

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**



In the Matter of the
Medical License of
Nancy A. Kermath, M.D.
Date of Birth: 1-1-50
License Number: 27,457

**STIPULATION
AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Nancy A. Kermath, M.D. ("Respondent"), and the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which she holds a license to practice medicine and surgery in the State of Minnesota.

FACTS

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Respondent has a history of manic-depressive disorder and chemical dependency to alcohol.

b. On July 7, 1990, the Board issued a Stipulation and Order conditioning and restricting Respondent's license to practice medicine and surgery based on her mental illness and chemical dependency to alcohol.

c. On November 14, 1992, Respondent was issued an Order for Unconditional License by the Board.

d. In December 1992, Respondent relapsed by consuming alcohol and went on a shopping spree, which she later reported to her treating psychiatrist. Respondent attributes the relapse to changes in her medication for bipolar disorder.

e. On October 29, 1993, Respondent telephoned her treating physician and told him that she had been drinking. Respondent was subsequently brought to the emergency room, where her blood alcohol level was reported at 0.18. A note in the emergency room record stated, "[Respondent] states drank 750 ml of vodka/day for many days. Has been working (as a physician) while under the influence for perhaps 3 weeks. Patient very manic at this time." Respondent's treating physician documented that Respondent denied that her behavior and drinking "had any effect on patient care and it was done in the context of clinic but had inferred on one occasion that it may have been and that the staff in the ER was concerned that she had taken a call while intoxicated last night."

f. From December 6 to 10, 1993, Respondent was hospitalized through the emergency room. Respondent's lab report from December 6, 1993, reported a urine ethyl alcohol level of 0.214. Upon admission, Respondent admitted that over the previous several days she had increased her alcohol intake and took "handfuls of benzos", including Xanax and Doral which she has at home in addition to the other medication and use of alcohol."

g. Respondent admitted that on March 3, 1994, she ingested as much as 6 mg. of Klonopin and drank alcohol. That evening, Respondent fell and injured herself upon leaving a bar. Respondent was transported to Methodist Hospital and then transferred to Fairview Southdale Hospital where she was placed on a 72-hour hold. Respondent admitted that she did not recall much of what led up to this because she was in a blackout. Respondent's blood test reported an alcohol level of 0.3. Respondent was subsequently transferred to Fairview Riverside. On March 16, 1994, Respondent was released from Fairview Riverside.

h. On May 5, 1994, Respondent met with the Board's Complaint Review Committee and stated that the history she had given about alcohol and medication consumption during her October 29, 1993, December 6, 1993, and March 3, 1994, hospitalizations was invalid because of her manic state during those time periods.

i. While she was hospitalized in March 1994, Respondent was informed that there were two work-related complaints involving patient care and that, while at work, she displayed hypomanic behavior in that she talked too much, was arrogant, grandiose, alienated support staff with condescension, and did not look directly at patients.

j. Following her March 1994 discharge, Respondent began outpatient treatment and arranged to participate in Professional Recovery Assistance, which requires random bodily fluid monitoring; attendance at AA and PSP; aftercare participation; and work quality assessment.

k. On March 20, 1994, Respondent self-reported the October and December 1993 and the March 1994 incidents of chemical dependency relapse and manic episodes to the Board.

l. On May 5, 1994, Respondent met with the Board's Complaint Review Committee. It was not until Respondent appeared before the Committee that Respondent reported the December 1992 chemical dependency relapse.

STATUTES

3. The Board views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(k), (l), (r), and (u) (1992) and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action.

