice. As Executive Director, I am the official custodian of such documents and I have personally compared the attached copy with the original and find it to be a true and correct copy thereof.

H. Leonard Boche,
Executive Director
Minnesota Board of Medical Practice

(S E A L)

Exhibit A

BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
Brian D. Kanter, M.D.

Date of Birth: 11/23/47
License Number: 23,922

STIPULATION
AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Brian D. Kanter, M.D. ("Respondent"), and 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.

FACTS

For the purpose of this stipulation, the Board may consider the following facts as true:

2. While employed as a physician at Interstate Medical Center, Red Wing, Minnesota, several complaints were reported to the hospital administrator regarding Respondent's style of communication and quality of care;

3. On August 13, 1993, Respondent was admitted to the the St. Paul-Ramsey Emergency Room, St. Paul, Minnesota following a suicide attempt. Upon arrival, Respondent was in an unstable condition. There were trauma wounds to both antecubital fossae and it was reported that there was a possible overdose of Hydrocodone and acetaminophen about 6 hours prior to arrival. Respondent reported that he took approximately 11 tablets of Hydrocodone and then intentionally drove his van into a tree. Angered that he was not killed, Respondent then took out his fishing knife and self

inflicted wounds to his antecubital fossae. He left his van and walked into a ravine expecting to die, but was discovered by sheriffs. Subsequently, Respondent was treated, stabilized and brought to the hospital via helicopter;

4. After receiving notification of Respondent's suicide attempt, Respondent's employer searched his office for a note or any other indication of Respondent's difficulty. During the search, eleven empty blister packs of Lorcet were found. On August 16, 1993, while cleaning out Respondent's office, a metal popcorn tin, with various drugs hidden below the popcorn, was discovered in Respondent's office. The popcorn tin contained 13 tablets of Mobigesic; 121 tablets of Vicodin; 96 tablets of Vicodin ES; 20 tablets of Fiorinal with Codeine; 12 Fioricet; 12 Lorcet Plus and 1 box of 25 tablets of Vicodin;

5. On August 14, 1993, Respondent received a psychiatric consultation at St. Paul-Ramsey Medical Center, St. Paul, Minnesota. In the consultant's report, it is documented that:

a. Respondent has thought about suicide off and on for years, but never thought he would actually attempt it;

b. Respondent indicated that he had a long history of "impulsivity, mood lability and poor anger control";

c. Respondent reported taking 1-3 tablets of Vicodin per day for the past 3-4 months to "take the edge off the anger." Respondent has used Vicodin off and on for 6-7 years. There is no history of chemical dependency treatment;

d. In college and medical school, Respondent suspected that he had a mental illness and saw a psychiatric resident, who suggested that Respondent suffered from Bipolar disorder. Respondent did not obtain professional treatment until after he finished his residency and had been practicing medicine for several years;

e. Since 1982, Respondent has been followed by a psychiatrist in Rochester, Minnesota;

f. Significant ongoing stressors in Respondent's life included 3 recent legal complaints filed against his medical practice. He reported being reviewed by clinic peers and was accused of malpractice by another physician in the community;

g. Respondent has a significant family history. His mother was verbally abusive; his sister has a history of chemical abuse; there is history of mental illness on paternal and maternal sides of the family; his grandfather suffered from schizophrenia; several relatives committed suicide.

6. The psychiatric consultant diagnosed Respondent with Bipolar Affective Disorder; mixed recent suicide attempt; narcotic abuse. It was necessary to rule out impulse control disorder. The psychiatric consultant made the following recommendations and observations:

- a. Continue Prozac 40 mg. per day;
- b. Continue Buspar 20 mg. po t.i.d. and consider Tegretol;
- c. This patient requires continued psychiatric intervention. He would benefit from medication and psychotherapy (both individual and family). Patient minimizes drug use and denies severity of illness;
- d. Not currently suicidal but risk is high - stressors are severe and ongoing;
- e. Has adequate plan for treatment including psychotherapy and contact with his psychiatrist. May require inpatient stabilization for short period to adequately set up appointments;
- f. Discussed issues with patient and wife and he is agreeable to voluntary psychiatric hospitalization.

7. From August 14, 1993 to August 24, 1993, Respondent voluntarily underwent inpatient psychiatric treatment at St. Paul-Ramsey Medical Center, St. Paul, Minnesota. After evaluation by the attending staff psychiatrist, Respondent was restarted on Lithium for mood stabilization. Throughout the hospital stay, the Lithium dose was increased up to 900 mg. daily;

8. On August 16, 1993, an MMPI was administered to Respondent, the results of which suggested a "serious emotional disturbance." Furthermore, indicators associated with substance use suggested a personality at slightly increased risk of substance abuse. Although Respondent did not admit to any problems and symptoms associated with addiction, additional assessment in that area was recommended;

9. During his hospitalization, Respondent "acted out" on two occasions, as evidenced by the following:

a. On August 20, 1993, Respondent accused staff of treating him disrespectfully and then struck the wall with his fist;

b. On August 22, 1993, Respondent became "emotionally out of control" when a male nursing assistant attempted to collect the garbage from Respondent's room. The crackling of the bag greatly disturbed Respondent. Respondent verbally threatened to kick the one male nursing assistant's "ass" and grabbed the other male nursing assistant by the shirt and started shaking him. Respondent released his hand after the nursing assistant instructed him to do so.

