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**Before the
State Of Wisconsin
Medical Examining Board**

In the Matter of the Disciplinary Proceedings
Against Nanette J. Liegeois, M.D., Respondent

FINAL DECISION AND ORDER

Order No. 0003604

Division of Legal Services and Compliance Case No. 14 MED 581

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

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

Dated at Madison, Wisconsin on the 18th day of March, 2015.

A handwritten signature in black ink, appearing to read "K. B. Simpson", written over a horizontal line.

Member
Medical Examining Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against Nanette J. Liegeois, M.D., Respondent

DHA Case No. SPS-14-0101
DLSC Case No. 14 MED 581

PROPOSED DECISION AND ORDER

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

Nanette J. Liegeois, M.D.
120 Oakbrook Center, Suite 220
Oak Brook, IL 60523

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 Joost Kap
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 Complaint against Respondent Nanette J. Liegeois, M.D. (Respondent), alleging that Respondent engaged in unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(a), (b) and (j) and was therefore subject to discipline pursuant to Wis. Stat. § 448.02(3). The Division served Respondent on December 19, 2014, by sending a copy of the Notice of Hearing and Complaint to her last known address. Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09, and failed to appear at the telephone prehearing conference held before the Division of Hearings and Appeals on January 20, 2015.

The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to appear at the prehearing conference, the undersigned Administrative Law Judge (ALJ) found Respondent to be in default. On January 20, 2015, the ALJ issued a Notice of Default and Order against Respondent. Consistent with the Notice, the Division filed a recommended proposed decision and order on January 27, 2015.

FINDINGS OF FACT

Facts Related to the Alleged Violations

Findings of Fact 1-12 are taken from the Division's Complaint against Respondent filed in this matter.

1. Respondent Nanette J. Liegeois, M.D. (D.O.B. April 29, 1967) is licensed in the State of Wisconsin to practice medicine and surgery, having license number 60872-20, first issued on June 3, 2013, with registration current through October 31, 2015.

2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 120 Oakbrook Center, Suite 220, Oak Brook, Illinois 60523.

3. Respondent was hired as a dermatologist by the St. Croix Regional Medical Center (St. Croix) and started seeing patients there on October 13, 2014.

4. Within a month of her start date, Respondent was the subject of complaints made to St. Croix administration regarding her patient care and confrontational interactions with St. Croix staff.

5. Respondent improperly diagnosed patients with conditions that were medically implausible and/or more significant than supported by the patients' presentations.

6. As a result of her improper diagnoses, Respondent ordered testing and additional care that was medically unnecessary, potentially harmful, and which needlessly alarmed her patients.

7. As a result of her improper diagnoses, Respondent ignored other diagnoses that were medically plausible and/or supported by the patients' presentations, thereby failing to properly treat the patients, to their detriment.

8. Respondent refused to use St. Croix's standard informed consent form, and instead obtained verbal consent from her patients without documenting the consent discussion or whether consent had in fact been obtained from the patients.

9. Respondent's treatment of patients as described above, combined with her confrontational interactions with St. Croix staff, led St. Croix to suspend Respondent's employment, effective November 7, 2014.

10. As a result of Respondent's treatment of patients as described above and her confrontational interactions with St. Croix staff, St. Croix ordered Respondent to undergo a fitness to practice evaluation with a licensed psychologist.

11. Respondent was evaluated by a licensed psychologist who concluded in a written report that Respondent was impaired in her psychological ability to perform her clinical duties and interact with co-workers in a consistently effective manner, and that she was not psychologically fit for duty as a physician.

12. The evaluating psychologist also recommended in his report that Respondent's employment with St. Croix should remain suspended, and he strongly encouraged Respondent to seek psychiatric and psychological care.

13. On December 9, 2014, the Division opened the investigation in this matter, 14 MED 581, based on the above and other allegations.

