

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE MEDICAL EXAMINING BOARD

ORDER 0001969

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER  
WITH VARIANCE

GUIDITTA ANGELINI, M.D.,  
RESPONDENT.

DHA Case No. SPS-14-0027  
DSLCase No. 11 MED 315

**BACKGROUND**

On May 9, 2014, Administrative Law Judge Jennifer Nashold (ALJ), State of Wisconsin, Division of Hearings and Appeals, issued a Proposed Decision and Order (PDO) in the above matter. No objections were filed by either party to the PDO. The Medical Examining Board (Board) considered the PDO at its meeting on June 18, 2014. After deliberation the Board voted to adopt the Findings of Fact, Conclusions of Law and Order contained in the PDO but vary the Procedural History to correct the statements made regarding the allegations in the complaint. The PDO is attached hereto and incorporated in its entirety into this Final Decision and Order with Variance.

**DECISION**

Pursuant to Wis. Stat. §§ 440.035(1) and 448.02, the Board is the regulatory authority and final decision maker governing disciplinary matters of those credentialed by the Board. The pending matter is a class 2 proceeding pursuant to Wis. Stat. § 227.01(3). The Board may make modifications to a PDO, a class 2 proceeding, pursuant to Wis. Stat. § 227.46(2).

In the present case, the Board adopts the **FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER** set forth in the PDO but varies the **PROCEDURAL HISTORY** to reflect the allegations as stated in the complaint which initiated this proceeding rather than those stated

in the PDO. Paragraph one of the **PROCEDURAL HISTORY** and the scrivener's error in the **CONCLUSIONS OF LAW** are modified as follows:

### **PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), filed a formal Notice of Hearing and Complaint against Guiditta Angelini, M.D. (Respondent). The Complaint alleged that Respondent's license was subject to disciplinary action pursuant to Wis. Stat §448.03 and Med 10.03(1) (a) by violating any term, provision, or condition of any order of the Board. Specifically, the Division alleged that on November 25, 2013, Respondent was ordered by the Board to undergo a neuropsychological evaluation within 120 days of the date of the Order. The Division further alleged that Respondent failed to schedule and undergo the examination as ordered. The Division served Respondent on March 20, 2014, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. Respondent failed to file an Answer to the Complaint as required by Wis. Admin. Code § SPS 2.09.

### **DISCUSSION AND EXPLANATION OF VARIANCE**

The PDO in this matter filed by the ALJ references a complaint filed by the Division alleging violation of continuing education requirements and a material misstatement in the application for a certificate or renewal of a certificate. In fact, the complaint filed by the Division which initiated these proceedings alleged failure by the Respondent to comply with a valid order of the board. This appears to be a simple misstatement in the drafting of the PDO since the proceedings were conducted pursuant to the complaint as filed by the Division and the findings made by the ALJ in the PDO reflect the correct issue in this matter.

### **CONCLUSIONS OF LAW**

#### **Violation of Wis. Stat. §§ 448.02(3)(c) and 448.015(4)(am)(1). And Wis. Admin. Code § Med 10.03(1)(a).**

If the Board determines that a physician is guilty of unprofessional conduct, it may “warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person . . . .” Wis. Stat. § 448.02(3)(c). The phrase “unprofessional conduct” as used in Wis. Stat. § 448.02(3)(c) includes “[t]hose acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08(5)(b).” Wis. Stat. § 448.015(4)(am)1.

Pursuant to the Board’s administrative rules, the phrase “[u]nprofessional conduct” includes “[v]iolating . . . any provision, condition, or term of a valid rule or order of the board.” Wis. Admin. Code § Med 10.03. Because there is no dispute that the Board’s order was valid and that Respondent did not comply with it, she has committed unprofessional conduct and is subject to discipline pursuant to Wis. Stats. §§ 448.02(3)(c), 448.015(4)(am)1 and 15.08(5)(b).

### **DISCUSSION AND EXPLANATION OF VARIANCE**

The cites set forth in the last line of the second paragraph above have been corrected from the PDO which cites each of these sections as “Wis. Admin. Code” rather than the correct citation of “Wis. Stats.” This appeared to be a scrivener’s error.