10. A progress note on August 23, 1993, indicated that Respondent's wife was concerned about Respondent's use of over-the-counter medications as well as his cavalier attitude. Respondent's wife stated that Respondent had been using uppers and downers. She was concerned that he hasn't been honest about his medication use and is also concerned with the sample medications he keeps at home;

11. On August 24, 1993, Respondent was discharged from St. Paul-Ramsey Medical Center, St. Paul, Minnesota. The Final Diagnosis included:

- Axis I Bipolar affective disorder, depressed; Oxycodone abuse.
- Axis II No diagnosis.
- Axis III Self-inflicted stab wounds; normocytic anemia secondary to exsanguination.

12. Discharge recommendations and expectations for Respondent included:

- a. Cooperate fully with psychiatric treatment;
- b. Abstain from the use of drugs of abuse;
- c. Abstain from the use of prescription drugs unless prescribed;
- d. Comply with all tests requested, including urine and serum toxicology screens;
- e. Refrain from behavior which may be expected to injure others or is self-injurious.

STATUTES

13. The Board views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(1) (1992) and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action.

REMEDY

14. 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 until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order conditioning and

restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent shall obtain a treating physician who is a psychiatrist and is approved in advance by the Complaint Review Committee or its designee, to monitor and/or manage all medical or other care provided to Respondent by all health care professionals. Respondent shall provide all necessary records releases to enable Respondent's health care professionals to communicate with the treating physician pursuant to this paragraph. The treating physician shall provide quarterly reports to the Board summarizing medical or other care provided to Respondent and addressing Respondent's progress under any terms of this Stipulation and Order relating to Respondent's health status and recovery;

b. Respondent shall not prescribe or administer any legend drug for Respondent's own use or for Respondent's family members' use;

c. Respondent shall be subject, without notice, to unannounced blood and urine tests at the request of Board staff or other Board designee to ensure compliance with treatment medications. Blood and urine screens may be requested at any time. Respondent shall provide the requested sample within the time frame directed. The blood and urine screens shall be:

1) Collected and tested consistent with protocols established by a Board-designated laboratory;

2) Handled through legal chain of custody methods;

3) Paid for by Respondent.

d. The biological fluid collection and testing shall take place at a Board-designated laboratory as directed by the Board or its designee. The laboratory will provide test results directly to the Board and Respondent's treating physician;

e. Respondent shall provide to the Board and the treating physician a copy of any treatment or aftercare plan which is in effect at the time of execution of this Stipulation and Order or which is modified or becomes effective during the time Respondent is subject to this Stipulation and Order. The treatment or aftercare plan and any modifications to it shall be approved by the treating physician and shall include at least the following:

- 1) The treatment or aftercare plan activities;
- 2) The name, address, and telephone number for each provider of treatment or aftercare services.

The terms of any such treatment or aftercare plan or approved modification thereto, to the extent not superseded by this order, are herewith incorporated by reference. Failure to follow the plan or approved modification shall constitute violation of this order;

f. Respondent shall identify a work quality assessor who shall provide quarterly reports to the Board and to the treating physician regarding Respondent's overall work performance;

g. Respondent and a designated Board member or designee shall meet on a quarterly basis. It shall be Respondent's obligation to contact the designated Board member to arrange each of the meetings. The purpose of such meetings shall be to review Respondent's progress under the terms of this Stipulation and Order;

h. Upon request by the Board, Respondent shall sign releases authorizing the Board to obtain Respondent's medical, mental health or chemical abuse/dependency records from any treating professional or facility;

i. Respondent shall practice in a pre-approved practice location;

j. Respondent shall obtain therapy from a therapist approved in advance by the Complaint Review Committee. If the approved therapist determines to terminate

therapy at any time, Respondent shall submit a request for termination to the Committee for review. The Committee may require Respondent to continue therapy with a different therapist. The therapist shall submit quarterly reports to the Board and to the treating physician regarding Respondent's progress under the terms and conditions of this Stipulation and Order;

k. Upon recommendation to the Board by Respondent's treating physician and therapist, Respondent may petition for an unrestricted license.

