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APR 13 2022

DHHS Hearing Office

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATE OF NEBRASKA ex rel. DOUGLAS J. PETERSON, Attorney General, Plaintiff, vs. WIGINGTON, GREGORY, Defendant.	220348 MD ORDER ON AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on April 8, 2022.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.

2. The facts as set out in the Petition are taken as true and adopted herein.

3. The parties shall comply with all of the terms of the Agreed Settlement.

Date: 4-13-22

[redacted]

Gary J. Anthone, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

Civil penalty, if imposed, should be mailed to: DHHS, Division of Public Health, Licensure Unit, ATTN: Diane Pearson, P.O. Box 94986, Lincoln, NE 68509.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was sent on the date below by certified United States Mail, postage prepaid, return receipt requested, and/or electronically to the following:

ERIN DUGGAN ATTORNEY AT LAW 1248 O STREET STE 800 LINCOLN NE 68508
MINDY LESTER ASSISTANT ATTORNEY GENERAL AGO.HEALTH@NEBRASKA.GOV

Date: April 14, 2022

[redacted]

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STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

STATE OF NEBRASKA ex rel. DOUGLAS J. PETERSON, Attorney General,	)	
Plaintiff,	)	
vs.	)	**AGREED SETTLEMENT**
GREGORY C. WIGINGTON, MD	)	
Defendant.	)	

The Plaintiff and the Defendant, Gregory C. Wigington, MD, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Gregory C. Wigington, MD, is the holder of physician license (#29362) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").

2. The Defendant acknowledges receipt of a copy of the Petition for Disciplinary Action ("Petition") and waives the need for further service of the Petition upon him.

3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant also waives any right to judicial review of a disciplinary order which approves the terms of this Agreed Settlement.

4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

5. The Defendant acknowledges that he is not licensed to practice as physician in any state other than Nebraska.

6. The Defendant acknowledges that he has read the Petition filed by the Attorney General's Office and neither admits nor denies the allegations contained in the Petition.

7. The Plaintiff and the Defendant consent to the entry of a final disciplinary order by the Chief Medical Officer which finds the allegations of the Petition are true and suspends the Defendant's license to practice medicine and surgery in the State of Nebraska for a period of six (6) months effective ten (10) days from the entry of an Order on Agreed Settlement by the Chief Medical Officer. The Defendant shall not engage in any conduct which constitutes the practice of medicine and surgery during the period of suspension. The Defendant's physician license shall be automatically reinstated at the end of the six (6) month period.

8. The Plaintiff and Defendant consent to the Chief Medical Officer entering a final disciplinary order which finds the allegations of the Petition for Disciplinary Action are true and places the Defendant's physician license on probation for four (4) years, commencing on the date of reinstatement from the suspension set forth herein in Paragraph 7, with the following probationary conditions:

a. The Defendant's practice as a physician in Nebraska shall be supervised by a licensed physician, who is both currently licensed in good standing and is actively practicing as a physician in the State of Nebraska. Such person ("practice monitor") may be chosen by the Defendant, but the practice monitor must be approved by the Board of Medicine and Surgery. Prior to the Board's approval, the practice monitor shall submit a report to the Board of Medicine and Surgery acknowledging that he or she has read the Petition for Disciplinary Action, Agreed Settlement and Order, and that the practice monitor understands and agrees to perform the monitoring obligations as set forth herein. The Defendant shall

submit the practice monitor to the Board at least sixty (60) prior to the date of reinstatement of his license following suspension.

i. The practice monitor shall not be required to be present at all times while Defendant is engaged in medical practice. The practice monitor shall agree to provide the Department and the Board with quarterly reports regarding the Defendant's conduct in regards to patients.

ii. The practice monitor shall complete a monthly on-site review of all (50%) of Defendant's patient records for the first six (6) months to evaluate appropriate patient/provider boundaries. The Defendant shall follow the instructions and directives of the Department regarding such review. Reviews shall include, the complete medical record, including any psychiatric evaluations and/or treatment notes. After six (6) months, the Practice Monitor may reduce the review to twenty-five percent (25%) of patient records provided s/he determines the Defendant has maintained appropriate boundaries with patients during the prior six month period. The patient records shall be chosen randomly by the Practice Monitor during the second half of the probation. In addition, the practice monitor shall submit quarterly reports regarding the Defendant's prescribing and treatment practices, and any recommendations to the Department.

iii. The practice monitor shall agree to provide the Department and the Board with quarterly reports regarding the Defendant's work performance, work habits and progress throughout the monitoring period.