14. On December 18, 2014, based on the above and other allegations, the Wisconsin Medical Examining Board (Board) found probable cause to believe that Respondent had engaged in unprofessional conduct which required the immediate summary suspension of her license to practice medicine and surgery in order to protect the public health, safety or welfare.

Facts Related to Default

15. The Complaint and Notice of Hearing in this matter were served on Respondent on December 19, 2014, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing informed 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."

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

17. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 20, 2015. Notice of this prehearing conference was sent to both parties on January 8, 2015, with instructions that Respondent provide the ALJ with a telephone number at which she could be reached for the conference no later than January 13, 2015. The Notice further informed Respondent: "A respondent's failure to appear at a scheduled conference or hearing may result in default judgment being entered against the respondent."

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

19. 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).

20. On January 20, 2015, the ALJ issued a Notice of Default and Order which concluded that Respondent was in default and required the Division to serve no later than January 27, 2015 a recommended proposed decision and order.

21. The Division filed its recommended proposed decision and order on January 27, 2015.

22. Respondent did not file a response to either the Notice of Default and Order or to the Division's submission.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the January 20, 2015 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 January 20, 2015. *See* Wis. Admin. Code §§ SPS § 2.09(4) and 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations of Wisconsin Statute and Administrative Code

The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3). Following an investigation and disciplinary hearing, 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. The Board has defined unprofessional conduct in Wis. Admin. Code § Med 10.03. The Division asserts that Respondent's actions constitute unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(a), (b) and (j), which state:

(2) DIRECT PATIENT CARE VIOLATIONS.

(a) Practicing or attempting to practice under any license when unable or unwilling to do so with reasonable skill and safety.

(b) Departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

...

(j) Performing an act constituting the practice of medicine and surgery without required informed consent under s. 448.30, Stats.

The Division is correct that Respondent's conduct was unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(a) and (b). Respondent violated Wis. Admin. Code § Med 10.03(2)(a) by practicing when unable or unwilling to do so with reasonable skill and safety due to her mental impairment. She also violated Wis. Admin. Code § Med 10.03(2)(b) by failing to conform to the standard of minimally competent medical practice which created an unacceptable risk of harm to her patients. Specifically, she improperly diagnosed patients with conditions that were medically implausible and/or more significant than supported by the patients' presentations, subsequently treating them in medically unnecessary and potentially harmful ways which needlessly alarmed them and failed to properly treat them.

However, the Division has not established that Respondent's actions constituted unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(j), which prohibits "performing an act constituting the practice of medicine and surgery without required informed consent under Wis. Stat. § 448.30." Wisconsin Stat. § 448.30, which is entitled, "Information on alternate modes of treatment," requires the following: "Any physician who treats a patient shall inform the patient about the availability of all alternative, viable medical modes of treatment and about the benefits and risk of these treatments." The facts alleged in the Complaint, deemed admitted by Respondent's default, do not establish that Respondent failed to inform her patients about the availability of alternate viable modes of treatment and their benefits and risks. The facts with respect to consent, as set forth in Finding of Fact 8, only establish the following: "Respondent refused to use St. Croix's standard informed consent form, and instead obtained verbal consent from her patients without documenting the consent discussion or whether consent had in fact been obtained from the patients." The Complaint specifically states that Respondent "obtained verbal consent" from her patients. Neither Wis. Admin. Code § Med 10.03(2)(j) nor Wis. Stat. § 448.30 contains a requirement that the consent be in writing. Thus, the Division has not established this particular form of unprofessional conduct.

Nonetheless, because Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(a) and (b), she is subject to discipline pursuant to Wis. Stat. § 448.02(3).

