# WISCONSIN DEPARTMENT OF REGULATION & LICENSING

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

| | | |
|---|---|---|
| IN THE MATTER OF THE LICENSE OF | : | FINAL DECISION AND ORDER FOR REMEDIAL EDUCATION |
| FRED H. WALBRUN, M.D., RESPONDENT. | : | ORDER 0000806 |

Division of Enforcement Case No. 06MED330

Fred H. Walbrun, M.D.
4446 N. Pine Tree Road
Oneida, WI 54155

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

A formal complaint was filed in this matter on October 21, 2009. Prior to the hearing on the formal complaint, the parties in this matter agreed 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. Fred H. Walbrun, M.D., Respondent, date of birth April 27, 1950, 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 22566, which was first granted July 13, 1979.

2. Respondent's address of record with the Department of Regulation and Licensing is 4446 N. Pine Tree Road, Oneida, Wisconsin 54155.

3. Respondent's practice specialty listed with the Department is internal medicine.

4. At the time of the events set out below, Respondent provided medical services at Manorcare Health Services-East ("Manorcare"), a skilled care nursing home in Green Bay, Wisconsin.

5. On November 11, 2005, Resident MW (DOB 2/19/42) was originally admitted to Manorcare for rehabilitation, following several falls at home. Resident MW had diagnoses that included multiple sclerosis, depression and sporadic dementia. Resident MW relied on a wheelchair for movement, with assistance.

6. Throughout her stay, Resident MW exhibited exit-seeking behaviors. Then, in May 2006, Resident MW had two unresponsive episodes, one of which resulted in Resident MW falling and striking her head. After these events:

a. Resident MW became increasingly agitated; her periods of wanting to go home increased, and she was difficult to redirect.

b. Resident MW began experiencing delusions and hallucinations, often claiming that she had to leave to care for the babies.

7. On June 6, 2006, a Neuropsychological Evaluation indicated that Resident M. W. exhibited at least mild cognitive impairment, particularly in the areas of memory and calculations and less so with respect to visual spacial constructions. In addition, there was evidence of "at least moderate depression, which certainly may be reactive to her recent psychosocial stressors as well as her presenting problems. She was, however, alert and well-oriented." Her attention, as well as her language abilities, including comprehension, repetition and naming, fell within the average range. Likewise, her reasoning abilities, including abstraction and judgment, were within the average range. Neither Alzheimer's Disease nor any type of dementia was diagnosed. The examining neuropsychologist did not conclude that Resident M. W. was incompetent nor was any recommendation made for a guardian.

8. On June 6, 2006, the date of the neuropsychological evaluation, the medical record from Manorcare describes Resident M. W. as sobbing and stating, "I have to save the baby. Is it wrapped? It's cold outside. Please save the baby."

9. Between June 10 and 20, 2006, the cognitive and psychological status of Resident M. W. fluctuated. On some days, she was alert, cooperative and apologetic for her conduct and behavior. On other dates, as described in the following paragraphs, her conduct and behavior raised concerns.

10. A June 8, 2006 plan of care noted that Resident MW mobility was compromised by weakness, balance problems, functional mobility limits and cognitive deficits. The record noted she required assistance for walking, transfers positioning and locomotion, related to multiple sclerosis and syncope.

11. On June 16, 2006, Resident MW again became agitated and combative, screaming that her legs were cut off and bleeding, and that staff were trying to kill her.

12. On June 18, 2006, Resident MW called 911 and reported that she had been kidnapped and was locked in a basement. By 10:00 a.m. that day, Resident MW had attempted to leave Manorcare at least five times.

13. Resident MW's husband became concerned that Resident MW lacked the capacity to make her own medical decisions. On June 19, 2006, Resident MW's attending physician agreed, and without personally examining Resident MW, provided one of two signatures necessary to activate Resident MW's medical power of attorney.

14. On June 20, 2006, after spending an hour talking with Resident MW, and discussing her conduct with staff, Respondent noted that Resident MW had psychological and marital issues and needed counseling, but determined at the time of Respondent's interview with her, Resident MW was capable of making her own health care decisions. Accordingly, Respondent declined to activate Resident MW's medical power of attorney.

15. Resident MW's husband requested a second opinion.

16. On the afternoon of June 22, 2006, Resident MW again exhibited delusions, and was released against medical advice. That evening, her power of attorney for health care was activated.

17. The applicable standard of care requires that evaluations for the purposes of activation of a patient's power of attorney for health care decisions under ch. 155, is not limited exclusively to the period in which the physician actually sees the patient for the evaluative interview. A patient who lacks the capacity to make health care decisions may have intermittent periods of lucidity.

## CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stat. § 448.02.

2. The Wisconsin Medical Examining Board has authority to resolve this proceeding by stipulation without an evidentiary hearing pursuant to Wis. Stat. § 227.44 (5).

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Within 6 months of the date of this Order, Respondent shall satisfactorily complete the following continuing education programs, which shall has been pre-approved by the Board, or its designee: twelve (12) total hours of credit related to geriatric mental health as set for the below:

a. Respondent shall successfully complete the following on-line remedial education activities: Harvard Medical School's Department of Continuing Education: *Geriatrics: Delirium: A Medical Emergency*, 2 credits; American Medical Director's Association: *Executive Control and the Capacity for Medical Decision Making,* 1 credits; *Impaired Decision-Making Capacity: Assessment and Management*, 3 credits; *Decision-Making Capacity in Long Term Care: A Case-Based Approach*, 1.5 credits; *Managing the Difficult D's in Long Term Care: An Evidence-Based Approach to Dementia and Difficult Behaviors*, 1.5 credits.

b. Within 30 days of completing all remedial education materials, Respondent shall provide an affidavit attesting to completion. Within the same time period, Respondent shall submit a one-page summary of how he would approach the case of Resident MW differently, if at all.

c. Respondent shall be responsible for all costs associated with these remedial education activities;

d. Respondent has completed and provided documentation for the following preapproved courses which would fulfill 3 remedial education credits:

(1) Understanding Ethical and Legal Dilemmas in Geriatric Psychiatry-A practical Approach for Trainers and Trainees, sponsored by the AAGP Teaching & Training Committee.

(2) Powers of Attorney, Guardianships, and Advance Directives in Geriatric Psychiatry.

e. Respondent is prohibited from applying the educational credits required by this Order toward satisfaction of the continuing education required for licensure and registration.

2. The Division Administrator has waived costs of this proceeding.

3. Notification of completion of educational program(s) shall be faxed, mailed or delivered to:

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

4. 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 Respondent fails to timely submit payment of the costs as ordered or fails to comply with the ordered continuing education, as set forth above, the Respondent's license (No. 22566-20) 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: SKailas MD MBA 4/20/11

A Member of the Board Date