

BEFORE THE MEDICAL LICENSING BOARD OF INDIANA
CAUSE NO. 2012 MLB 0027

IN THE MATTER OF THE LICENSE OF)
MICHAEL ALAN WEBBER, M.D.)
LICENSE NO: 01065605A (Active))



COMPLAINT

This complaint is brought against the medical license of Michael Alan Webber, M.D. ("Respondent"), by the State of Indiana, by counsel, Deputy Attorney General, Amber Swartzell, on behalf of the Office of the Attorney General ("Petitioner") and pursuant to Indiana Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code art. 25-22.5, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3 and Ind. Code ch. 25-1-9, and in support alleges and states:

FACTS

1. Respondent's address on file with the Medical Licensing Board of Indiana ("Board") is Indiana University Department of Psychiatry AOC, 550 North University Blvd. Room UH 3120, Indianapolis, Indiana 46202. Respondent is a licensed medical doctor holding Indiana license number 01065605A.
2. At all times relevant and material herein, Respondent was a psychiatrist with the Indiana University School of Medicine's Department of Psychiatry ("IU").
3. In or about July 2010, Respondent began treating a patient ("Patient A") who was at that time an in-patient at a hospital affiliated with IU.
4. In or about October 2010, Respondent began to develop romantic feelings for Patient A.

5. On or about April 15, 2011, Patient A was discharged from the in-patient facility, but she continued to see Respondent as her treating psychiatrist during out-patient appointments.

6. In or about May 2011, Respondent and Patient A engaged in an inappropriate physical relationship which lasted until in or about August 2011.

7. On or about August 12, 2011, Respondent voluntarily ceased practicing and sought treatment at the Professional Renewal Center ("PRC") in Lawrence, Kansas. Respondent entered into a 12-week intensive treatment program with PRC. Respondent voluntarily reported the preceding incidents to IU.

8. On or about August 16, 2011, Respondent's privileges at IU were suspended while IU's Medical Staff Executive Committee conducted an investigation.

9. On or about September 5, 2011, Respondent resigned from IU. IU contacted the Board regarding an Adverse Action Report filed against Respondent for ethical unfitness.

10. On or about October 27, 2011, IU approved the recommendation that Respondent's privileges should be revoked based on Respondent's boundary violation and behavior indicating poor judgment and inappropriate, unprofessional conduct.

11. On or about December 7, 2011, Respondent successfully completed his 12-week program with PRC and was discharged. Part of the Respondent's recovery process and aftercare agreement with PRC include Respondent's agreement to notify the Board of the preceding events, which he has done, and Respondent's agreement not to practice medicine until the Board grants him permission.

COUNT I

12. Paragraphs 1 through 4 are incorporated by reference herein.

13. Respondent's conduct as described above constitutes a violation of Indiana Code § 25-1-9-4(a)(11) in that Respondent has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care as evidenced by Respondent's relationship with Patient A.

COUNT II

14. Paragraphs 1 through 11 are incorporated by reference herein.

15. Respondent's conduct as described above constitutes a violation of Indiana Code § 25-1-9-4(a)(5) in that Respondent has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public as evidenced by Respondent's relationship with Patient A.

WHEREFORE, Petitioner demands an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the costs incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney Number: 1958-98

By: Amber Swartzell

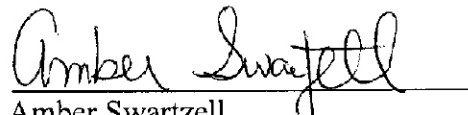
Amber Swartzell
Deputy Attorney General
Attorney Number: 29508-49

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served upon the individuals listed below, by United States mail, first class postage prepaid, on this 2nd day of April, 2012.