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's recommended discipline, imposed in the Order section below, includes the following. The Division recommends that Respondent's license be suspended indefinitely and that she be required to complete an assessment establishing her competence to practice and follow any education and training recommended by the evaluator. The Division further recommends that Respondent undergo an evaluation by a mental health care professional to determine whether she currently possesses a mental health condition which renders her unable to practice medicine with reasonable skill and safety. In addition, the Division recommends that Respondent be allowed to petition the Board for a stay of the suspension only upon completion of the ordered terms, and that if the Board grants the stay, the Board be permitted to limit Respondent's license in any manner it deems appropriate for purposes of discipline.

Under the facts of this case and the criteria set forth in *Aldrich*, the Division's recommendations are appropriate. The public must be protected from Respondent's substandard practice of medicine which creates unacceptable risks to her patients. Respondent's unprofessional conduct and her underlying mental health concerns were significant enough to lead the Board to summarily suspend her license. Those concerns are compounded by Respondent's failure to provide the Department with current contact information, answer the Complaint or appear for the prehearing conference. Taken together, this information establishes that Respondent cannot be trusted to safely and reliably practice her profession or to otherwise conform to the Board's requirements.

Regarding the second factor, it is evident by the facts set forth above, including the expert opinions of the evaluating psychologist, that Respondent is in need of rehabilitation. Finally, with respect to deterrence, other licensees should be on notice that there are significant consequences for practicing when unable to do so with reasonable skill and safety, thereby causing unacceptable risks to patients.

Accordingly, I adopt the Division's disciplinary recommendations.

Costs

The Division 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 this investigation and of these proceedings. The factors to be considered in assessing 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 prosecutor; (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, D.C.*, 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. Respondent has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. The factual allegations were deemed admitted and proven. There is no argument to apportion any counts that were unproven, nor is there any argument that the Division investigated and litigated unnecessary facts.

Respondent's conduct is very serious and goes to public safety and protection. The discipline recommended by the Division is severe and is also proportionate to the concerns regarding Respondent's inability to safely and reliably practice or otherwise conform to the requirements of the profession.

Finally, although Respondent does not have any further discipline against her, given the fact that the Department is a "program revenue" agency, whose operating costs are funded by the revenue received for licensees, fairness dictates imposing the costs of disciplining Respondent upon Respondent and not fellow members of the nursing profession who have not engaged in unprofessional conduct.

ORDER

Accordingly, IT IS HEREBY ORDERED:

1. Respondent's license and privilege to practice medicine and surgery in the State of Wisconsin are SUSPENDED INDEFINITELY, under the following terms and conditions.

A. Respondent shall mail or physically deliver all indicia of Wisconsin licensure to practice medicine and surgery to the Department Monitor within 14 days of the effective date of this order.

B. Respondent shall undergo and fully cooperate with an assessment establishing her competence to practice medicine and surgery by an assessment program acknowledged by the Federation of State Medical Boards or one preapproved by the Board's Monitoring Liaison.

1. Respondent shall provide the assessment program with a copy of this Order and shall execute authorizations for release(s) of information such that the Board's credentialing liaison or other designee may communicate freely with the assessment program staff, may provide documents to the assessment program staff and may use the resulting final assessment report for the Board's purposes.

2. Respondent shall complete, to the satisfaction of the Board's credentialing liaison, all education and training recommended by the competence evaluator. In the alternative, in the discretion of the Board's designee, Respondent shall have a preapproved written plan for remediation that will not create an unacceptable risk of harm to patients.

3. Respondent is responsible for all costs associated with this requirement.

C. Respondent shall undergo an evaluation by a mental health care professional who is competent to determine whether or not Respondent currently possesses a mental health condition which renders Respondent unable to practice medicine with reasonable skill and safety to patients.

1. The evaluator must be preapproved by the Board's designee, under the following terms:

a. Before undergoing the evaluation, Respondent shall submit to the Department Monitor a copy of the evaluator's curriculum vitae, and copies of professional licenses and certifications held.

b. The evaluator must be a licensed doctorate-level psychologist who is certified in a relevant field of practice by the American Board of Professional Psychology or a licensed psychiatrist who is certified in a relevant field of practice by the American Board of Psychiatry and Neurology. At the discretion of the Board's designee, additional experience in a relevant field of practice may be substituted for Board certification. At the discretion of the

Board's designee, alternate Board recognitions, such as fellowships, may also be substituted for Board certification.