15. Upon Board approval of this Stipulation and Order, Respondent shall provide the Board with the addresses and telephone numbers of Respondent's residence and all work sites. Within seven (7) days of any change, Respondent shall provide the Board with new address and telephone number information;

16. Within ten days of the date of this order, Respondent shall provide the Board with a list of all hospitals at which Respondent currently has medical privileges and a list of all states in which Respondent is licensed or has applied for licensure. The information shall be sent to the Board of Medical Practice, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114;

17. It is Respondent's responsibility to ensure that all reports required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the reports. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Respondent to practice medicine and surgery in the State of Minnesota shall be suspended immediately upon written notice by the Board to Respondent. The suspension shall remain in full force and effect until the Board terminates the suspension following a hearing on Respondent's petition to terminate. Nothing contained herein shall prevent the Board from revoking or suspending

Respondent's license to practice medicine and surgery in the State of Minnesota after any such hearing;

18. 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;

19. In the event Respondent should leave Minnesota to reside or practice outside the state, Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside of Minnesota will not apply to the reduction of 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;

20. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter and Respondent has chosen Wilma L. Zippel;

21. 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;

22. 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: 10/30, 1993

Brian D. Kanter M.D.
BRIAN D. KANTER, M.D.
Respondent

2218 Bevans Circle
Red Wing, Minnesota 55066

Wilma L. Zippel
WILMA L. ZIPPEL
Attorney for Respondent

Opperman Heins & Paquin
100 Washington Avenue S
Minneapolis, Minnesota 55401
Telephone: (612) 339-6900

Linda F. Close
LINDA F. CLOSE
Attorney for Board

500 Capitol Office Building
525 Park Street
St. Paul, Minnesota 55103
Telephone: (612) 297-2040

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 13 day of Nov, 1993.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: Donald Boche

AFFIDAVIT OF SERVICE BY MAIL

Re: Medical License of Brian D. Kanter, M.D.
License No. 23,922

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss.

Cynthia O. Ransom, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on November 16, 1993, she served the attached Stipulation and Order by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

WILMA L ZIPPEL
OPPERMAN HEINS & PAQUIN
100 WASHINGTON AVENUE S
MINNEAPOLIS MN 55401

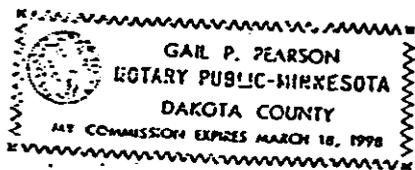


Cynthia O. Ransom

Subscribed and sworn to before me
this 16 day of November, 1993.



Notary Public



STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	(LS9503162MED)
BRIAN D. KANTER, M.D.,	:	(95 MED 011)
RESPONDENT.	:	

It is hereby stipulated between Brian D. Kanter, M.D. and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Brian D. Kanter, M.D., Respondent herein, 180⁶⁴ West Seventh Street, Red Wing, Minnesota 55066, is a physician duly licensed but not currently registered to practice medicine and surgery in the State of Wisconsin under license number 19225 which was granted on March 24, 1975.
2. A complaint was filed against and duly served upon Respondent on April 6, 1995.
3. Respondent has read the Complaint and understands the nature of the allegations against him.
4. Respondent is aware of and understands each of the Respondent's rights including the right to a hearing on the allegations against him at which time the State has the burden of proving these allegations by preponderance of the evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for rehearing; and all the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.
5. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph four above.
6. The Division of Enforcement recommends that the Wisconsin Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order in resolution of this matter.
7. For the purpose of this Stipulation only, Respondent voluntarily agrees to entry of the attached Final Decision and Order by the Medical Examining Board.
8. Violation of the terms and conditions specified in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Medical Examining Board.
9. The parties to this Stipulation understand that the Department of Regulation and Licensing, Division of Enforcement will take no further action against Respondent's license based on the allegations contained in the Complaint unless Respondent violates the terms and

conditions of this Stipulation and Final Decision and Order in which event, the Department may reinstate the Complaint and reinstitute proceedings against Respondent.

10. This agreement in no way prohibits the Medical Examining Board from any action against Respondent based on acts not alleged in the present Complaint which might be violative of the Wisconsin Medical Examining Board statutes and rules.

11. The parties agree to waive the Proposed Decision of the Administrative Law Judge and submit this Stipulation directly to the Medical Examining Board. All parties agree that counsel for the parties and the Board Advisor assigned to this case, may appear before the Board in open session to argue on behalf of acceptance of this Stipulation.

12. This Stipulation and Final Decision and Order, if adopted and entered by the Medical Examining Board, shall become effective on the date of signing.

13. In the event any term or condition of this Stipulation and Final Decision and Order is not accepted or entered by the Medical Examining Board, then no term of this Stipulation and Final Decision and Order shall be binding in any manner on any party to this Stipulation.

I, Brian D. Kanter, M.D., having read the above Stipulation and Understanding its terms, do hereby, freely, voluntarily and knowingly, enter into this Stipulation.

8/12/95
Date

Brian D. Kanter MD
Brian D. Kanter, M.D.
Respondent

8/18/95
Date

Pamela Stach
Pamela Stach
Attorney for Complainant
Department of Regulation and Licensing
Division of Enforcement

PS:daw
ATY-FLG2274

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

AUGUST 24, 1995.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)