### **ORDER**

NOW, THEREFORE, it is hereby ordered that the Proposed Decision incorporated herein, filed by the Administrative Law Judge is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board with the variance set forth above.

The rights of a party aggrieved by this Final Decision and Order to petition the department for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

This Final Decision and Order is effective on the date it is signed.

Dated at Madison, Wisconsin this 23<sup>rd</sup> day of June, 2014.

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

Kernaeth Simons, MD  
A Member of the Board



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2013 Wisconsin Act 114**  
[2013 Senate Bill 337]

**Professional Credentials**

### EXAMINATION REQUIREMENTS FOR VARIOUS PROFESSIONAL CREDENTIALS

The Department of Safety and Professional Services (DSPS) and various boards under DSPS administer Wisconsin's professional credentialing laws. Under **prior law**, for many credentials, a candidate was required to complete postsecondary education or other training to be eligible to sit for the examination for the credential.

**2013 Wisconsin Act 114** prohibits DSPS, or a board under DSPS, from requiring a person to complete postsecondary education or another training program before the person is eligible to take an examination for a credential. However, an applicant for licensure as a registered nurse or licensed practical nurse must receive approval from the applicant's school of nursing in order to take the licensure examination before graduation. Furthermore, the Act creates an exception from the prohibition for the examination for a real estate appraiser certification or license issued by the Real Estate Appraisers Board. Before submitting an application for a licensed or certified real estate appraiser credential, an individual must successfully complete the requisite number of education hours required by rule.

### DISCIPLINARY ACTIONS AND PROCEEDINGS BY THE BOARD OF NURSING

The Board of Nursing has the authority to conduct disciplinary proceedings and to revoke, limit, suspend, or deny the renewal of a license or certificate granted by the board for certain types of misconduct, subject to rules promulgated by the board. **The Act** provides that the board may also deny the initial license or certificate of an applicant for certain types of misconduct, subject to rules promulgated by the board.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

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<http://www.legis.wisconsin.gov/lc>

(OVER)

*Effective date:* December 21, 2013.

*Prepared by:* Michael Queensland, Staff Attorney

February 11, 2014

MQ;jb;ksm



Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

ORDER 0001969

In the Matter of the Disciplinary Proceedings  
Against **GUIDITTA ANGELINI, M.D.**,  
Respondent

DHA Case No. SPS-14-0027  
DLSC Case No. 11 MED 315

**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Guiditta Angelini, M.D.  
5737 Winthrop Avenue  
Racine, WI 53406-5255

Wisconsin Medical Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

Attorney Kim M. Kluck  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P. O. Box 7190  
Madison, WI 53707-7190

**PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services, Division of Legal Services and Compliance (Division), filed a formal Notice of Hearing and Complaint against Respondent Guiditta Angelini, M.D. The Complaint alleged that Respondent's license was subject to disciplinary action pursuant to Wis. Stat. § 440.978(2)(m) for failing to complete at least 20 hours of continuing education during each calendar year for the 2011-2012 biennium, in violation of Wis. Admin. Code § SPS 135.02(2), and pursuant to Wis. Stat. § 440.978(2)(a) for making a material misstatement in an application for a certificate or renewal of a certificate. The Division served Respondent on March 20, 2014, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. Respondent failed to file an Answer to the Complaint as required by Wis. Admin. Code § SPS 2.09.

Following expiration of the 20-day time period to file an Answer, the administrative law judge (ALJ) scheduled a prehearing conference for April 24, 2014 at 9:00 a.m. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide to the



ALJ a telephone number at which she could be reached for conference no later than April 21, 2014. Respondent failed to provide a telephone number. At the prehearing conference held on April 24, 2014, the Division provided a telephone number for Respondent, whereupon the ALJ left a voicemail for Respondent indicating that Respondent should contact the ALJ at the telephone number provided by 9:20 a.m., failing which the ALJ would proceed with the conference without Respondent. However, as of the date of the Notice of Default and Order, Respondent has not contacted the ALJ at the telephone number provided by the ALJ.

Based on Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference in this matter, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

## **FINDINGS OF FACT**

### **Facts Related to the Alleged Violation**

Findings of Fact 1-5 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Giuditta Angelini, M.D., is licensed in the State of Wisconsin to practice medicine and surgery, having license number 37944-20, first issued on July 26, 1996. The registration of that license expired on October 31, 2011.

