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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL J. MUISE, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0000 611

Division of Enforcement Case No. 09 MED 101

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

Michael J. Muise, M.D.
1301 S. Kiwanis Dr.
Freeport, IL 61032

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

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. Michael J. Muise, M.D., Respondent, date of birth October 6, 1972, 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 52222-20, which was first granted October 1, 2008.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1301 S. Kiwanis Dr., Freeport, IL 61032.
3. At the time of the events set forth below, Respondent was employed as a family practice physician at Monroe Clinic – Freeport in Freeport, Illinois.
4. Ms. T began employment at Monroe Clinic – Freeport on August 20, 2007. Ms. T worked as a medical assistant with the Respondent.

5. In the summer of 2008, Ms. T switched primary providers and became a medical patient of Respondent. Respondent saw Ms. T as a patient on three occasions and reports there were no gynecological or breast exams and no disrobing of the patient during the medical care Respondent provided.

6. According to the Respondent, during summer of 2008, Ms. T repeatedly asked him to buy her a Coach purse because he could afford it. The Respondent admitted to liking the attention, but he told Ms. T he could not afford to buy her such a purse.

7. From the summer of 2008 through January of 2009, the Respondent and Ms. T had a developing relationship which evolved into sexual contact and eventually multiple incidents of sexual intercourse. Ms. T remained a medical patient and co-worker of the Respondent during this time period.

8. On January 25, 2009, the Respondent ended his sexual relationship with Ms. T. The Respondent and his wife began marital counseling and he started personal counseling.

9. On February 10, 2009, Respondent had a letter sent to Ms. T indicating that her care was transferred to another provider.

10. On January 23, 2009, the Respondent reported the sexual relationship to Ms. T's supervisor. The Monroe Clinic - Freeport began an investigation into this matter. In an interview with the Chief Medical Officer conducted on March 12, 2009, the Respondent admitted to having a sexual relationship with Ms. T, who was his co-worker and patient.

11. On April 9, 2009, the Respondent signed a final warning letter issued by the Monroe Clinic-Freeport regarding his conduct and he was placed on paid administrative leave and ordered to attend and complete an assessment and evaluation at the Professional Renewal Center in Lawrence, KA.

12. From April 20, 2009 - April 26, 2009, at the request of Monroe Clinic, the Respondent was evaluated for AODA and Psychological Issues at the Professional Renewal Center. The Respondent's assessment concluded and recommended:

- a. The Respondent is not a sexual predator and is in the low risk category of risk for future acting out behaviors of a sexual nature;
- b. The Respondent fully understands the forces that drove him to cross the sexual boundary;
- c. The Respondent needs to learn a broader array of skills to deal with the stressors and experiences in his life;
- d. The Respondent needs to engage in an intensive treatment approach that assists him in identifying and processing the underlying dynamics that contributed to his behavioral difficulties; a treatment program that provides group interaction;
- e. The Respondent's after plan needs to include environmental supports and safeguards that can be developed in collaboration with his workplace administration;
- f. The Respondent needs weekly psychotherapy to maintain the gains he makes in his initial treatment process;

- g. The Respondent should contact the Professional Health Program representative in Illinois to act as a consultant in making decisions about treatment, office safeguards, and on-going professional support; and
- h. The Respondent should attend a CME course for physicians that examines professional boundaries.

13. Beginning January 31, 2009, the Respondent participated in weekly outpatient mental health counseling with Gary Hubbard, professional counselor at Couple Counseling Center in Rockford, IL. Starting September 2009, the Respondent and Mr. Hubbard met bi-weekly; in the winter of 2010 they began meeting monthly; and effective August 18, 2010, the Respondent resumed bi-weekly counseling as he felt more frequent sessions would be beneficial to him.

14. According to Mr. Hubbard, the Respondent was vulnerable and pursued aggressively by a co-worker. He and the Respondent have been working on identifying issues that generate vulnerability and how to develop boundaries. Mr. Hubbard believes there is no chance of the Respondent ever allowing a co-worker to become his patient or the Respondent ever becoming involved with a co-worker again.

15. In a statement the Respondent wrote to the board, he admits to creating a serious boundary violation and writes that he is regretful of his poor judgment and such a violation will never happen again. He is remorseful for the injury and pain he caused his wife and family.

