

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Kristen D. Sutley, M.D.
Year of Birth: 1978
License Number: 54996

**STIPULATION
AND ORDER FOR
STAYED SUSPENSION**

IT IS HEREBY STIPULATED AND AGREED, by and between Kristen Deann Sutley, 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. Respondent has chosen to be represented by Marit M. Sivertson, Law Office of Sivertson and Barrette, P.A., 1465 Arcade Street, St. Paul, Minnesota 55106, (651) 964-6301. The Committee was represented by Daniel S. Schueppert, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101, (651) 728-7238.

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 March 10, 2012. Respondent is board certified in psychiatry.

b. In April 2018, the Board received a report stating that a third-party referred Respondent for a substance use evaluation and Respondent failed to comply.

c. In September 2019, the Board received a report stating that Respondent demonstrated impairment and behaved inappropriately in a patient care environment.

d. In response to the reports, the Board initiated an investigation into Respondent's conduct. The investigation revealed that, in March 2018, Respondent used multiple substances, lost consciousness, and fell on stairs causing injuries that required hospitalization. At the hospital, Respondent had a blood alcohol level over 0.3 and was diagnosed with withdrawal. Additionally, in September 2019, Respondent used multiple substances, including a mixture of prescribed and over the counter medications, immediately prior to a work shift. During the work shift, Respondent was incoherent, off-balance, and inappropriate and confrontational with colleagues and a police officer. Respondent was relieved of her duties and admitted to the emergency department with a health officer hold. Respondent refused to submit to toxicology screening and medical care. On the following day, Respondent's supervisor accepted Respondent's resignation. Respondent did not report her September 2019 conduct to the Board.

e. On November 15, 2018 and September 24, 2020, Respondent met with the Committee to discuss the reports. When discussing the incident that occurred in March 2018, Respondent stated that she used multiple substances, including more than the prescribed dose of a medication. When discussing the incident that occurred in September 2019, Respondent stated that she would have gone to treat patients at the hospital, if her colleagues would not have intervened. Respondent acknowledged that she was not competent to treat patients at the time.

f. On November 7, 2020, Respondent was arrested for gross misdemeanor driving while impaired – refusal to submit to chemical testing. Due to her arrest, Respondent failed to appear for her scheduled work shift the following day.

g. By Stipulation and Order dated January 9, 2021 (“January 2021 Order”), the Board disciplined Respondent’s license subject to a stayed suspension with conditions and restrictions, including participation in the Health Professionals Services Program (“HPSP”) and fully complying with her HPSP Participation Agreement.

h. On August 12, 2021, Respondent entered into a revised Participation Agreement with HPSP requiring Respondent to abstain from alcohol and all mood-altering chemicals; obtain a primary care physician; meet with a therapist at least twice a month; meet with a psychiatrist each quarter for medication management; attend AA/NA meetings at least twice a week and obtain a sponsor; attend a professional support group meeting each month; obtain a work-site monitor; and submit to required toxicology screens each quarter.

i. On October 12, 2021, the Board received a report alleging that on October 2, 2021, Respondent submitted a toxicology screen required by HPSP that tested positive for alcohol use with a PEth value of 87 ng/mL, in violation of Respondent’s HPSP Participation Agreement. Respondent informed HPSP that she planned to appeal the results of the PEth test. HPSP requested that Respondent refrain from practice. Respondent informed her HPSP case manager that she may have “had a drink” prior to beginning to call the toxicology line on August 23, 2021, and that she stopped consuming alcohol on August 23, 2021.

j. On October 21, 2021, the Committee discussed the October 12, 2021 report and violation of the January 2021 Order, and decided to offer Respondent this Stipulation and Order for Stayed Suspension.

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(f) (violated a rule promulgated by the board or an order of the board, a state, or federal law which relates to the practice of medicine, or in part regulates the practice of medicine), (l) (inability to practice medicine due to illness), and (r) (became addicted or habituated to a drug or intoxicant) and Minn. Stat. § 214.355 (violating HPSP participation agreement) (2020). 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, Respondent does hereby consent that the Board may make and enter an Order **SUSPENDING** Respondent's license to practice medicine and surgery in the State of Minnesota, but the suspension is **STAYED** contingent upon Respondent's compliance with the following terms and conditions:

a. Respondent shall participate in the Health Professionals Services Program ("HPSP") and fully comply with all terms and conditions of her HPSP Participation Agreement. Respondent shall sign releases allowing HPSP to provide a copy of her Participation Agreement and all compliance and treatment data to the Board. A violation of her HPSP Participation Agreement will constitute a violation of this Order.

b. Respondent shall practice in a pre-approved, group setting.

c. Respondent shall sign releases allowing the Board to obtain medical, mental health, and chemical dependency records from any treating professional, evaluator, or facility.

d. Any future substance use and/or mental health evaluations shall be performed by an evaluator pre-approved by the Committee. Respondent shall permit the Board to share private data with any pre-approved evaluator. When any evaluation is complete, Respondent shall provide the evaluation to HPSP. HPSP may, at its discretion, consider the evaluation for purposes related to Respondent's participation in the program.

e. Respondent may petition for reinstatement of an unconditional license no sooner than four years from the date of this Order. Upon petitioning, she shall submit evidence satisfactory to the Board, of a minimum of four years of documented, uninterrupted recovery and mental health stability commencing no sooner than the date of this Order. Upon hearing Respondent's petition, the Complaint Review Committee may recommend that the Board continue, modify, or remove the suspension or impose conditions and restrictions as deemed necessary.

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 (7) days of any change, Respondent shall provide the Board with new address and telephone number information. The information shall be sent to the Executive Director, Minnesota Board of Medical Practice, 335 Randolph Avenue, Suite 140, Saint Paul, Minnesota 55102.

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 the Complaint Review Committee has probable cause to believe that Respondent has failed to comply with any of the requirements for staying the suspension of her license as set forth in paragraph 5 above, or has failed to comply with the HPSP Participation Agreement, the Complaint Review Committee may remove the stay of suspension and suspend Respondent's license pursuant to the procedures outlined below:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Respondent agrees that the Complaint Review Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 9 below, or until the suspension is dismissed and the order is rescinded by the Complaint Review Committee. The Order of Removal shall confirm the Complaint Review Committee has probable cause to believe Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's license.

b. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a hearing before removal of the stayed suspension.

c. The Complaint Review Committee shall schedule a hearing before the Board pursuant to paragraph 9 below to be held within 60 days of service of the Order of Removal.

9. If the Complaint Review Committee issues an Order of Removal pursuant to paragraph 8 above, the following shall apply:

a. The Complaint Review Committee shall mail Respondent a notice of the violation alleged by the Complaint Review Committee and of the time and place of the hearing referred to in paragraph 8.c. above. 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.

b. At the hearing before the Board, the Complaint Review 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 witnesses, and other procedures governing administrative hearings or civil trials.

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

d. The Complaint Review Committee, at its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

10. 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.

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.

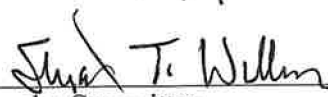
12. Respondent hereby acknowledges that she has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: 11/1/2021

 M.D.

Kristen D. Sutley, M.D.
Respondent

Dated: 11/10/21



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 November, 2021.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 