

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Nancy A. Kermath, M.D.
Date of Birth: 1/25/1950
License Number: 27,457

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Nancy A. Kermath, M.D. ("Respondent"), and the Complaint Review Committee ("Committee") of 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.

2. Respondent has been advised by Board representatives that she may choose to be represented by legal counsel in this matter and has chosen David P. Bunde, Fredrikson & Byron, 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota 55402-1425, telephone (612) 492-7048. The Committee was represented by Nathan W. Hart, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2131, telephone (651) 296-7575.

FACTS

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

a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on January 8, 1983. Respondent is board-certified in psychiatry.

b. Respondent has a history of bipolar disorder and chemical dependency with relapses, and was subject to several Board Orders. On November 13, 2004, the Board approved an Amended Stipulation and Order for Indefinite Suspension ("2004 Order") based on Respondent's admission that she had altered a letter before submitting it to the Committee in order to present herself in a more favorable light, and consumed three drinks of alcohol in violation of her Board Order. The 2004 Order included a Reprimand, an Indefinite Suspension of her license, and payment of a civil penalty of \$2,500.00; and provided that Respondent could petition for reinstatement of her license upon submission of satisfactory evidence that she was fit and competent to resume practice with reasonable skill and safety to patients.

c. On September 22, 2006, Respondent submitted a petition to the Board for reinstatement of her license to practice medicine and surgery in the State of Minnesota, with supporting documentation from her psychiatrist, psychologist, AA sponsor, and self-help group professionals.

d. On October 17, 2006, Respondent met with the Complaint Review Committee to discuss her petition for reinstatement. The Committee requested that she undergo a comprehensive neuropsychological evaluation and that, upon receipt of the results, the Committee would reconsider her petition for reinstatement of her license.

e. On November 30, 2006, the Board received the results of the neuropsychological evaluation which concluded that, from a cognitive standpoint, Respondent "should be able to assume the responsibilities of a psychiatrist without significant difficulty."

f. On December 19, 2006, the Committee reviewed the results of Respondent's neuropsychological evaluation and decided to offer her a Stipulation and Order to return to the practice of medicine subject to terms and conditions.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(l) and (r) (2006), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. 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 an Order rescinding the Amended Stipulation and Order for Indefinite Suspension of November 13, 2004, and may make and enter an Order **CONDITIONING** and **RESTRICTING** Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent shall obtain a primary care treating physician, 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 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, as well as addressing Respondent's progress under any terms of this Stipulation and Order relating to Respondent's health status and recovery.

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

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

d. Respondent shall be subject, without notice, to unannounced blood and/or urine tests at the request of Board staff, or other Board designee, at least 18 times per quarter, including weekends. Bodily fluid screens may be requested at any time. Respondent shall provide the requested sample within the time frame directed. The screens shall be:

- 1) Collected and tested consistent with protocols established by a Board-designated laboratory;
- 2) Handled through legal chain-of-custody methods; and
- 3) Paid for by Respondent.

The biological fluid collection shall take place as directed by Board staff or other Board 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 to Respondent's treating physician. Ingestion of poppy seeds will not be accepted as a reason for a positive result.

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

f. Respondent shall attend at least two Minnesota Depression and Bipolar Support Alliance group meetings per month. Quarterly reports shall be submitted to the Board, or its designee, from Respondent's designated sponsor(s) regarding Respondent's attendance and participation.

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

h. Respondent shall engage in individual therapy with a psychiatrist or therapist, approved in advance by the Committee or its designee. The treating psychiatrist or therapist shall provide quarterly reports to the Board, or its designee, and to the primary treating physician regarding Respondent's diagnosis and progress in therapy. Termination of therapy shall be at the written recommendation of the approved psychiatrist or therapist, with the approval of the primary treating physician and the Committee.

i. Medication management, including monitoring of blood levels and any changes in medication, shall be conducted under the direction of a treating psychiatrist, approved in advance by the Committee or its designee. The treating psychiatrist shall provide quarterly reports to the Board and to the treating physician regarding Respondent's compliance with taking prescribed medication, as well as any changes in medication.

j. Respondent shall provide to the Board and to the treating physician a copy of any treatment and/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 the Stipulation and Order. The treatment/aftercare plan and any modifications to it shall be approved by the treating physician and shall include at least the following:

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

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

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

l. Respondent shall practice in a group setting, approved in advance by the Committee, or its designee, and shall limit her work hours to no more than 25 hours per week, including weekends, call schedule and paperwork. No sooner than six months after resuming practice, Respondent may petition the Committee to consider an increase in her work hours. The Committee, at its discretion and by its own Order, may increase the maximum number of work hours allowed per week.

m. Respondent shall identify a work quality assessor who shall provide quarterly reports to the Board, or its designee, and to the treating physician regarding her overall work performance.

n. Respondent shall meet on a quarterly basis with a designated Board member or other Board designee. 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 and conditions of this Stipulation and Order.

o. Respondent shall pay, within one year of the date of this Order, a civil penalty in the amount of \$2,500.00.

p. No sooner than one year from the date of the Order, Respondent may petition, in writing, for reduced monitoring. Upon reviewing Respondent's petition, the Committee, at its discretion and by its own Order, may reduce the frequency of required meetings, reports, and/or biological fluid screens required by the terms and conditions of this Order.

q. Respondent may petition for reinstatement of an unconditional license no sooner than three years from the date of this Order and upon proof, satisfactory to the Board, of at least four years of documented, uninterrupted recovery. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of her residence and all

work sites. Periods of residency or practice outside of Minnesota will not be credited toward 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.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

9. 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

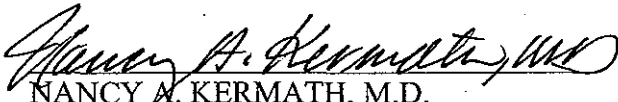
assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

10. 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.

11. 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: Jan. 5, 2007

Dated: January 13, 2007


NANCY A. KERMATH, M.D.
Respondent


FOR THE COMMITTEE

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board this 13th day of January, 2007.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 