REMEDY

4. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter the following:

a. An order suspending Respondent's license to practice medicine and surgery in the State of Minnesota for six months. Such suspension shall be stayed pending the outcome of a four to seven day, inpatient physical and mental evaluation with Richard Irons,

M.D., Associate Director, Talbott-Marsh Recovery Campus, 5448 York Towne Drive, Atlanta, Georgia 30349. The nature, scope and duration of the evaluation are to be determined by the staff of Talbott-Marsh Recovery Campus, under the direction of Dr. Irons. It is Respondent's responsibility to contact Dr. Irons at 1-800-445-4232 within five (5) days of receipt of this order to make arrangements for an evaluation to begin no later than 30 days after the date of this order. The evaluation results are to be transmitted directly by Dr. Irons to Robert Leach at the Board office. The Board shall promptly transmit a copy of the evaluation results to Respondent's attorney. This evaluation is to be at the Board's expense. Respondent shall bear the cost of transportation to and from the Talbott-Marsh Recovery Campus.

b. After the Board receives the evaluation results, Respondent shall again meet with the Committee to re-evaluate the conditions and restrictions placed on Respondent's license, including the stay of the suspension. If Dr. Irons' evaluation includes a recommendation for further inpatient treatment, Respondent shall undergo such treatment at her own expense, pursuant to this Stipulation and Order and without necessity of any further Order of the Board. When Respondent meets with the Committee, it may propose an Amended Stipulation and Order with further restrictions based on the other recommendations of Dr. Irons.

c. Respondent shall obtain a treating physician, who shall be a psychiatrist knowledgeable in the areas of both bipolar disorder and chemical dependency, approved in advance by the Complaint Review Committee or its designee, to monitor and/or manage all medical or other care provided to Respondent by all health care professionals. Respondent shall provide all necessary records releases to enable Respondent's health care professionals to communicate with the treating physician pursuant to this paragraph. The treating physician shall provide quarterly reports to the Board summarizing medical or other care provided to Respondent and addressing Respondent's progress under any terms of this Stipulation and Order relating to Respondent's health status and recovery.

d. Respondent shall abstain completely from alcohol and all mood-altering chemicals unless they are prescribed by a physician or dentist who has been informed of Respondent's drug use history.

e. Respondent shall not prescribe or administer any prescription drug or drug sample for Respondent's own use or for Respondent's family members' use.

f. Respondent shall be subject, without notice, to unannounced blood and urine tests at the request of Board staff or other Board designee at least 12 times per quarter. Blood and urine screens may be requested at any time. Respondent shall provide the requested sample within the time frame directed. The blood and urine screens shall be:

1) Collected and tested consistent with protocols established by a Board-designated laboratory;

2) Handled through legal chain of custody methods;

3) Paid for by Respondent.

g. The biological fluid collection and testing shall take place at a Board-designated laboratory as directed by the Board or its designee. Testing shall screen for opiates, cocaine, barbiturates, amphetamines, benzodiazepines, marijuana, and other drugs of abuse, including alcohol. The laboratory will provide test results directly to the Board and Respondent's treating physician. Ingestion of poppyseeds will not be accepted as a reason for a positive drug screen.

h. Respondent shall continue in psychotherapy, with a therapist approved in advance by the Complaint Review Committee or its designee. Quarterly reports shall be submitted to the Board and to the treating physician regarding Respondent's progress.

i. Respondent shall attend meetings of a self-help program such as AA or NA in support of abstinence at least four times per month. Quarterly reports shall be submitted to the Board from Respondent's designated sponsor(s) regarding attendance and participation.

j. Respondent shall attend meetings sponsored by the Minnesota Depressive and Manic-Depressive Association at least four times per month. Quarterly reports shall be submitted to the Board from Respondent's designated sponsor(s) regarding attendance and participation.

k. Respondent shall attend monthly meetings of a professional support group such as PSP, approved in advance by the Complaint Review Committee or its designee. Quarterly reports shall be submitted to the Board from Respondent's designated sponsor(s) regarding Respondent's attendance and participation.

l. Respondent shall provide to the Board and the treating physician a copy of any treatment or aftercare plan which is in effect at the time of execution of this Stipulation and Order or which is modified or becomes effective during the time Respondent is subject to this Stipulation and Order. The treatment or aftercare plan and any modifications to it shall be approved by the treating physician and shall include at least the following:

- 1) The treatment or aftercare plan activities;
- 2) The name, address, and telephone number for each provider of treatment or aftercare services.

m. The terms of any such treatment or aftercare plan or approved modification thereto, to the extent not superseded by this order, are herewith incorporated by reference. Failure to follow the plan or approved modification shall constitute violation of this order.