Michael Alan Webber, M.D.
Indiana University Department of Psychiatry AOC
550 North University Blvd. Room UH 3120
Indianapolis, Indiana 46202

Michael Alan Webber, M.D.
5216 North New Jersey Street
Indianapolis, Indiana 46220


Amber Swartzell
Deputy Attorney General

Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Phone: (317) 234-7129
Fax: (317) 233-4393
amber.swartzell@atg.in.gov

Respondent within one hundred and twenty (120) days of the issuance of this order. This fine must be paid by cash, cashier's check, or money order to the following:

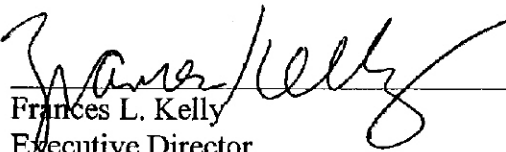
Indiana Professional Licensing Agency
Attn.: Kristen Kelley
402 W. Washington St., Room W072
Indianapolis, IN 46204

WHEREFORE, the Board hereby accepts and approves the Agreement, settling all matters in this case consistent with the terms of the Agreement between the parties, and Respondent is hereby **ORDERED** to abide by all the terms of the Agreement.

SO ORDERED, this 02 day of May, 2012.

MEDICAL LICENSING BOARD OF INDIANA

By:



Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Distribution:

Michael Alan Webber, M.D.
5216 North New Jersey Street
Indianapolis, IN 46220

CERTIFIED MAIL NO: 91 7190 0005 2720 0018 9322
RETURN RECEIPT REQUESTED

Albert Barclay Wong
Jennifer L. Strange
HARRISON & MOBERLY LLP
10 West Market Street, Suite 700
Indianapolis, IN 46204

Amber Swartzell, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana, 46204

BEFORE THE MEDICAL LICENSING BOARD OF INDIANA
CAUSE NO. 2012 MLB 0027

IN THE MATTER OF THE LICENSE OF)
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MICHAEL ALAN WEBBER, M.D.)
)
LICENSE NO: 01065605A (Active))



PROPOSED SETTLEMENT AGREEMENT

The State of Indiana, by counsel, Amber Swartzell, Deputy Attorney General, and the Respondent, Michael Alan Webber, M.D. (Respondent), by counsel, Albert Barclay Wong, Harrison & Moberly, LLP, hereby execute this Agreement as a disposition of the disciplinary complaint filed on April 2, 2012. This Agreement is subject to the review and approval of the Medical Licensing Board of Indiana (the "Board") pursuant to Ind. Code § 25-22.5 *et seq.* and the Administrative Orders and Procedures Act, I.C. § 4-21.5-3 *et seq.* In the event that the Agreement is not approved by the Board, this Agreement shall be null and void, and in accordance with Indiana Rule of Evidence 408, may not be introduced into evidence in any civil, criminal or administrative proceeding.

STIPULATED FACTS

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Board pursuant to I.C. § 25-1-7 *et seq.*
2. The Board is charged with the duty and responsibility of regulating the practice of medicine pursuant to I.C. § 25-22.5-2-7.
3. The Board is empowered to hold disciplinary hearings pursuant to the authority of I.C. § 4-21.5-3 *et seq.*

Exhibit 1

4. The Respondent's address on file with the Board is 5216 North New Jersey Street, Indianapolis, Indiana, 46220, and he is a licensed physician having been issued license number 01065605A.

5. The Respondent joined the faculty of the Indiana University School of Medicine's Department of Psychiatry ("IU") in September 2008 after completing a Psychiatry Residency at the Semel Institute for Neuroscience and Human Behavior and Resnick Neuropsychiatric Hospital, Department of Psychiatry, University of California – Los Angeles.

6. The Respondent began treating Patient A as her attending psychiatrist in July 2010 while Patient A was an in-patient at a hospital affiliated with IU.

7. From July 2010 through September 2010, the Respondent's professional relationship with Patient A was appropriate and professional boundaries were maintained.

8. In October 2010, the Respondent began to develop feelings for Patient A and she expressed the same emotions.

9. Patient A was discharged from the hospital on April 15, 2011; however, the Respondent remained her treating psychiatrist and saw her during out-patient appointments.

10. Between May and August 2011, the Respondent and Patient A engaged in an inappropriate physical relationship.

11. The Respondent voluntarily ceased practicing on August 12, 2011. He then sought treatment at the Professional Renewal Center (PRC) in Lawrence, Kansas. The Respondent was assessed at PRC between August 17 and August 23, 2011. An intensive treatment program was recommended and the Respondent was receptive to PRC's recommendations and opted to participate in an intensive 12-week treatment program.