iv. The practice monitor shall also immediately report to the Department, in writing, any action on the part of the Defendant that he or she feels violates any law or regulation with respect to medicine and surgery, any provision of this Agreed Settlement, or any action or conduct that the practice monitor feels is not in accordance with the generally accepted standard of medicine and surgery in Nebraska. The practice monitor shall immediately report to the compliance monitor, in writing, any conduct s/he identifies that indicates the Defendant has failed to maintain appropriate physician/patient boundaries with any patient.

v. The Defendant agrees to cooperate fully with any reasonable request by the practice monitor necessary to implement the supervision contemplated by this Agreed Settlement, including any request to examine records and documents relating to the Defendant's medical practice in this state.

b. The Defendant shall comply with all treatment recommendations made by any treatment provider with whom the Defendant has or establishes care.

c. The Defendant shall successfully complete all requirements and/or recommendations of the PBI Education course which he began in February 2022. The Defendant shall demonstrate his successful completion of the program to the Department and shall provide whatever materials are requested by the Department to verify successful completion. If required by PBI, the Defendant shall sign any and all releases of information requested by the Department to verify compliance with this condition.

d. The Defendant shall be employed as a physician only by an employer who provides employer quarterly reports to the Department. Employer quarterly reports shall be submitted to the Department by the Defendant's supervisor. Reports shall include a description of the Defendant's work habits and attendance. Reports shall be due no later than the tenth day of the month following the end of each quarter. An initial employer report shall be submitted as directed by the Department. A final employer report shall be due not less than thirty (30) days before the expiration of the probationary period.

e. The Defendant shall provide notification of his disciplinary action to all current and potential employers for whom he provides medicine and surgery services, any physician educational program in which he is enrolled or may enroll and to the licensing authority in any state where he has or obtains an active physician license within five (5) days of receipt of the Order on Agreed Settlement by the Chief Medical Officer and within five (5) days of any changes in employment or any subsequent out-of-state licensure. Such notification shall include copies of the Petition for Disciplinary Action, this Agreed Settlement, and the Order on Agreed Settlement entered by the Chief Medical Officer. Written confirmation of this notification shall be provided by the Defendant to the Department within thirty (30) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer or change in employment or any subsequent out-of-state licensure.

f. The Defendant shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, telephone number, or preferred email address.

g. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department.

h. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of probation.

i. The Defendant shall obey all state and federal laws and the rules and regulations regarding the practice of medicine and surgery.

j. The Defendant shall pay any costs associated with assuring compliance with this Agreed Settlement.

k. The Defendant shall appear at any meetings of the Nebraska Board of Medicine and Surgery when requested.

l. Any period the Defendant holds an inactive Nebraska license shall not reduce the probationary period or satisfy the terms and conditions of probation. Practice in another state or jurisdiction that adopts the Nebraska probationary terms and conditions of licensure will serve to reduce the Nebraska probationary period.

9. In the even the Defendant violates any of the above terms of probation, the Chief Medical Officer after motion by the Attorney General and a hearing, may take further disciplinary action against the Defendant's physician license, including revocation of his license.

10. The Plaintiff and the Defendant further consent to the Chief Medical Officer entering a final disciplinary order which orders the Defendant's Physician license be ***limited*** in the following way:

a. The Defendant shall not provide physician services to any female patients.

11. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with Neb. Rev. Stat. § 38-190 (Reissue 2016).

12. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY: [redacted]
Gregory C. Wigington, MD
Defendant

State of Nebraska)
) ss.
County of Douglas)

This Agreed Settlement is acknowledged before me Gregory C. Wigington, MD, on this 20 day of March, 2022.

[redacted]
Notary Public
My Commission Expires:

GENERAL NOTARY - State of Nebraska
Kiley Tettenborn
My Comm. Exp. July 24, 2022

STATE OF NEBRASKA, ex rel. DOUGLAS J. PETERSON, Attorney General,
Plaintiff,

BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: [redacted]
Mindy L. Lester, #24421
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Attorneys for the Plaintiff.

FILED

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STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

STATE OF NEBRASKA ex rel. DOUGLAS J. PETERSON, Attorney General,	
Plaintiff,	
v.	**PETITION FOR DISCIPLINARY ACTION**
GREGORY C. WIGINGTON, MD,	
Defendant.	

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 (Reissue 2016) and 38-186 (Reissue 2016).