n. Upon request by the Board, Respondent shall sign releases authorizing the Board to obtain Respondent's medical, mental health or chemical abuse/dependency records from any treating professional or facility.

o. Respondent and a designated Board member or designee shall meet on a quarterly basis. It shall be Respondent's obligation to contact the designated Board member to arrange each of the meetings. The purpose of such meetings shall be to review Respondent's progress under the terms of this Stipulation and Order.

p. Respondent shall identify a work quality assessor who shall provide quarterly reports to the Board and to the treating physician regarding Respondent's overall work performance.

q. Respondent shall limit her practice to a group setting, approved in advance by the Complaint Review Committee.

r. After three years from the date of this Order, Respondent may petition the Complaint Review Committee to modify the terms of this paragraph 4, subparagraphs a-q. Respondent shall provide the Committee with documentation of compliance with the Order. The Committee, at its discretion and in consultation with the treating physician, may at that time reduce the frequency of meetings, reports and biological fluid screens required by this Order.

s. This Stipulation and Order will remain in effect for a minimum of five years from the date of this Order. At the end of this period, Respondent may petition for reinstatement of an unrestricted license upon recommendation by Respondent's treating physician and psychotherapist, and upon proof, satisfactory to the Board, of five years of documented, uninterrupted recovery. Upon hearing the petition, the Board may continue, modify or remove the conditions set out herein.

5. Upon Board approval of this Stipulation and Order, Respondent shall provide the Board with the addresses and telephone numbers of Respondent's residence and all work sites. Within seven (7) days of any change, Respondent shall provide the Board with new address and telephone number information.

6. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Respondent to practice medicine and surgery in the State of Minnesota shall be suspended immediately upon written notice by the Board to Respondent, such a suspension to remain in full force and effect until Respondent petitions the Board to terminate the suspension after a hearing. Nothing contained herein shall prevent the

Board from revoking or suspending Respondent's license to practice medicine and surgery in the State of Minnesota after any such hearing.

7. Within ten days of the date of this order, Respondent shall provide the Board with a list of all hospitals at which Respondent currently has medical privileges and a list of all states in which Respondent is licensed or has applied for licensure. The information shall be sent to the Board of Medical Practice, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114.

8. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

9. In the event Respondent should leave Minnesota to reside or practice outside the state, Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

10. Respondent has been advised by Board representatives that she may choose to be represented by legal counsel in this matter and has chosen to be so represented.

11. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

12. Respondent hereby acknowledges that she has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire

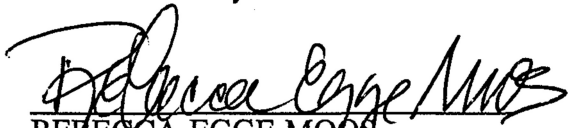
agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: May 26, 1994


NANCY A. KERMAITH, M.D.
Respondent


FOR THE COMPLAINT REVIEW
COMMITTEE

Dated: May 26, 1994


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ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,
IT IS HEREBY ORDERED that Respondent's license to practice medicine and surgery in the State of Minnesota is SUSPENDED, for a minimum of SIX MONTHS, stayed pending the outcome of a an inpatient physical and mental evaluation with Richard Irons, M.D., Associate Director, Talbott-Marsh Recovery Campus.

IT IS FURTHER ORDERED that all other terms of this Stipulation and Order are adopted and implemented by the Board this 3rd day of June, 1994.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 

AFFIDAVIT OF SERVICE BY MAIL

Re: Medical License of Nancy A. Kermath, M.D.
License No. 27,457

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Cynthia O. Ransom, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on June 3, 1994, she served the attached STIPULATION AND ORDER by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Rebecca Egge Moos
Bassford, Lockhart, Truesdell & Briggs, P.A.
3550 Multifoods Tower
33 S Sixth Street
Minneapolis MN 55402-3787

Cynthia O. Ransom

Cynthia O. Ransom

Subscribed and sworn to before me
this 3rd day of June, 1994.

Jean M. Short

Notary Public

