

BEFORE THE BOARD OF MEDICAL EXAMINERS  
STATE OF NORTH DAKOTA

North Dakota State Board of Medical )  
Examiners – Investigative Panel A, )  
 )  
Complainant, )  
 )  
vs. )  
Susan E. DeLap, M.D., )  
 )  
Respondent. )

**COMPLAINT**

**OAH FILE NO.**

COMES NOW, the Complainant, North Dakota State Board of Medical Examiners – Investigative Panel A, and for its Complaint against the Respondent, Susan E. DeLap, alleges and states as follows:

I.

Investigative Panel A of the North Dakota State Board of Medical Examiners (“Board”) is authorized pursuant to N.D.C.C. Chapter 43-17.1 to conduct investigations related to the practice of any physician licensed to practice in this state and file a formal complaint against any licensed physician with the State Board of Medical Examiners.

II.

Susan E. DeLap, M.D., is a physician licensed to practice medicine in the State of North Dakota.

FACTS

III.

At all times mentioned herein, Respondent practiced medicine as psychiatrist in the State of North Dakota in Bismarck, North Dakota.

IV.

On January 17, 2011, Respondent began providing psychiatric care for M.K. On August 17, 2013, Respondent received text messages from M.K.'s mother. Respondent responded to M.K.'s mother's text messages and disclosed information about M.K. Respondent did not have a release from M.K. allowing Respondent to communicate with M.K.'s mother as M.K. was 19 years old at the time this communication occurred.

VI.

Respondent is subject to disciplinary action pursuant to the provisions of N.D.C.C. § 43-17-30.1 based upon Respondent's violations of the North Dakota Medical Practice act, by breaching the confidentiality between physician and patient as proscribed by N.D.C.C. § 43-17-31(13).

VII.

WHEREFORE, Complainant respectfully requests Respondent, Susan E. DeLap, M.D., be disciplined for his violations of N.D.C.C. § 43-17-31 and seeks an appropriate sanction(s) for those violations as authorized by N.D.C.C. § 43-17-30.1. Complainant also respectfully requests that the Board be awarded its costs and attorney's fees in having to bring this action pursuant to N.D.C.C. § 43-17-31.1.

**NOTICE:** Respondent must answer this Complaint within twenty-one days after service of the complaint or the allegations may be deemed admitted and may result in a default order revoking the subject license. Such answer must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

Dated this 26<sup>th</sup> day of November, 2013.

By Stacy M. Moldenhauer

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Attorney for: North Dakota State Board of  
Medical Examiners – Investigative Panel A

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**STIPULATION**

WHEREAS, the North Dakota State Board of Medical Examiners (hereinafter “the Board”) issued a Complaint requesting Respondent be disciplined for her violations of the North Dakota Medical Practice Act pursuant to N.D.C.C. § 43-17-31 and that the Board be awarded its costs and attorney’s fees in accordance with N.D.C.C. § 43-17-31.1.

WHEREAS, the Respondent admits service of the Summons and Complaint dated November 26, 2013 and agrees that the facts alleged in the Complaint are true, with the understanding that Respondent responded on only one occasion to the text messages from M.K.’s mother, and are grounds for disciplinary action by the North Dakota Board of Medical Examiners and that the terms of this Stipulation are appropriate;

THEREFORE, IT IS HEREBY agreed by and between the parties to this action and the North Dakota State Board of Medical Examiners:

1. The Respondent hereby waives any procedural irregularity herein and her right to a hearing on the Complaint now pending in this action;
2. The Respondent agrees that her license to practice medicine in the State of North Dakota should be suspended for a period of one year with such suspension stayed for a period of

one year as long as Respondent complies with the following terms:

- a. Respondent agrees to attend a board approved ethics course focusing on boundaries and confidentiality of patients in dealing with today's social media.

3. Respondent shall also be responsible for paying the costs and attorney's fees incurred by the Board in the investigation and prosecution of this action in an amount not to exceed \$2000.00. The Board will notify the Respondent of any such costs within a reasonable time after the Stipulation is approved by the Board and Respondent shall make payment within (30) days from receiving such notification.

4. If Respondent shall fail, neglect, or refuse to comply with any of the terms, provisions, or conditions herein, the license of the Respondent to practice medicine in the State of North Dakota should be suspended in accordance with the law.

5. 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.

6. This agreement for the disposition of the above-entitled contested case is a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of North Dakota and current Board policy.

7. All parties hereto recognize that the Board representatives who have engaged in discussions relative to an agreed disposition of this matter can only make recommendations to

the North Dakota State Board of Medical Examiners, which recommendations can in no way be considered as binding upon the full membership of the Board who would ultimately decide the pending contested case, and this agreement is subject to acceptance by the full membership of the Board.


8. Respondent understands that she has the right and has been afforded the opportunity to have this agreement reviewed by an attorney, and Respondent has retained Brenda Blazer of the Vogel Law Firm in Bismarck, North Dakota.

9. Respondent specifically waives any claim that any disclosures made to the full membership of the Board for the purposes of consideration of this agreement have prejudiced her right to a fair and impartial hearing in the event that this agreement is not accepted by the full Board and if further proceedings ensue.

10. Respondent further agrees that there have been no inducements, threats or promises made in order to obtain her entry into this agreement.

11. The parties further agree that all statements contained herein are based upon the facts known to the Board on the date of execution of this agreement.

Date this 10 day of February, 2014.

  
Susan E. DeLap, M.D.

Dated this 13 day of February 2014.

By Stacy M. Moldenhauer

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General  
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ORDER

On November 26, 2013, North Dakota Board of Medical Examiners Investigative Panel A brought disciplinary action against the Respondent. The Complaint alleges that the Respondent violated the North Dakota Medical Practice Act by breaching the confidentiality between physician and patient.

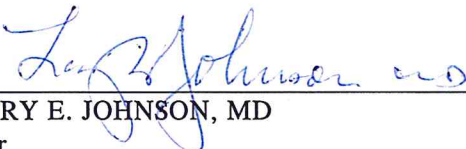
On February 13, 2014, the parties entered into a Stipulation which provided that there was a basis for disciplinary action against the Respondent and set forth the terms of an appropriate Board Order to resolve this action. That Stipulation is incorporated in its entirety and constitutes the further Order of this Board.

Based upon the Stipulation of the parties, IT IS HEREBY ORDERED THAT:

1. Respondent's license is suspended for a period of one year with such suspension stayed for a period of one year provided Respondent attends a board approved ethics course focusing on boundaries and confidentiality of patients in dealing with social media.
2. Respondent shall be required to pay the costs of the prosecution of this action not to exceed \$ 2,000.00.

This Order is effective March 21, 2014.

NORTH DAKOTA STATE BOARD  
OF MEDICAL EXAMINERS

  
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LARRY E. JOHNSON, MD  
Chair