2. At all times relevant herein, the Defendant, Gregory C. Wigington, MD, has been the holder of a license (#29362) to practice as a physician issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").

3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of medicine and surgery.

4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2016).

5. In December, 2017, the Defendant provided psychiatric care to Patient A by completing an Adult Psychiatric Intake and prescribing Klonopin, a Schedule IV

Controlled Substance. The Defendant scheduled the first follow-up visit with Patient A for approximately two weeks later. The Defendant did not provide additional medical care to Patient A following the initial intake and prescription.

6. The Defendant began a personal and intimate relationship with Patient A. During an interview with a Department Investigator, the Defendant advised:

a. He began dating Patient A "a few months" after the December 2017 initial appointment;
b. In May, 2018, the Defendant and Patient A found out Patient A was pregnant with the Defendant's child;
c. In August 2018, the Defendant married Patient A;
d. In November 2018, the Defendant and Patient A's child was born; and
e. The Defendant admitted his actions were a breach of his ethical duties as a psychiatrist.

7. The Defendant began providing care for Patient B in June 2018 at F.H., Fremont, Nebraska.

8. The Defendant began providing care to Patient B in December, 2018, in Omaha, Nebraska; Patient B presented with anxiety and panic attacks. The Defendant noted "most of her symptoms were PTSD related from previous boyfriend who attacked her and is now in jail." The Defendant diagnosed Patient B with Panic Disorder, without Agoraphobia, Major Depressive Disorder, Mild, and Post Traumatic Stress Disorder. The Defendant documented consideration of other diagnoses for further consideration.

9. The Defendant prescribed medications to Patient B from December 2018, through June, 2019, including, at times, Clonazepam, Diazepam, Gabapentin, Citalopram, and Lorazepam.

10. In October 2018, the Defendant exchanged text messages of a sexual nature with Patient B.

11. During an interview with a Department Investigator in in December 2019, Patient B advised the Defendant engaged in a sexual relationship with her. Patient B further advised:

a. The Defendant sent Patient B sexually explicit text messages on multiple occasions; and

b. The Defendant and Patient B engaged in sexual activity in the Defendant's office and vehicle.

12. The Defendant began providing care for Patient C on March 2, 2019.

13. On April 19, 2019, the Defendant engaged in a personal conversation with Patient C through text messaging. The Defendant's messages to Patient C included the following:

a. "The weekend is almost here...Doing anything fun?";

b. "I could really use a beach and a drink right now. Lol"

c. "Do you tan really dark? Sorry that came off way wrong"

14. During an interview with a Department Investigator, the Defendant provided that he asked whether Patient C "tans" to determine whether she may have a vitamin deficiency contributing to her symptoms

FIRST CAUSE OF ACTION

15. Paragraphs 1 through 14 are incorporated herein by this reference.

16. Neb. Rev. Stat. § 38-178(2) (Reissue 2016) provides that a professional license may be disciplined for immoral or dishonorable conduct evidencing unfitness to practice the profession in this state.

17. The Defendant's conduct as set forth above constitutes immoral or dishonorable conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

18. Paragraphs 1 through 17 are incorporated herein by this reference.

19. Neb. Rev. Stat. § 38-178(23) (Reissue 2016) provides that a professional license may be disciplined for unprofessional conduct as defined in section 38-179.

20. Neb. Rev. Stat. § 38-179 (Reissue 2016) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...

a. (9) commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession; and

b. (15) such other acts as may be defined in rules and regulation.

21. 172 NAC 88-010.02(9) of the Regulations Governing the Licensure of Medicine and Surgery and Osteopathic Medicine and Surgery (2013) defines unprofessional conduct as the "commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder..."

22. The Defendant's sexual misconduct as set forth above in regards to Patient A and B is unprofessional conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

23. Paragraphs 1 through 22 are incorporated herein by this reference.

24. Neb. Rev. Stat. § 38-178(23) (Reissue 2016) provides that a professional license may be disciplined for unprofessional conduct as defined in section 38-179.

25. Neb. Rev. Stat. § 38-179 (Reissue 2016) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(14) disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care.

26. The Defendant's conduct, in regards to Patient's A, B and C, constitutes unprofessional conduct and is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice as a physician in the State of Nebraska pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2016), and tax the costs of this action to the Defendant.

(SPACE INTENTIONALLY LEFT BLANK)

STATE OF NEBRASKA ex rel. DOUGLAS J. PETERSON, Attorney General,
Plaintiff,

BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: [redacted]
Mindy L. Lester, #24421
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