2. The most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) for Respondent is 5667 Ashbourne Lane, Fitchburg, Wisconsin 53711. On information and belief, Respondent's current mailing address is 5737 Winthrop Avenue, Racine, Wisconsin 53406.

3. On November 25, 2013, the Wisconsin Medical Examining Board issued an Order For Neuropsychological Evaluation of Respondent requiring Respondent to undergo a neuropsychological evaluation within 120 days of the date of the Order. More specifically, Respondent was required to provide the Department Monitor with proof that she has scheduled the neuropsychological examination within 90 days of the date of the Order and to then undergo the examination within the next 30 days. Respondent was also required to provide authorization to the Division to obtain records of the neuropsychological examination and the final examination report within 90 days.

4. A copy of the Order for Neuropsychological Evaluation of Respondent was mailed to Respondent at her address of 5737 Winthrop Avenue in Racine, Wisconsin on November 26, 2013. Respondent confirmed receipt of the Order for Neuropsychological Evaluation of Respondent in November of 2013.

5. As of the date of the filing of this Complaint, Respondent has failed to provide proof to the Department Monitor that a neuropsychological evaluation has been scheduled and has failed to undergo the evaluation ordered. Furthermore, Respondent has failed to provide the Division with authorization to obtain records of the neuropsychological examination and the final examination report.

### **Facts Related to Default**

6. The Notice of Hearing and Complaint in this matter were served on Respondent, by the Division on March 20, 2014, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing advised Respondent: “If you do not provide a proper Answer within 20 days, you will be found to be in default, and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.

7. Respondent failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

8. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for April 24, 2014. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide the telephone number at which she could be reached for the conference to the ALJ no later than April 21, 2014. The Notice further instructed Respondent: “A respondent’s failure to appear at a scheduled conference or hearing may result in default judgment being entered against the respondent.”

9. Respondent failed to provide a telephone number and could not be reached for the prehearing conference.

10. At the prehearing conference, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

11. On April 24, 2014, the ALJ issued a Notice of Default and Ordered the Division to serve no later than May 2, 2014, a recommended proposed decision and order in this matter.

12. The Division timely filed its recommended proposed decision and order.

13. Respondent did not file a response to either the Notice of Default or to the Division’s submission.

### **DISCUSSION AND CONCLUSIONS OF LAW**

#### **Default**

As stated in the April 24, 2014 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the prehearing conference held on March 11, 2014. Wisconsin Admin. Code § SPS 2.14 provides: “If the respondent fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence.” Wis. Admin. Code § HA 1.07(3) states, in relevant part:

#### **(3) FAILURE TO APPEAR.**

...

(b) If a respondent fails to appear, the administrative law judge may . . . take the allegations in an appeal as true as may be appropriate . . .

(c) For a telephone or video hearing or prehearing, the administrative law judge may find a failure to appear grounds for default if any of the following conditions exist for more than ten minutes after the scheduled time for hearing or prehearing conference: (1) The failure to provide a telephone number to the division after it had been requested; (2) the failure to answer the telephone or videoconference line . . . (4) the failure to be ready to proceed with the hearing or prehearing conference as scheduled.

An Answer to a Complaint must be filed within 20 days of service of the Complaint. Wis. Admin. Code § SPS 2.09(4). Service of the Complaint may be made by mailing a copy of the Complaint to the respondent at the respondent's last known address. Wis. Stat. § 440.11(2); Wis. Admin. Code § SPS 2.08(1). "Service by mail is complete upon mailing." Wis. Admin. Code § SPS 2.08(1). On March 20, 2014, the Division served Respondent with the Complaint by mailing a copy of the Notice of Hearing and Complaint by both regular and certified mail to her most recent address on file with the Department. Pursuant to Wis. Admin. Code §§ SPS 2.08(1) and 2.09(4), Respondent was required to file an Answer within 20 days but failed to do so.

Because Respondent is in default for her failure to file an Answer and to appear at the prehearing conference, an order may be entered against her on the basis of the Complaint and other evidence. See Wis. Admin. Code § 2.14; Wis. Admin. Code § HA 1.07(3)(b) and (c).

