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IN THE MATTER OF :
 DISCIPLINARY PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
 :
 ELEAZAR M. KADILE, M.D., : LS0112061MED
 RESPONDENT. :

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Eleazar M. Kadile, MD
1538 Belleview St.
Green Bay, WI 54311

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. The respondent is Eleazar deMira Kadile (D.O.B. 1/26/39) who is licensed and currently registered as a physician and surgeon in the State of Wisconsin, license #20408, first granted on 10/1/76. Respondent's most recent address on file with the Department of Regulation and Licensing is 1538 Belleview St, Green Bay, WI 54311. He resides at 5613 County Hwy T, Whitelaw, Manitowoc County, WI 54247.

2. During the years 1995 and 1996, respondent published to the public a brochure that contained the representation that he held a board certification but without specifying the complete name of the specialty board that conferred the certification.

3. In the same brochure, respondent advertised as follows: "Our Certified Clinical Nutritionist is available to discuss nutritional needs with you," when respondent had no person on his staff or associated with his practice who was or is certified under §§448.70 to 448.94, Wis. Stats, although the identified person had passed a certification test for a national private association in the field of nutrition in 1991.

4. Respondent published in the August 17, 1996 (Sunday) *Green Bay Press-Gazette*, a general circulation newspaper, an advertisement which stated that a "typical" patient treated with chelation therapy reported that his coronary artery blockage was halved by respondent's chelation therapy, and which quoted a patient as saying "I have no doubt that chelation therapy is an effective way to not only combat, but reverse some of the effects of atherosclerosis." The Board finds that there are not sufficient data to support these representations, and they may therefore be misleading.

5. Respondent engages in various medical therapies and practices which are often termed "complementary and alternative medicine." The Board has no position on the use of this phrase, or the practices that such a description may encompass. Respondent has engaged in the treatment of several patients in a manner that raised one or more of the following concerns: the patient records appeared to be inadequate relative to legibility, history, physical exam, patient complaints and actions taken relative thereto, existing medical conditions, diagnostic testing, recommended treatment, informed consent, communication with other medical providers, diagnosis and management of medical conditions, and the accuracy of correspondence sent to third party payers regarding EDTA chelation therapy. Respondent asserts that his records were adequate for purposes of rendering medical treatment within the context of his medical practice and patient population.

6. In resolution of this matter, the Board makes no findings concerning the efficacy of EDTA chelation therapy for vascular disease at this time, but finds that respondent's records of the patients whose charts were examined were deficient in other respects, as noted above, from which the Board infers "negligence" as defined by law.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

B. The Board concludes that the conduct described above violated one or more of the following: § Med 10.02(2)(o) and (w), Wis. Adm. Code, and §448.02(3)(c) Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Eleazar M. Kadile, MD, is REPRIMANDED for his violations of § Med 10.02(2)(o) and (w), Wis. Adm. Code, in this matter.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of respondent is LIMITED as provided in §448.02(3)(e), Wis. Stats., and as follows:

- 1) Respondent shall provide all patients with the attached "Notice to Patients" before commencing any treatment or therapy, and shall retain a copy in the chart.
- 2) Respondent shall not engage or participate in any research on human subjects without the specific consent of the Board, which consent shall not be unreasonably withheld.
- 3) Respondent shall not prescribe, dispense, or administer any prescription drug which is not FDA approved, or legally compounded using only ingredients which can be legally obtained for the purpose of medical treatment.
- 4) Respondent may offer chelation therapy only if the patient signs the form which is attached to this Order as **REQUIRED DISCLOSURE FOR ETHYLENEDIAMINETETRAACETIC ACID (EDTA) CHELATION THERAPY**. Respondent shall not in any way attempt to defeat or minimize the message of the approved disclosure forms with other documents or oral statements. Respondent shall comply with ch. Med 18, Wis. Adm. Code. The form shall be preserved in the patient's chart, and a copy given to the patient at the time of signing. Before chelation therapy is administered, and contingent upon the consent of the patient, the patient's primary care physician or a relevant specialist (e.g. a cardiologist) shall be informed, and all legend components of the therapy shall be disclosed.
- 5) All testing shall be performed by a CLIA regulated laboratory which is authorized to do the test performed.
- 6) Respondent shall make no statement concerning a patient's condition, orally or in writing, to any third party payor or a patient (or patient's caregiver) which is not clearly supportable by the patient's health care record. Respondent shall not make any statement to a third party payor or a patient (or patient's caregiver) that a patient has abnormal levels of any substance without enclosing the laboratory report which supports that statement.
- 7) Respondent shall not use any advertising which is false, misleading, or deceptive, including but not limited to the conduct described in pars. 2-4, of the Findings of Fact, above.

