

TRUE AND EXACT
COPY OF ORIGINAL

BEFORE THE MINNESOTA

BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
Nancy Ann Johnson Kermath, M.D.
Date of Birth: 1/25/50
License Number: 27,457

STIPULATION AND ORDER
FOR INDEFINITE SUSPENSION

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. Respondent has chosen to be represented by John W. Lundquist, Fredrikson & Byron, 1100 International Centre, 900 Second Avenue South, Minneapolis, Minnesota 55402, telephone (612) 347-7000. The Committee was represented by Nathan W. Hart, Assistant Attorney General, 1400 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true. However, it is the intent of the parties that this Stipulation and Order and the provisions set forth herein shall have no collateral estoppel effect, res judicata effect, or other preclusive effect, and no evidentiary value in any action or proceeding in any forum or process other than proceedings before the Minnesota Board of Medical Practice or another authorized licensing board or licensing agency. Nothing in this paragraph shall limit or affect the Board's obligation to fulfill any reporting requirements.

a. Respondent is a 52-year-old physician who has been licensed by the Board since January 8, 1983. Respondent is Board-certified in psychiatry.

b. Respondent has a history of bipolar disorder and chemical dependency with relapses.

c. On December 12, 2001, the Board received information that Respondent was reducing her medications without seeing her psychiatrist and had written two prescriptions for narcotics in the name of another individual for her own use. Respondent also wrote a prescription for Concerta™ for her own use, using the name of one of her colleagues.

d. By letter dated December 19, 2001, Respondent informed the Board she had a recent relapse of her bipolar disorder. Respondent stated she had a manic episode resulting from a total hysterectomy she underwent on November 1, 2001. Respondent stated she had taken a medical leave and would not practice medicine until this matter was resolved.

e. Respondent was contacted by an investigator from the Minnesota Attorney General's Office and asked to sign releases for her medical records and to schedule an interview. Respondent's attorney and treating psychiatrist informed the investigator Respondent was medically unable to grant an interview at this time. The Committee scheduled a conference with Respondent for February 22, 2002. Respondent's attorney has requested a continuance, pending an improvement in Respondent's medical condition.

STATUTES

3. 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) (2000), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify action under these statutes.

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 an order INDEFINITELY SUSPENDING Respondent's license to practice medicine and surgery in the State of Minnesota, effective immediately. During the period of suspension, Respondent shall not engage in the practice of medicine and surgery in Minnesota. Respondent shall immediately cease to advertise or otherwise represent herself in any manner to be a licensee in this state.

5. This Stipulation and Order is not intended to be the final resolution of the allegations contained herein, and the conference scheduled for February 22, 2002 is continued indefinitely. Upon notification to the Committee by Respondent that her medical condition has sufficiently improved, Respondent shall appear before the Committee pursuant to a Notice of Conference, which shall be served on Respondent no less than 30 days prior to the date of the conference. In addition to the allegations contained herein, the Notice of Conference shall contain all other unresolved allegations of misconduct on the part of Respondent.

6. After the conference referenced in paragraph 5 above, in the event Respondent and the Committee are unable to reach an agreement for resolution of the allegations of misconduct contained in the Notice of Conference and the status of Respondent's license to practice medicine and surgery in Minnesota, Respondent may request and the Board shall initiate a contested case hearing. The hearing shall be conducted in accordance with the Minnesota Administrative Procedure Act and pertinent rules of the Office of Administrative Hearings.

7. This Stipulation and Order will remain in effect until amended, modified, vacated or removed by subsequent Board order.

8. Respondent shall sign all necessary releases allowing the Board access to all medical, mental health, evaluation, therapy, chemical dependency, or other records from any treating professional, evaluator, or facility. Respondent shall allow the Board or its designee to communicate with all the treating and evaluating health professionals.

9. Within ten days of the date of 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. Within seven (7) 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 400, Minneapolis, Minnesota 55414-3246.

10. 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. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended license in Minnesota.

11. 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.

12. 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.

13. 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.

14. 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.

15. This Stipulation and Order is a public document.

Dated: 2/22, 2002

Dated: 9 March, 2002


NANCY ANN JOHNSON KERMATH, M.D.
Respondent


FOR THE COMMITTEE

ORDER

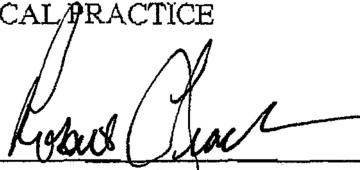
Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 9th day of March, 2002.

MINNESOTA BOARD OF

MEDICAL PRACTICE

By: _____


ROBERT A. LEACH
Executive Director

AG: 549749, v. 01

AFFIDAVIT OF SERVICE BY U.S. MAIL

**Re: In the Matter of the Medical License of Nancy Ann Johnson Kermath, M.D.
License No. 27,457**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

TAMMIE L. REEVES, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on March 12, 2002, s/he caused to be served the STIPULATION AND ORDER FOR INDEFINITE SUSPENSION, by depositing the same in the United States mail at said city and state, true and correct copy(ies) thereof, properly enveloped with prepaid first-class postage, and addressed to:

JOHN W LUNDQUIST
FREDRIKSON & BYRON
1100 INTERNATIONAL CENTRE
900 SECOND AVE S
MINNEAPOLIS MN 55402

Tammie L. Reeves

TAMMIE L. REEVES

Subscribed and sworn to before me

this 12th day of March, 2002.

M. Jane Regan

NOTARY PUBLIC
AG: 556295, v. 01