**Violation of Wis. Stat. §§ 448.02(3)(c) and 448.015(4)(am)1. and Wis. Admin. Code § Med 10.03(1)(a).**

If the Board determines that a physician is guilty of unprofessional conduct, it may "warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person . . . ." Wis. Stat. § 448.02(3)(c). The phrase "unprofessional conduct" as used in Wis. Stat. § 448.02(3)(c) includes "[t]hose acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08(5)(b)." Wis. Stat. § 448.015(4)(am)1.

Pursuant to the Board's administrative rules, the phrase "[u]nprofessional conduct" includes "[v]iolating . . . any provision, condition, or term of a valid rule or order of the board." Wis. Admin. Code § Med 10.03. Because there is no dispute that the Board's order was valid and that Respondent did not comply with it, she has committed unprofessional conduct and is subject to discipline pursuant to Wis. Admin. Code §§ 448.02(3)(c), 448.015(4)(am)1. and Wis. Admin. Code § Med 15.08(5)(b).

**Appropriate Discipline**

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends that Respondent's license to practice medicine and surgery be indefinitely suspended until she undergoes a neuropsychological evaluation as set forth in the Order section below.

The Division also requests that Respondent be prohibited from engaging in the practice of medicine and surgery in any capacity while she is suspended, and that prior to resuming the practice of medicine and surgery, Respondent should be required to appear before the Board and provide proof, sufficient to the Board, that she is able to practice with reasonable safety and skill and within the minimum standards of competence.

Under the factors set forth in *Aldrich* and the facts of this case, the discipline recommended by the Division is warranted here. The discipline protects the public by ensuring that Respondent practice only if she can do so with sufficient safety, skill and competence. It will serve to rehabilitate Respondent by requiring her to comply with the Board's orders and by helping her understand that such compliance is not optional and that failure to comply is serious. Finally, it deters others from ignoring the Board's legitimate orders by showing that failure to comply may result in the serious consequence of an indefinite suspension of one's license.

### **Costs**

The Department has the authority to assess costs pursuant to Wis. Stat. § 440.22. The Division requests that Respondent be ordered to pay the full costs of its investigation and of these proceedings. The factors to be considered in assessing full costs are: (1) the number of counts charged, contested, and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the parties; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the department is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008).

Based on the factors delineated in the *Buenzli-Fritz* decision and the facts of this case, Respondent should be assessed the full amount of recoverable costs in this case.

### **ORDER**

Accordingly, IT IS ORDERED that the license of Respondent Guiditta Angelini, M.D., is hereby INDEFINITELY SUSPENDED from the date of this Order until she undergoes a neuropsychological evaluation as set forth below.

- a. The neuropsychological examination shall be performed by a doctorate-level, fully credentialed psychologist or a psychiatrist, whose license to practice remains in good standing, and who has no personal or business association with Respondent or her family members ("the examiner").
- b. Respondent shall execute necessary documents authorizing the Division to obtain records of examination and to discuss Respondent and her case with the examiner.
- c. Respondent shall identify and provide the examiner with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.

- d. Respondent shall provide the examiner with a copy of the Final Decision and Order in this matter.
- e. The parties may provide whatever documentation believed helpful to the examiner. The parties shall contemporaneously copy the opposing party on all communication by or on their behalf with the examiner.
- f. Respondent shall comply with any and all reasonable requests by the examiner for purposes of scheduling and completing the evaluation, including additional testing the examiner deems helpful.
- g. Respondent shall be responsible for all costs incurred for the neuropsychological evaluation under the terms of this Order and shall timely pay all fees when due.

IT IS FURTHER ORDERED that Respondent shall not engage in the practice of medicine and surgery in any capacity while she is suspended, and prior to resuming the practice of medicine and surgery, Respondent shall appear before the Board and provide proof, sufficient to the Board, that she is able to practice with reasonable safety and skill and within the minimum standards of competence.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

**Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190**

IT IS FURTHER ORDERED that the above-captioned matter be and hereby is closed as to Respondent Guiditta Angelini, M.D.

Dated at Madison, Wisconsin on May 9, 2014.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By: \_\_\_\_\_  
Jennifer E. Nashold  
Administrative Law Judge

