

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
LEONARDO APONTE, M.D., :
RESPONDENT. :

0004550

Division of Legal Services and Compliance Case No. 14 MED 274

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

Leonardo Aponte, M.D.
Clinica Latina, S.C.
1238 S. Cesar E. Chavez Drive
Milwaukee, WI 53204

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

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

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 (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Leonardo Aponte, M.D. (DOB April 7, 1934), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 19077-20, first issued on December 5, 1974, with registration expiring on October 31, 2017. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is Clinica

Latina, S.C., 1238 S. Cesar E. Chavez Drive, Milwaukee, Wisconsin 53204. Respondent had expired license status with the Department from November 11, 2015, to November 20, 2015.

2. Respondent owns and operates Clinica Latina, S.C. (Clinica Latina).

3. At all times relevant to these proceedings, Clinica Latina employed A.G., who is not licensed in the state of Wisconsin to practice medicine and surgery.

4. The Department commenced an investigation (investigation) after receiving a complaint alleging Respondent billed for medical services which were in fact provided by individuals who were not licensed to practice medicine and surgery in the state of Wisconsin.

5. On September 19, 2013, Patient A, a female born in 1960, presented to Clinica Latina with a chief complaint of frontal and right sided headache. Patient A was seen by A.G. who obtained a review of systems, performed a physical examination, and ordered laboratory work and a sleep study.

6. Patient A's medical charting for the September 19, 2013, visit was authored and signed by A.G., and referred to A.G. as Patient A's primary care provider (PCP).

7. On October 16, 2013, Patient A presented to Clinica Latina with a chief complaint of "blood pressure levels checked due to headache." Patient A was seen by A.G. who obtained a review of systems, performed a physical examination, and ordered and interpreted an electrocardiogram (ECG).

8. Patient A's medical charting for the October 16, 2013, visit was authored and signed by A.G., and again referred to A.G. as Patient A's PCP.

9. Patient A's ECG states: "Referred by: DR. [A.G.]" and does not in any way reference Respondent or another medical provider.

10. A.G. charted cardiovascular examination findings and ECG interpretation for Patient A as follows:

Cardiovascular: Normal rate, Regular rhythm, No murmur, No edema. . .

ECG interpretation: Normal sinus rhythm, No ST-T changes.

11. On December 4, 2013, Patient B, a female born in 1960, presented to Clinica Latina with a chief complaint of left ear pain and draining. Patient B was seen by A.G. who obtained a review of systems, performed a physical examination, and applied an antibiotic tamponade to Patient B's left auditory canal.

12. Patient B's medical charting for the December 4, 2013, visit was authored and signed by A.G., who charted:

HENT: Left ear, Tympanic membrane (edematous auditory canal, no visible TY). . .

Diagnosis: Acute Diffuse Otitis Externa.

13. On December 17, 2013, Patient C, a male born in 1976, presented to Clinica Latina with complaints of severe fatigue and headache. Patient C was seen by A.G. who obtained a review of systems, performed a physical examination, and ordered a liver ultrasound.

14. Patient C's medical charting for the December 17, 2013, visit was authored and signed by A.G., and referred to A.G. as Patient C's PCP. There is no indication in the record that Patient C was seen by Respondent nor that Respondent authorized the testing as ordered by A.G.

15. Between September 19, 2013 and December 17, 2013, Respondent allowed A.G. to independently perform patient examinations, formulate diagnostic impressions, formulate treatment plans, order diagnostic testing, and perform minor procedures at the Clinica Latina.

16. During the investigation, Respondent represented to the Department that A.G. independently performed minor procedures including excisions at the Clinica Latina.

17. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h) (Nov. 2002) by engaging in any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

3. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(t) (Nov. 2002) by aiding or abetting the unlicensed practice of medicine or representing that unlicensed persons practicing under supervision, including unlicensed M.D.'s and D.O's, are licensed, by failing to identify the individuals clearly as unlicensed physicians or delegates.

4. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(za) (Nov. 2002) by failing to maintain patient health care records consistent with the requirements of ch. Med 21.

5. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(b) (Oct. 2013) by failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public.

6. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(k) (Oct. 2013) by aiding or abetting the practice of medicine by an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice medicine.

7. By the conduct described in the Findings of Fact, Respondent Leonardo Aponte, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(e) (Oct. 2013) by failing to establish and maintain timely patient health care records, including records of prescription orders, under s. Med 21.03, or as otherwise required by law.

8. As a result of the above conduct, Leonardo Aponte, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Leonardo Aponte, M.D., is REPRIMANDED.
3. The medicine and surgery license issued to Leonardo Aponte, M.D. (license number 19077-20), is LIMITED as follows:
 - a. Respondent shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
 - b. Thirty (30) days from the date of this Order, Respondent shall engage the services of a licensed physician pre-approved by the Board or its designee to serve as a professional mentor. The professional mentor shall be a licensed physician actively practicing in Respondent's field and shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the ability to render fair and unbiased reports to the Department (including but not limited to a family member, personal friend or a physician who has a professional relationship with Respondent which could pose a conflict with the mentor's responsibilities such as any bartering relationship, mutual referral of patients, etc.). Respondent's request for mentor approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she has read the Final Decision and Order and agrees to serve in this capacity.
 - c. Every 30 days, Respondent shall arrange for the mentor to randomly select and review the charts of at least five (5) patients that have presented to Respondent in the last month. The chart review shall thoroughly assess whether Respondent's records are compliant with the rules and regulations of the profession and completed in a timely manner. Within ten (10) days after

receiving the charts for review, the mentor shall provide Respondent with written, detailed comments and suggestions for improvement, copies of which shall be submitted by Respondent to the Department Monitor upon request.

d. Respondent shall meet face-to-face with the mentor at least once per quarter (every three (3) months) to discuss the progress of the chart reviews and to address any concerns or suggestions for improvement. Within ten (10) days of the meeting, the mentor shall submit thorough quarterly reports identifying the number of charts reviewed in the previous quarter, addressing Respondent's progress and identifying any concerns. It is Respondent's responsibility to ensure the reports are submitted when due. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.

e. With a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board for modification of this limitation after the timely submission of four (4) quarterly mentor reports. Whether to modify the terms of this Order is in the Board's sole discretion.

4. Within ninety (90) days from the date of this Order, Leonardo Aponte, M.D., shall pay COSTS of this matter in the amount of \$915.50.

5. All reports, petitions, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. 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 as ordered, or fails to cause the professional mentor to submit the required reports as set forth above, Respondent's license (no. 38440-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the required reporting and payment of costs.

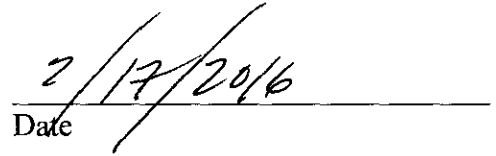
7. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By:


A member of the Board

Date



STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LEONARDO APONTE, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004550

Division of Legal Services and Compliance Case No. 14 MED 274

Respondent Leonardo Aponte, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Lapt

Leonardo Aponte, M.D., Respondent
Clinica Latina, S.C.
1238 S. Cesar E. Chavez Drive
Milwaukee, WI 53204
License no. 19077-20

Jan. 25. 2016

Date

Colleen L. Meloy

Colleen L. Meloy, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

2-9-2016

Date

*Note: May God bless all those who
intervened giving Clinica Latina
this new opportunity. They will
not be disappointed.
Lapt.*