16. Wis. Admin. Code § MED 10.02 (2) (zd) prohibits, in part, sexual contact with a patient during medical care and treatment and for two years after termination of professional services.

CONCLUSIONS OF LAW

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

2. Respondent, by engaging in sexual contact with Ms. T while she was Respondent's patient, engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(zd).

ORDER

IT IS HEREBY ORDERED that the attached Stipulation of the parties is accepted.

IT IS FURTHER ORDERED that:

SUSPENSION

1. The license of Michael J. Muise, M.D., Respondent, to practice medicine and surgery in the State of Wisconsin is hereby **SUSPENDED** for a period of twelve (12) months, effective on the date of this Order. At the end of the twelve months, the period of suspension shall end without further order of the Board.

STAY OF SUSPENSION

2. The suspension of the Respondent's license is hereby STAYED as of the date of this Order and shall remain stayed during the period of suspension as long as the Respondent is in compliance with the Terms and Conditions set forth below.

3. The Board or its designee may, without hearing, remove the stay upon receipt of information that the Respondent is in substantial or repeated violation of any term or condition below. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision.

4. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to the Respondent either by:

- a. Mailing to the Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
- b. Actual notice to the Respondent.

5. The Board or its designee may reinstate the stay, if provided with sufficient information that the Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

6. If the Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code § RL 2. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS FOR A STAY

7. The Respondent shall report any change of employment status, residence, address or telephone number to the Department Monitor within five days of the date of a change.

Practice Supervisor

8. Within seven days of the date of this Order, the Respondent shall provide a copy of this Final Decision and Order to his supervisory authority at Monroe Clinic - Freeport in Freeport, IL. If the Respondent changes his practice setting, he shall immediately provide a copy of this Final Decision and Order to his supervisory authority at the new location.

9. The Respondent's practice supervisory authority shall submit written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess the Respondent's work performance and shall include any complaints made against the Respondent by patients or their family. It is the Respondent's responsibility to ensure that the reports are submitted when due and the Respondent is responsible for payment of any costs associated with submission of the reports.

Psychotherapist

10. Within 30 days of the date of this Order, the Respondent shall provide proof to the Department Monitor that he has begun or continued treatment with a psychotherapist approved by the Board or its designee to address the issues identified by Professional Renewal

Center and that the psychotherapist has been provided with a copy of this Final Decision and Order and the report of Professional Renewal Center. The frequency of sessions shall be at least monthly and the goal of the therapy is to assist Respondent in keeping his personal and professional life in balance and maintaining boundaries.

11. The psychotherapist shall provide quarterly reports to the Department Monitor, which shall include the Respondent's status, how many sessions have been held that quarter and whether the Respondent has been cooperative with treatment.

Professional Boundaries Education

12. The Respondent shall successfully complete one of the following programs and within 30 days of completion provide proof sufficient to the Board, or its designee, of satisfactory completion:

- a. Intensive Course in Medical Ethics, Boundaries and Professionalism (including the reflective essay and post-reflective essay) provided by Case Western Reserve University School of Medicine, a 20.5 category 1 credit program currently being offered February 3 – 4, 2011.
- b. Maintaining Proper Boundaries provided by Vanderbilt University School of Medicine, a 22.25 category 1 credit program currently being offered February 23 – 25, 2011 and March 30 – April 1, 2011.

13. If the Respondent is unable to complete either of the courses described in paragraph 14 because of illness or other circumstance found to be acceptable by the Board or its designee, the Respondent shall, prior to the required course completion date, petition for a reasonable extension of time within which to take and complete the course or an equivalent course.

14. The Respondent is responsible for paying the full cost of attending the course. Respondent shall not apply any of the hours of education completed to satisfy the terms of this Order toward satisfaction of the continuing education required during the November 1, 2009 through October 31, 2011 registration biennium.

MISCELLANEOUS

15. The Respondent shall within 90 days of this Order pay costs of this proceeding in the amount of ELEVEN HUNDRED (\$1,100.00) dollars. Payment shall be made to the Wisconsin Department of Regulation and Licensing, and mailed to the address provided below.


16. All requests, notices, reports and payments required by this Order shall be provided 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

17. 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 the 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 Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered continuing education as set for above, the Respondent's license (No. 52222-20) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

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

Wisconsin Medical Examining Board

By: 
A Member of the Board

19 Jan 2011
Date

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