12. IU's Medical Staff Executive Committee began an investigation into the interactions between the Respondent and Patient A on August 16, 2011. The Respondent's privileges were placed on precautionary suspension during the investigation after the Respondent admitted that he engaged in an inappropriate relationship with Patient A.

13. The Respondent resigned from IU on September 5, 2011. On October 27, 2011 the IU Board of Directors approved the Medical Staff Executive Committee's recommendation that the Respondent's privileges be revoked. Their action was based on the Respondent's boundary violation and behavior indicating poor judgment and inappropriate, unprofessional conduct. The Respondent did not contest this action.

14. The Respondent was discharged from PRC's intensive 12-week program on December 7, 2011 after successfully completing the treatment program.

15. The Respondent participated in various forms of treatment at PRC, including individual and group sessions. The specific treatment modalities were: 1) emotional competency group; 2) bibliotherapy group; 3) family systems group; 4) group psychotherapy; 5) mindful living group; 6) professional roles and relationships group; 7) individual therapy sessions; 8) behavioral self-care group; 9) weekly progress assessment meetings; and 10) weekly individual discharge and relapse prevention planning meetings.

16. The Respondent's treatment at PRC was divided into three phases. The first phase was designed to broaden his understanding of the situations that contributed to his lapse in judgment. The first phase of treatment included work designed to help the Respondent develop the necessary insight by examining the sources and origins of his behavior. The second phase of treatment was designed to assist the Respondent in developing behavioral, cognitive, social, and

emotional skills. The final phase of treatment included the development of a relapse prevention and aftercare plan.

17. The Respondent learned the skills necessary to 1) identify red flags and triggers to prevent relapse, 2) implement the knowledge and skills learned at PRC into his personal and professional lives, 3) continue to gain insight and skills that would assist him personally and professionally, and 4) provide feedback and oversight in support of personal and patient safety during the final phase of treatment at PRC.

18. The Respondent actively participated in creating a comprehensive aftercare plan with the professionals at PRC. PRC's professionals opined with a reasonable degree of psychological certainty that the Respondent's prognosis is good and that from a psychological/psychiatric point of view he is able to return to the practice of medicine with reasonable skill and safety.

19. PRC's healthcare professionals made twenty-five (25) separate recommendations, all of which the Respondent acknowledged and agreed to when he executed his Professional Renewal Center Aftercare Agreement. The PRC Aftercare Agreement required the Respondent to voluntarily agree not to practice medicine until the Board grants him permission and agree to voluntarily notify the Board of his boundary violation. The Respondent voluntarily notified the Board on December 13, 2011. The Respondent's notification initiated this action.

20. The Respondent has been participating in weekly psychotherapy sessions with Dorothy Wittenberg, Ph.D since he was discharged from PRC.

STIPULATED CONCLUSION OF LAW

The Petitioner and the Respondent further stipulate that:

1. The Respondent's conduct as described above is in violation of I.C. § 25-1-9-4(a)(11) because he has engaged in sexual contact with a patient under his care.

Whereas, this matter is set for hearing before the Board; and

Whereas, the Respondent and the Petitioner wish to resolve this matter prior to a hearing and have reached a resolution.

It is now therefore agreed by the Respondent and Petitioner as follows:

TERMS AND CONDITIONS

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action commenced on or about April 2, 2012.

2. The parties execute this Agreement voluntarily.

3. The Respondent and the Petitioner voluntarily waive their right to a public hearing on the Complaint, and all other proceedings in this action to which either party may be entitled by law, including judicial review and appeal.

4. The Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against the Respondent's license arising from the Complaint (and any allegations stated or related to therein) filed on April 2, 2012.

5. The Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

6. The Respondent's Indiana medical license shall be placed on **INDEFINITE PROBATION**. The Respondent's license shall be subject to the following terms and conditions while on probation:

A. The Respondent shall remain in complete and continuous compliance his PRC Aftercare Agreement and shall have one (1) year of compliance before petitioning the Board for the withdrawal of probation;

B. The Respondent shall completely disclose the facts and circumstances of this disciplinary action to any prospective employer and provide the prospective employer with a copy of the Board's Final Order;

C. The Respondent shall return to PRC for approximately one (1) week prior to beginning employment to assist in the development of a detailed plan designed to establish an effective monitoring system at any future place of employment;