IT IS FURTHER ORDERED, that respondent's license is LIMITED in the following respect: respondent shall forthwith undergo an assessment to evaluate respondent's current abilities to practice medicine at his current practice, with his current patient population, and given the Stipulation and Order and facts of this case. Respondent may propose members of the assessment panel, but the selection of assessors is entirely within the discretion of the Program. The assessment shall include medical recordkeeping and be performed under the direction of the University of Wisconsin Continuing Medical Education Program (UW-CME) or another provider acceptable to the Board, and may include a cognitive screening assessment, peer interview, and/or physical examination. Respondent shall have completed all portions of the assessment process for which he is responsible (including payment of all required fees), as requested by UW-CME, on a schedule as established by UW-CME, but no later than 90 days after the date of this Order, unless the Board grants an extension at the request of UW-CME.

If the results of this assessment process shows a material deficiency in respondent's abilities, respondent shall participate in and successfully complete an educational program established through the UW-CME based upon on the results of the assessment. Respondent shall complete this program within the time parameters established by the UW-CME, but no later than two years from the date of this Order.

Respondent shall be responsible for all costs incurred for the assessment and educational program under the terms of this Order, and shall timely pay all fees when due.

The UW-CME shall certify to the Board the results of the assessment and educational program upon the completion of the assessment and upon the completion of the educational program. Upon receipt of

certification of completion of the terms and conditions set forth above, the Medical Examining Board shall inform respondent that his obligations under this portion of this order have been satisfied, and that his license is no longer limited in this respect.

Upon completion of the UW-CME assessment and, if applicable, the subsequent educational program as described in this section, respondent shall, at his own expense, retain a physician who is board certified in a specialty recognized by the American Board of Medical Specialties, who is acceptable to the Board, such acceptance not to be unreasonably withheld. The retained physician shall, on behalf of the Board, review a sampling of respondent's patient charts generated after the date of this Order as the retained physician shall determine, no less often than every three months, or as the retained physician shall determine is necessary to timely review the records, and shall report to the Board any conduct which may be in violation of this Order. The retained physician's sole duty is to the Board and not to any patient or third party. Respondent shall cooperate at all times with the retained physician including by timely paying any fees in full, answering questions, and providing supplemental information promptly when requested. If the reviewer determines that clinical notes are not legible, s/he may require that they be typed. The chart review described herein shall terminate after two years of reviews, unless the Board extends it for cause. If the Board proposes to extend the review period, it shall give notice to respondent and the Division, and allow each to be heard before determining whether to extend the review period. If respondent contests a Board extension of the review period, he may request a Class I hearing on the issue of whether the Board had reasonable cause to extend the review period.

If applicable, should respondent not successfully complete the educational program, this matter shall be referred to the Board to determine any other appropriate action relative to the conduct set out in the Findings of Fact, which may include any action permitted by §448.02(3)(c), Wis. Stats. Respondent and the Division will have the opportunity to present argument to the Board on that issue. The Board and respondent will receive the results of the assessment and respondent's status relative to completing the educational program, as evidence in determining appropriate action, if any.

If respondent has diligently pursued the assessment option in a timely manner, and has promptly started the recommended educational program (if any), but is for any reason in good faith unable to fully complete the educational program recommended, by October 31, 2005, he may petition the Board for a reasonable extension to finish the educational program. The granting of such extension is within the discretion of the Board, and may include conditions or additional limitations for the period of such extension, based on the assessment and respondent's progress in the educational program as known at that time.

IT IS FURTHER ORDERED, that whether respondent shall pay the costs of investigating and prosecuting this matter shall be determined by the Board in a separate order. The agreement not to seek review of this matter does not apply to any order respecting costs, and respondent may separately seek review of, or otherwise appeal, such order. This matter is remanded to the Administrative Law Judge assigned, for a hearing and recommendation on that issue.

IT IS FURTHER ORDERED. If the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, that finding of probable cause following an opportunity to be heard shall be deemed legally sufficient for action under §448.02(4), Wis. Stats.

Dated this November 21st, 2003.

WISCONSIN MEDICAL EXAMINING BOARD

Alfred Franger

A Member of the Board