

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
VICTORIA FETTER, M.D., : LS 0808291 MED
RESPONDENT. :

[Division of Enforcement Case #'s 06 MED 406 & 07 MED 406]

Victoria Fetter, M.D.
1301 N. Astor Street
Milwaukee, WI 53202

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

Wisconsin Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

This disciplinary proceeding was commenced on August 29, 2008. A hearing is scheduled to be held on May 6 and 7, 2009. 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 Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Victoria Fetter, M.D., Respondent, date of birth November 8, 1941, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 16473, which was first granted August 9, 1968.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1301 N. Astor Street, Milwaukee, WI 53202.
3. Respondent's practice specialty listed with the Department is psychiatry.

Prior Disciplinary Action

4. On February 24, 2000, the Board issued a Final Decision and Order taking disciplinary action against Respondent.
 - a. The Board found that during 1997, Respondent had breached a patient's confidentiality by disclosing privileged communications to others without the patient's consent.
 - b. Respondent was reprimanded for her conduct.
 - c. Respondent was also required to complete a one-day program on the subject of appropriate boundaries in relationships between health care professionals and their clients. On April 25, 2000, Respondent

completed the required education.

Count I

5. Since January 2006, Respondent has provided psychiatric services to clients at her office in Milwaukee, Wisconsin. Respondent's office is located on the second floor of a professional office building in which there are approximately 20 other offices. The building has a locked lobby, but once admitted, a person is able to go anywhere in the building. There is an unlocked bathroom on the second floor to which anyone working in, or visiting, any of the offices in the building has access. In the bathroom are two trash receptacles that do not have covers. The receptacles are located under a counter, but must be pulled out in order to place trash in them. When that is done, the contents are visible.

6. The building management does not provide cleaning or trash removal services. From the time she moved to that building and on a regular basis, Respondent took her paper trash, which included confidential information about patients, and discarded it in the bathroom trash receptacles, where the papers were visible to anyone who happened to use the public shared bathroom and look in them. In November 2007, confidential correspondence and client records belonging to Respondent were discovered in those trash receptacles. They included originals of confidential health care records of initial assessments, mental health diagnoses, treatment sessions and other information relating to Respondent's treatment of named patients with their dates of birth.

7. After a client of a psychotherapist practicing in the building told the therapist the client had seen confidential health care records in the bathroom trash, the psychotherapist asked Respondent not to put records in that trash. Respondent continued to do so and the therapist filed a complaint with the Department.

8. Respondent continued to discard confidential client materials in the open trash receptacles in the public bathroom until after being contacted by the Department to explain her conduct. In August 2008, upon advice of her attorney, Respondent obtained a shredder which she now uses for all confidential materials. There is no evidence that the disclosures harmed any patient.

9. Wis. Stat. § 146.82(1) provides that "All patient health care records shall remain confidential." By disposing of patient health care records in an open receptacle in a public bathroom, Respondent has violated this statute which is a law the circumstances of which substantially relate to the practice of medicine.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3) and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, has divulged privileged communications and information entrusted by a patient and has violated a law the circumstances of which substantially relate to the practice of medicine, which are unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(n) and (z), and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Victoria Fetter, M.D., is hereby REPRIMANDED.

2. Respondent's license is LIMITED as follows:

a. Within 90 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a total of twelve (12) hours of continuing medical education in psychiatrist-patient confidentiality, confidentiality of mental health treatment records and HIPAA, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that she has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

3. Respondent is prohibited from applying the educational credits required by this Order toward satisfaction of the continuing education required during the November 1, 2007 through October 31, 2009 registration biennium or subsequent bienniums.

4. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$2,188.00 pursuant to Wis. Stat. § 440.22(2).

5. Requests for approval, notification of completion of educational program(s) and payment shall be faxed, mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

7. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: Gene Musser M.D.
A Member of the Board

5/20/09
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
VICTORIA FETTER, M.D.,	:	<u>LS 0808291 MED</u>
RESPONDENT.	:	

[Division of Enforcement Case #'s 06 MED 406 & 07 MED 406]

It is hereby stipulated and agreed, by and between Victoria Fetter, M.D., Respondent; Arthur E. Beck of Beck, Chaet, Bamberger & Polsky, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this matter by stipulation and without a hearing.

2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and

issue the attached Final Decision and Order.

Victoria Fetter, M.D.
Respondent
1301 N. Astor Street
Milwaukee, WI 53202

Date

Arthur E. Beck
Beck, Chaet, Bamberger & Polsky, S.C.
Attorneys for Respondent
330 E. Kilbourn Avenue, Suite 1085
Milwaukee, WI 53202

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Date