D. The Respondent shall obtain a professional mentor (Dr. Alan Schmetzer) and will meet with him regularly when he obtains employment;

E. The Respondent shall not see any female patients for psychotherapy, psychopharmacology, or for any psychological assessments or treatment during the first twelve (12) months of employment;

F. After twelve (12) months of active employment, the Respondent shall discuss with PRC, his mentor, his workplace monitor, the Board, and his therapist the possibility and wisdom of working with female patients in some capacity;

G. The Respondent shall not treat female patients without the Board's prior approval;

H. The Respondent shall not provide psychotherapy to any patients, including males, for the first three years after his return to work and his direct patient care shall be limited to pharmacological intervention;

I. After three (3) years of active employment, if the Respondent decides to ask for permission to provide other direct patient care services, including psychotherapy, he shall have a new multidisciplinary comprehensive assessment performed prior to seeking the Board's permission to provide psychotherapy;

J. The Respondent shall not treat any patients with borderline, histrionic, dependent or narcissistic personality disorders;

H. The Respondent shall submit to any spot drug screens that his workplace may feel are needed, even though he does not have a substance misuse history;

I. The Respondent shall keep his primary care physician and his therapist apprised of his situation and continue regular treatment and preventative health measures;

J. The Respondent shall return to PRC within ninety (90) days of beginning employment for one (1) week to discuss the effective implementation of his Aftercare Agreement, to consolidate the gains and insights he has made, explore any additional questions that may have arisen since the completion of his primary treatment, and to update the aftercare recommendations, if necessary;

K. The Respondent shall ensure that his therapist provides the Board with monthly reports for the first year of probation and quarterly thereafter;

L. The Respondent shall ensure that his mentor provides the Board with quarterly reports for the duration of his probation;

M. The Respondent shall personally appear before the Board quarterly during the first year of probation, semi-annually during the second year, and at the Board's discretion thereafter;

N. The Respondent shall keep the Board apprised of the following information and update it as necessary:

- 1.) Current home address, mailing address and residential telephone number.
- 2.) Place of employment, and employment telephone number.
- 3.) Occupation title and work schedule, including the number of hours worked per week.

7. Prior to petitioning for the withdrawal of probation, the Respondent shall, pursuant to I.C. § 4-6-14-10(b), pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the Indiana Office of the Attorney General to the attention of Katie Thorpe.

8. The Respondent further understands that a violation of the Final Order, any non-compliance with the statutes or regulations regarding the practice of medicine, or any violation of the Settlement Agreement may result in the State requesting an emergency suspension of the Respondent's license, an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to I.C. § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of the Respondent's license.

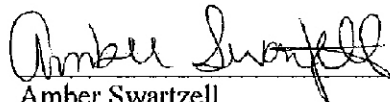
9. The parties agree to the continuing jurisdiction of the Board.

10. The Respondent agrees to personally appear for the presentation of this Agreement and to pay for a copy of the transcript of the presentation of this Agreement to the Board and the court reporter fees associated with this matter.

11. The Respondent agrees that the Board has the discretion to issue a fine in this matter.

4/13/12

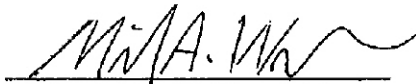
Date



Amber Swartzell
Deputy Attorney General
Attorney No. 29508-49

4/12/12

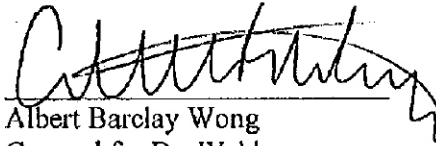
Date



Michael Alan Webber, M.D.

4/13/12

Date



Albert Barclay Wong
Counsel for Dr. Webber
Attorney No. 23394-49

BEFORE THE MEDICAL LICENSING
BOARD OF INDIANA
CAUSE NO. 2012 MLB 0027

IN THE MATTER OF THE LICENSE OF)
)
MICHAEL ALAN WEBBER, M.D.)
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LICENSE NO. 01065605A)



BOARD'S ORDER ON MODIFICATION OF PROBATION

A hearing having been held on March 27, 2013, on a petition for modification of probation, the Medical Licensing Board of Indiana ("Board"), issues its Order on Modification of Probation by a vote of 7-0-0 as follows:

FINDINGS OF FACT

1. This matter is before the Board to consider Michael Alan Webber's ("Respondent") petition for modification of his probation. On May 2, 2012, the Board issued its Final Order Accepting Proposed Findings of Fact, Conclusions of Law and Order in which the Respondent was placed on indefinite probation. Various terms and conditions were imposed.
2. The Respondent sought modification of his probation to allow him to provide Transcranial Magnetic Stimulation (TMS) treatment to patients at his employer Serenity Medical Center.
3. There are changed circumstances that warrant modification of his probationary terms and conditions to allow him to engage in the practice described in Finding of Fact No. 2.

