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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : Case No. LS0910091MED
KEVIN A. LANG, M.D., :
RESPONDENT. :

ORDER OF SUMMARY SUSPENSION

[Division of Enforcement Case No.09MED102]

The Petition for Summary Suspension of Dr. Kevin A. Lang's license to practice medicine was noticed to be presented at 8:20 a.m. on October 21, 2009. At the time and place noticed, attorney Sandra L. Nowack appeared for the Complainant, Department of Regulation and Licensing, Division of Enforcement. Dr. Kevin A. Lang, M.D. appeared and was represented by attorney Randal Arnold.

The Wisconsin Medical Examining Board, having considered the previously filed Complaint in LS0910091MED, for which the Board found probable cause on September 15, 2009, the sworn October 8, 2009 Petition for Summary Suspension, the October 8, 2009 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension, the October 8, 2009 Affidavit in Support of Petition for Summary Suspension of Daniel Williams, the October 20, 2009 letter from Dr. Gene G. Abel and the October 21, 2009 affidavit of Dr. Gene G. Abel, and, having heard the arguments of counsel, hereby makes the following:

FINDINGS OF FACT

1. Kevin A. Lang, M.D., Respondent, date of birth July 4, 1962, 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 32020, which was first granted April 18, 1991.
2. Respondent's address of record with the Wisconsin Medical Examining Board is M207 Marsh Lane, Marshfield, WI 54449.
3. Respondent is a gastroenterologist.
4. At the time of the events set out below, Respondent was employed as a physician at Marshfield Clinic, 1000 N. Oak Avenue, Marshfield, Wisconsin.
5. On Friday, March 13, 2009, Respondent saw Patient F.D., on an emergent basis. Patient F.D. was sedated with midazolam ("Versed") and fentanyl. Respondent did an endoscopic exam, removed impacted gall stones, cut the ampulla and placed a stent in F.D.'s bile duct.
6. F.D. was transported to her hospital room, where she slept until she felt "something strange" in her right hand. When she opened her eyes, Respondent withdrew her right hand from his erect penis, which was inside his pants. At the same time, Respondent had been moving F.D.'s left hand back and forth over her left nipple. Another staff member came into the room and Respondent left.
7. Respondent has indicated that F.D. was in and out of consciousness while the contact occurred. In addition to the conduct reported by F.D. (in par. 6, above), Respondent also put F.D.'s right hand inside her panties in her genital region.
8. Approximately 15 minutes later, F.D. awakened to find Respondent examining her abdomen and sides. Respondent then crossed F.D.'s right hand over to her left breast and used his hand to move F.D.'s hand back and forth over her nipple. F.D. was groggy during this contact. Respondent attempted to put F.D.'s hand inside her panties but this time she was able to resist.

9. F.D. reported the incident to her internist. On March 19, 2009, when confronted, Respondent acknowledged the incidents, said he needed help, and voluntarily surrendered his hospital privileges. Respondent has not practiced since March 20, 2009.

10. On April 6, 2009, Respondent, through counsel, reported his conduct to the Medical Examining Board.

11. Between March 25 and March 27, 2009, Respondent underwent an assessment at the Behavioral Medicine Institute of Atlanta (BMI) and immediately commenced an intensive eight-week outpatient treatment program.

12. While in treatment at BMI, Respondent disclosed that, between 2003 and 2007, he had committed eleven acts of sexual misconduct while treating patients. The first incident was in Fall 2003. Respondent was conducting an endoscopic examination of a female patient who had been sedated with midazolam (“Versed”) and fentanyl. As the patient drifted in and out of consciousness, Respondent placed her hand on his erect penis, which was outside his pants. Although confronted by administration, no action was undertaken based primarily upon Respondent’s explicit denial of any misconduct. Respondent tried to put it out of his mind.

13. Respondent’s acts of sexual contact with patients generally occurred between 2003 and 2005. The incidents were generally post-endoscopy, and involved patients who were in and out of consciousness. The sexual contact consisted of Respondent placing the patient’s hand on his penis. Eventually, the clinic’s policy changed to require the presence of two individuals during endoscopies as a result of accreditation requirements and Respondent did not touch another patient sexually until 2009.

14. Respondent acknowledged that he also engaged in voyeurism and exhibitionism in the past.

15. Respondent's conduct as set forth in paragraphs 4-8 and 12-13, above, constitutes danger to the public health, safety or welfare, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h). Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

16. Respondent has engaged in treatment with a positive prognosis. His current treatment plan has an average duration of 36-48 months. Respondent's treatment contract requires, inter alia, chaperones, biannual polygraph testing, compliance with restrictions placed on his license, a practice monitor and ethics training. The Board has no means of enforcing those conditions without an Order, and therefore the absence of an Order places the public at an unacceptable risk of harm.

17. Respondent, by his conduct described above, has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license to practice medicine.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(4) and has authority to summarily suspend Respondent's license to practice as a physician in the State of Wisconsin, pursuant to Wis. Stat. § 227.51(3) and Wis. Adm. Code ch. RL 6.

2. Notice has been given to Respondent as required by Wis. Adm. Code § RL 6.05.

3. There is probable cause to believe that Respondent's conduct as set forth above, constitutes a danger to the public health, safety or welfare, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h).

4. There is probable cause to believe that Respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Respondent's license to practice medicine.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of Kevin A. Lang, M.D., to practice medicine and surgery in the state of Wisconsin be and is summarily suspended for 30 days, effective immediately.

IT IS FURTHER ORDERED that the Administrative Law Judge assigned to the matter may continue the suspension for 30 days while the hearing in the disciplinary proceeding is in progress.

IT IS FURTHER ORDERED that if Respondent causes a delay in the hearing process of the disciplinary proceeding against Respondent, the Administrative Law Judge assigned to the matter may continue the suspension from the time the hearing is commenced until a final decision is issued by the Board.

IT IS FURTHER ORDERED that Respondent is hereby notified of his right, pursuant to Wis. Adm. Code § RL 6.05 to request a hearing to show cause why this summary suspension order should not be continued and is further notified that any request for a hearing to show cause should be filed with the Wisconsin Medical Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

IT IS FURTHER ORDERED that in the event that Respondent requests a hearing to show cause why the summary suspension should not be continued, that hearing shall be scheduled to be heard on a date within 20 days of receipt by the Board of Respondent's request for hearing, unless Respondent requests or agrees to a later time for the hearing.

Wisconsin Medical Examining Board

By: Gene Musser
A Member of the Board

10/22/09
Date