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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
RANDALL W. JENNINGS, M.D., RESPONDENT.	:	LS0803201MED

[Division of Enforcement Case No. 05 MED 117]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Randall W. Jennings, M.D.
1628 Emerson Street
Beloit, WI 53511

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

This disciplinary proceeding was commenced by the filing and service of a Complaint and Notice of Hearing on March 20, 2008. The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Randall W. Jennings, M.D., Respondent, date of birth June 14, 1965, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin, pursuant to license number 43003, which was first granted January 31, 2001.

2. Respondent's last address reported to the Department of Regulation and Licensing is 1628 Emerson Street, Beloit, WI 53511.

3. Respondent's practice specialty is orthopedic surgery. From June 25, 2001 until July 14, 2004, Respondent was employed as a physician by the Beloit Clinic in Beloit, Wisconsin, with staff privileges at Beloit Memorial Hospital (BMH).

COUNT I

4. Ms. A was employed at BMH and first met Respondent at the hospital shortly after he began practicing in Beloit. In late 2001, Respondent performed elbow arthroscopy on Ms. A's spouse. Ms. A accompanied her spouse to his pre- and post-op appointments with Respondent, which continued until February 11, 2002. They discovered that they all had similar tastes in music and began exchanging CD's. Ms. A and Respondent remained friendly and chatted at the hospital.

5. Respondent provided professional services to Ms. A from October 28, 2002 through March 18, 2003.

a. She saw him at the clinic complaining of forearm, wrist and hand pain, which he diagnosed as right carpal tunnel syndrome. She also told Respondent that had been diagnosed with bipolar disorder and mentioned the medications she had been prescribed for that condition.

b. Following a nerve conduction study, Respondent saw Ms. A on November 13. An EMG nerve conduction study was then performed and Respondent saw Ms. A again on November 18, 2003, at which time Respondent diagnosed carpal tunnel syndrome and scheduled her for surgery which Respondent performed on November 26, 2002.

c. Ms. A had post-operative appointments with Respondent on December 2 and 10, 2002 and January 9 and February 20, 2003. Respondent ordered occupational therapy, which Ms. A received from December 17 to January 22, 2003. A final appointment was held on March 18, 2003 and Respondent noted that Ms. A was released to work without any restrictions.

6. Over the time Respondent treated Ms. A, they also continued to encounter each other at the hospital. As a result of the professional and work contacts, they developed a personal relationship. Ms. A told Respondent about her marital problems. During this time, Ms. A's psychiatrist noted that she had increased depression and mood changes and was changing her medications.

7. On March 21, 2003, Ms. A and Respondent met in a shower room at the hospital and kissed and had sexual contact. On March 28, 2003, Respondent and Ms. A met at Respondent's office at the clinic and engaged in consensual sexual intercourse. They continued to have sexual contact on a regular basis until August 2003. It ended the first week of August 2003 when Ms. A's husband heard Respondent and Ms. A talking about their relationship in a telephone conversation and Ms. A's husband told Respondent's wife.

8. On August 29, 2003, Ms. A was admitted to day treatment at the Mercy WINGS program in Mercy Hospital Janesville because of increased depression. The WINGS program is for adults who need more than outpatient counseling, but who do not require 24-hour hospitalization. Ms. A continued day treatment at WINGS until she was discharged September 12, 2003.

COUNT II

9. Ms. B also worked at BMH and knew Respondent from contacts there. Respondent provided professional services to Ms. B during the period of August 6, 2002 to January 22, 2003.

a. Ms. B saw Respondent at the clinic with the complaint of shoulder pain, which he diagnosed as right shoulder impingement syndrome. Respondent ordered physical therapy and an arthrogram of the shoulder. Following the arthrogram, Respondent saw Ms. B on September 24 and recommended surgery.

b. Respondent saw Ms. B for a preoperative history and physical on October 15, performed the surgery on Ms. B on October 24, 2002 and saw her for post-operative visits on November 5 and November 19, 2002.

c. On December 9, Ms. B called and requested a prescription for pain medication because she had re-injured her shoulder. Respondent authorized a telephone prescription for Vicodin. Respondent saw Ms. B on December 10 and ordered a MR arthrogram, which was performed on January 22, 2003 and the report was sent to Respondent.

10. In May 2003, BMH required Ms. B to obtain Respondent's signature on documents relating to her injury. Her supervisor allowed her to leave the hospital and go to Respondent's office in the clinic at about 6:00 p.m. to obtain his signature. While Ms. B was in Respondent's office for this purpose, they engaged in consensual sexual intercourse.

11. Respondent provided additional professional services to Ms. B:

a. On July 2, 2003, Respondent saw Ms. B who reported she had felt a strain in the shoulder Respondent previously repaired. Respondent did not find any injury and noted she could return on an as-needed basis.

b. On December 11, 2003, Respondent authorized prescriptions for Vioxx and Vicodin which Ms. B had requested be telephone because of shoulder pain.

c. On March 22, 2004, Respondent authorized a prescription for Vicodin which Ms. B had requested by telephone because of shoulder pain. Ms. B also requested a steroid injection in her shoulder and Respondent referred Ms. B to a Rockford physician for a second opinion. Ms. B made an April 15 appointment with the other physician. Ms. B called Respondent on March 26 and said the other physician wanted a recent MRI or arthrogram and Respondent ordered it. On April 12, 2004, Ms. B called and told Respondent she wanted to discuss the results of the MRI with him. Respondent discussed it with her on April 13, 2004.