- c. The evaluator must have had no previous personal or professional relationship with Respondent, and may not have previously evaluated or treated Respondent.
 - d. The evaluator shall have had a minimum of ten years of experience in the practice of psychology or psychiatry, and may not have been previously disciplined by any credentialing authority.
2. While the evaluator remains responsible for the final evaluation, the evaluator may delegate testing or other components of the evaluation to other mental health professionals who the evaluator deems competent to conduct those tests or perform the delegated task.
 3. The exact tests chosen for administration are within the discretion of the evaluator. However, the evaluation must include a comprehensive interview of the individual and the use of rating scales, neuropsychological testing, and personality tests.
 4. The evaluation shall include an assessment of Respondent's ability to appropriately manage the triggers, degrees, and effects of an angered emotional state.
 5. The evaluator shall identify restrictions on the nature of practice or practice setting or requirements for supervision of practice, if any, which are necessary to render Respondent able to practice medicine and surgery with reasonable skill and safety.
 6. The evaluator shall identify specific mental health treatment goals, if any, which must be met before Respondent is able to practice medicine and surgery with reasonable skill and safety.
 7. The evaluator's opinions and conclusions must be rendered to a degree of reasonable professional certainty.
 8. Respondent must provide the evaluator with a copy of the Board's Final Decision and Order.
 9. Respondent shall authorize release directly to the evaluator of records of mental health evaluations, diagnosis, treatment and treatment summaries that Respondent has undergone, and such other records that the evaluator determines are necessary to a competent evaluation.
 10. Respondent is responsible for the costs associated with the evaluation.
 11. Respondent shall authorize the evaluator to discuss the results of the evaluation with the Board or its designee.

- D. Upon completing the above requirements and presenting proof thereof that is acceptable to the Board or its designee, and upon full payment of the Division's recoverable costs as established pursuant to Wis. Admin. Code § SPS 2.18, Respondent may petition the Board for a stay of the suspension. The assessments required under subsections B. and C. above shall have been completed no more than 90 days before the date of the petition for stay or as otherwise approved by the Board's designee.
- E. The determination of whether or not to stay the suspension of Respondent's license to practice medicine and surgery is entirely within the discretion of the Board or its designee. The prerequisites to a petition to stay the suspension should not be interpreted to be an indication that the stay will be granted.
- F. If the Board agrees to stay the suspension of Respondent's license, the Board or its designee may, in its discretion, limit Respondent's license in any manner the Board or its designee deems appropriate for reasons consistent with the purposes of professional discipline.
- G. If the Board agrees to stay the suspension of Respondent's license, and Respondent practices under the stay for five years in full compliance with all applicable rules and regulations, and all license limitations imposed under subsection F. above, Respondent may petition the Board to terminate the suspension.
- H. If the Board agrees to stay or terminate the suspension of Respondent's license, Respondent shall not engage in unprofessional conduct of any kind. The Board or its designee may, in its discretion, remove any stay of the suspension or reinstate the suspension without further notice or hearing, if the Board determines, to a level of probable cause, that Respondent has engaged in unprofessional conduct.
- I. The decision of whether to stay the suspension, impose limitations on Respondent's license to practice medicine and surgery, or terminate the suspension lies solely within the discretion of the Board or its designee and is not reviewable.

2. 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**

3. The terms of this Order are effective the date the Final Decision and Order is signed by the Board.

IT IS FURTHER ORDERED that the above-captioned matter is hereby closed as to Respondent Nanette J. Liegeois, M.D.

Dated at Madison, Wisconsin on February 3, 2015.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
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By: 
Jennifer E. Nashold
Administrative Law Judge