CONCLUSIONS OF LAW

1. Ind. Code § 25-1-9-9(b) states in pertinent part that:

The board may ... modify [a] probation [imposed in a disciplinary proceeding] if it finds, after a hearing, ... that changed circumstances warrant modification of the order.

2. Because the Respondent has established that changed circumstances warrant modification of his probationary terms and conditions, his probation should be modified.

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Respondent's probation is modified as follows:

A. Paragraph 6E is revised to read as follows:

The Respondent shall not see any female patients for psychotherapy, psychopharmacology, or for any psychological assessments or treatment during the first twelve (12) months of employment; however, the Respondent is permitted to provide Transcranial Magnetic Stimulation (TMS) to female patients who are referred by another physician.

B. Paragraph 6F is revised to read as follows:

After twelve (12) months of active employment, the Respondent shall discuss with PRC, his mentor, his workplace monitor, the Board, and his therapist the possibility and wisdom of working with female patients in some capacity; other than the provision of TMS;

C. Paragraph 6G is revised to read as follows:

The Respondent shall not treat female patients without the Board's prior approval, except for the provision of TMS;

D. Paragraph 6H is revised to read as follows:

The Respondent shall not provide psychotherapy to any patients, including males, for the first three (3) years after his return to work and his direct patient care shall be limited to pharmacological intervention and the provision of TMS;

E. Paragraph 6J is revised to read as follows:

The Respondent shall not treat any patients with borderline, histrionic, dependent or narcissistic personality disorders, except for those patients who are referred to him solely for the provision of TMS;

F. Paragraph 6O is added to read as follows:

The Respondent shall have a chaperone present for the entire time he is providing TMS to a female patient;

G. Paragraph 6P is added to read as follows:

The Respondent shall cause the TMS chaperone to document in each female patient's chart that he or she was present during the entirety of the Respondent's participation;

H. Paragraph 6Q is added to read as follows:

The Respondent shall maintain a log which identifies (via initials only) of all female patients he provides TMS to and submit this log to the Board on a monthly basis;

I. Paragraph 6R is added to read as follows:

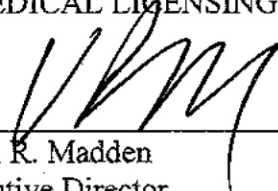
The Respondent shall report any female patient's complaints related to TMS treatment to the Board, his mentor, and PRC within three (3) days of the Respondent's receipt of the complaint;

2. All other terms and conditions imposed in the May 2, 2012, Final Order Accepting Proposed Findings of Fact, Conclusions of Law and Order are unchanged and therefore remain in full force and effect.

ISSUED this 12 day of April, 2013.

MEDICAL LICENSING BOARD OF INDIANA

By: _____


Virgil R. Madden
Executive Director
Indiana Professional Licensing Agency

CERTIFICATE OF SERVICE

I certify that a copy of the "Board's Order on Modification of Probation" has been duly served upon:

Michael Alan Webber, M.D.
5216 North New Jersey Street
Indianapolis, Indiana 46220
Service by U.S. Mail

Albert Barclay Wong
Jennifer L. Strange
HARRISON & MOBERLY, LLP
10 West Market Street, Suite 700
Indianapolis, Indiana 46204
Service by U.S. Mail

Jessica Krug
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Jessica.Krug@atg.in.gov
Service by Email

4-12-13

Date

Donna Moran

Donna Moran, Litigation Specialist

Medical Licensing Board of Indiana
Indiana Government Center South
302 West Washington St., Fifth Floor
Indianapolis, IN 46204
Phone: 317-234-2060
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Email: pla3@pla.in.gov

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.