ALL COUNTS

12. In August 2003, BMH required Respondent to be evaluated at Rush Behavioral Health in Downers Grove, Illinois, which is part of Rush-Presbyterian St. Luke's Medical Center. The evaluation included consideration of the events with Ms. A and Ms. B, and recommended that Respondent:

a. Enter the Sexual Disorders Program of Dr. Gene Abel, in Atlanta.

b. Enter into a contract with the Wisconsin Statewide Physician Health Program of the Wisconsin State Medical Society.

c. After completing the Sexual Disorders Program, engage in a course of individual psychotherapy to address the personality and interpersonal styles which played a role in the matters which brought him to their attention.

d. Have a chaperone present during all female examinations.

e. Inform employers of his history of sexually acting out with patients.

13. Following the Rush Behavioral Health evaluation, Respondent:

a. Took a four-week leave of absence.

b. Attended couples counseling with his wife from August 2003 to May 2004.

c. Signed a contract with the Wisconsin Statewide Physician Health Program, which included continuing treatment until at least October 2005.

d. Participated in psychotherapy with a Milwaukee psychiatrist from October 2003 to October 2005.

e. Returned to practice at the Beloit Clinic in December 2003 and was assigned a second assistant who functioned as a scribe and chaperone.

f. In March 2004, relocated his practice to a group in Rockford, Illinois, who he informed of his prior history, and where he continued using a chaperone.

g. Since September 2006, Respondent has practiced with Fort Medical Group in Fort Atkinson, Wisconsin. Prior to beginning that practice, Respondent informed his employer of his prior history. He has continued to have a staff person present during clinical examinations. Fort Medical Group has confirmed that there have been no problems with Respondent's practice or conduct and that he is providing high quality medical services to their patients.

14. At the request of the Division, Respondent was evaluated by Gary Schoener, a Minneapolis psychologist with extensive experience performing evaluations of health care practitioners who have had sexual contact with patients and former patients. In the course of the evaluation, Schoener performed psychological testing, interviewed Respondent and his wife, reviewed the Division's investigative materials and the Rush evaluation and spoke with the clinical social worker who did the couples counseling and the psychiatrist who provided Respondent's treatment. The evaluation report of March 4, 2009 concluded:

a. Respondent is not presently diagnosed with any psychological disorder or condition.

b. Respondent is not a predator and is not at risk to reoffend.

c. Respondent has had significant emotional and psychological growth since his misconduct.

d. Respondent does not need any psychotherapy and there is no need to have his practice chaperoned.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3), and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in sexual contact with Ms. A within two years of the termination of professional

services to her, has committed unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(zd) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

3. Respondent, by engaging in sexual contact with Ms. B within two years of the termination of professional services to her, has committed unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(zd) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

SUSPENSION

1. The license of Randall W. Jennings, M.D., to practice medicine and surgery in the State of Wisconsin is hereby SUSPENDED for a period of eighteen (18) months, effective immediately. At the end of the eighteen months, the period of suspension shall end without further order of the Board.

STAY OF SUSPENSION

2. The suspension of Dr. Jennings license is hereby STAYED immediately and shall remain stayed during the period of suspension as long as he is in compliance with the Terms and Conditions, below.

3. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any term or condition below. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision.

4. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:

a. Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or

b. Actual notice to Respondent or Respondent's attorney.

5. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

6. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code § RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

7. Within seven days of the date of this Order, Respondent shall provide a copy of this Final Decision and Order to his supervisory authority at Fort Medical Group.

8. If Respondent changes his practice setting, he shall immediately provide a copy of this Final Decision and Order to his supervisory authority at the new location.

9. Respondent's practice supervisory authority shall submit written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance and shall include any complaints made against Respondent by patients or their family. It is Respondent's responsibility to ensure that the reports are submitted when due.

10. Respondent shall report any change of employment status, residence, address or telephone number to the Department Monitor within five (5) days of the date of a change.

11. Within 45 days of the date of this Order, Respondent shall provide proof to the Department Monitor that he and his wife have consulted with a psychotherapist to whom they have provided a copy of this Final Decision and Order, the history of their situation and the progress they have made in their relationship and that the psychotherapist has agreed to provide them consultation if it is needed at any time.

MISCELLANEOUS

12. Pursuant to Wis. Stat. § 440.22(2), within one year of the date of this Order, Respondent shall pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of $3,200.00.

13. All requests, notices, reports and payments required by this Order shall be provided to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

14. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

15. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: Gene Musser MD 7/15/09
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
RANDALL W. JENNINGS, M.D., RESPONDENT.	:	LS 0803201 MED

[Division of Enforcement Case No. 05 MED 117]

It is hereby stipulated and agreed, by and between Randall W. Jennings, M.D., Respondent; Thomas W. St. John o Friebert, Finerty & St. John, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department o Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by stipulation and without a hearing.

2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. If the Boar accepts the Stipulation, Respondent's license to practice medicine and surgery shall be reissued at the time the suspension i terminated in accordance with the terms of the attached Final Decision and Order. If the Board does not accept thi Stipulation, Respondent's certificates shall be returned to Respondent with a notice of the Board's decision not to accept th Stipulation.

7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

8. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

9. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Randall W. Jennings, M.D.
Respondent
1628 Emerson Street
Beloit, WI 53511

Date

Thomas W. St. John
Friebert, Finerty & St. John, S.C.
Attorneys for Respondent
Two Plaza East, Suite 1250
330 E. Kilbourn Avenue
Milwaukee, WI 53202

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date