

BEFORE THE BOARD OF MEDICINE

STATE OF NORTH DAKOTA

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

COMPLAINT

COMES NOW, the Complainant, North Dakota Board of Medicine – 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 Board of Medicine (“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 Medicine.

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 a psychiatrist at A Balanced Mind Psychiatric Wellness Center in Bismarek, North Dakota.

IV.

On December 21, 2015, Respondent was in a psychiatric appointment with Patient A, when Respondent fell asleep during this appointment. Respondent is currently suffering from a significant sleep disorder which is affecting her ability to practice medicine. Respondent's sleep disorder subjects her to discipline because it is a physical or mental disability that materially affects her ability to perform the duties of a physician in a competent manner as proscribed by N.D.C.C. § 43-17-31(5).

V.

Respondent is also subject to discipline because Respondent wrote a prescription to Patient A on January 6, 2016 and did not document that prescription in Patient A's medical record. Respondent's failure to document this prescription in Patient A's medical record subjects her to discipline pursuant to N.D.C.C. § 43-17-31(26) as Respondent lacked appropriate documentation in Patient A's medical record for diagnosis, testing and treatment of Patient A.

WHEREFORE, Complainant respectfully requests Respondent, Susan E. DeLap, M.D., be disciplined for her 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 7th day of April, 2016.

By Stacy M. Moldenhauer

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Attorney for: North Dakota Board of
Medicine – Investigative Panel A

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 vs.)
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 Susan E. DeLap, M.D.,)
)
 Respondent.)
)

STIPULATION

WHEREAS, the North Dakota Board of Medicine (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 of Investigative Panel A dated April 7, 2016. On May 4, 2016, Respondent submitted an Answer to said Complaint admitting the factual allegations in the Complaint were true but denying any adverse consequences results from said actions. Thus, based upon those admissions, Respondent agrees the allegations in the Complaint are grounds for disciplinary action by the North Dakota Board of Medicine 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 Board of Medicine:

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 to follow any and all sleep hygiene recommendations

made by her sleep specialist which will ensure her sleep disorder does not have any affect on her ability to practice medicine.

3. Respondent agrees she will complete a Board approved medical records keeping course within 6 months from the date this stipulation is approved of by the Board. Respondent will be responsible for any and all costs associated with her taking the records course.

4. 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 \$2500.00. 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.

5. 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 revoked in accordance with the law.

6. 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.

7. 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.

8. 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 Board of Medicine, 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.

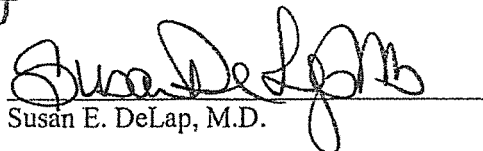
9. Respondent understands that she has the right and has been afforded the opportunity to have this agreement reviewed by an attorney. Respondent has hired Brenda L. Blazer to represent her in this matter.

10. 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.

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

12. 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 26 day of February, 2018.


Susan E. DeLap, M.D.

Dated this 28th day of February, 2018.

By Stacy M. Moldenhauer

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 Respondent.)

ORDER

WHEREAS, Investigative Panel A of the North Dakota Board of Medicine issued a Complaint against Respondent on April 7, 2016 alleging Respondent had a physical or mental condition that materially affected her ability to perform her duties as a physician in a competent manner as proscribed by N.D.C.C. § 43-17-31(1)(e) because Respondent suffers from a sleep disorder that resulted in her falling asleep during an appointment with a patient. Said Complaint also alleged Respondent lacked appropriate documentation in a patient’s medical record for diagnosis, testing and treatment of said patient as described by N.D.C.C. § 43-17-31(1)(z) because Respondent wrote a prescription for said patient and failed to document that prescription in the patient’s medical record. The Board requested Respondent be disciplined for her violations of the Medical Practices Act and requested it be awarded its fees and costs associated with this matter. Respondent submitted an Answer to said Complaint on May 4, 2016 and admitted the factual allegations contained in the Complaint but denied any adverse consequences resulted from said actions.

WHEREAS, Respondent and Investigative Panel A entered into a voluntary Stipulation

dated February 28, 2018, wherein Respondent admitted the factual allegations of the Complaint were true and agreed the allegations in the Complaint were grounds for discipline.

WHEREAS, the North Dakota Board of Medicine finds that the terms of that Stipulation are an appropriate disposition of this case.

IT IS HEREBY ORDERED THAT:

1. Respondent will follow any and all sleep hygiene recommendations made by her sleep specialist which will ensure her sleep disorder does not affect her ability to practice medicine.
2. Respondent shall complete a Board approved medical records keeping course within six (6) months from the date of this Order. Respondent is responsible for any and all costs associated with her taking said course.
3. Respondent shall be required to pay the costs of the prosecution of this action not to exceed \$2,500.00. The Board will notify Respondent of the exact amount of said costs and Respondent shall remit payment in full within thirty (30) days of receiving such notification.

This Order is effective this 23rd day of March, 2018.

NORTH DAKOTA BOARD OF MEDICINE



Robert Olson , M.D.
Chairman