

STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

In the Matter of Disciplinary)	
Action Concerning)	No. 90-04-0109MD
)	
JOHN WAYNE MATHEWS, M.D.)	STIPULATION AND AGREED
)	ORDER
Respondent.)	
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The Medical Disciplinary Board (hereinafter the Board) and the Respondent stipulate as follows:

I. PROCEDURAL STIPULATION

1.1 Respondent is informed and understands the nature and severity of the allegations set forth in the Statement of Charges, No. 90-04-0109MD filed against him.

1.2 Respondent is informed and understands that the State Department of Health is prepared to proceed to a hearing upon the merits of said Statement of Charges.

1.3 Respondent is represented by Sharon Finegold, attorney at law who has advised and assisted him in this matter.

1.4 Respondent is informed and understands that should the Medical Disciplinary Board find that some or all of the allegations as set forth in the Statement of Charges have been proven, the Board has the power and authority to issue a final order directing corrective action or imposing sanctions as authorized by RCW 18.72.230, and/or RCW 18.130.160.

1.5 Respondent is informed and understands that he has the right to present evidence on his behalf at said hearing.

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1.6 Respondent wishes to expedite the resolution of this matter by means of Stipulation and Agreed Final Order.

1.7 Respondent understands that this Stipulation and Agreed Final Order is not binding unless and until accepted by the Medical Disciplinary Board.

1.8 Upon the acceptance of this Stipulation and Agreed Order by the Board, Respondent waives the right to proceed to a hearing on the merits of the Statement of Charges.

1.9 Respondent understands that, upon acceptance by the Board, this Stipulation and Order becomes a final Board action and as such shall be reported by the Board pursuant to RCW 18.130.110.

2. STATEMENT OF AGREED FACTS

2.1 The respondent has been issued a license to practice medicine by the State of Washington.

2.2 On or about August 14, 1989 respondent's privileges to practice at Overlake Hospital and Medical Center located in Bellevue, Washington were summarily suspended for gross violation of Overlake's Bylaws and medical staff rules and regulations. Said suspension was due to respondent falsifying and/or failing to provide information on his reappointment application regarding the fact that he had been named in a lawsuit by a former patient in the State of Massachusetts.

2.3 Respondent had a romantic sexualized relationship with a patient starting in or about the year 1979.

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2.4 Respondent had a romantic relationship and sexual contact with a patient starting in or about the year 1988.

3. AGREED CONCLUSIONS OF LAW

3.1 The conduct specified in paragraph 2.2 above constitutes unprofessional conduct pursuant to RCW 18.130.180(1) which defines unprofessional conduct as the commission of any act involving moral turpitude, dishonesty or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not.

3.2 The conduct specified in paragraphs 2.3 and 2.4 above constitutes unprofessional conduct pursuant to RCW 18.72.130(11) for conduct occurring prior to June 11, 1986 which defines unprofessional conduct as incompetency or negligence in the practice of medicine and surgery resulting in serious harm to the patient; and pursuant to RCW 18.130.180(4) for conduct occurring on or after June 11, 1986 which defines unprofessional conduct as incompetence, negligence or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed and RCW 18.130.180(24) which defines unprofessional conduct as abuse of a client or patient or sexual contact with a client or a patient.

4. ORDER

Based upon the above Findings of Fact and Conclusions of Law, the Board issues the following order:

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4.1 The respondent's license to practice medicine is hereby indefinitely revoked but the revocation shall be stayed and probation granted for the period of revocation provided that the respondent complies with the following terms and conditions:

A.(1) In his private practice the respondent shall have a female co-therapist present in the room whenever he consults or treats a female patient or female relative of a patient. The co-therapist shall be a licensed counselor, psychologist, or have a Masters Degree in social work. The co-therapist shall indicate in the patient's chart each time she has been present in the room with the female patient or female relative of a patient.

A.(2) In the alternative, a female patient may consent in writing to have all sessions videotaped and shall sign a release to permit the co-therapist to review the videotape in its entirety. The Respondent shall cause each such session to be recorded in its entirety. The videotape shall be started and stopped by someone other than Respondent; shall show the patient entering and leaving the room, shall have continuous time and date displayed and shall focus on the Respondent during the entire session. The person who starts and stops the video shall so note in the patient's file.

A.(3) The co-therapist shall review the entire videotape of each session, so note in the patient's file, and shall erase or destroy the recording promptly after review, unless there are concerns, in which case the tape will not be erased and will be retained as evidence. Further,

A.(4) Should any action be commenced by the Board regarding a patient who has had sessions videotaped as herein

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that the co-therapist, in the course of reviewing the videotape, shall take basic general notes of what he/she is viewing at least in 15 minute intervals and which notes shall be inserted and retained in the patient's file.

described, the testimony of the co-therapist as to statements made by Respondent and/or his patient and actions observed on the videotape shall be admissible into evidence in the action or hearing through the testimony of the co-therapist as if the co-therapist had been personally present in the room directly observing the session, subject to the normal legal objections which could be raised if the co-therapist had been personally present at the sessions.

A.(5) Should the co-therapist at anytime suspect any violations of this order or any provisions of RCW 18.130.180, she shall immediately, both orally and in writing, report such concerns to the Medical Disciplinary Board.

B. Every current female patient who is seen in respondent's private practice shall receive a letter describing the monitoring condition and the reasons therefore within ten days of the effective date of this order and each new private practice female patient shall receive such a letter upon her initial visit.

C. In non-private practice, whenever the respondent is alone in consultation with or treating a female patient or relative of a female patient, a therapy monitor shall be present during the entire session and so indicate on the patient's chart. This therapy monitor shall be a trained health care worker who meets the institution standards for patient confidentiality. The provisions in this section are designed to apply to respondent's employment described in Confidential Attachment B.

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D. If a patient or relative of the patient inquires as to why the co-therapist is present or asks the respondent whether he has had any medical disciplinary board action taken against him, the respondent shall disclose to the inquirer the facts and contents of this stipulation and agreed order in the presence of the co-therapist. The co-therapist shall indicate on the patient's chart each time this condition has been complied with.

E. The respondent shall not have any sexual contact or sexually oriented conduct with any patient, former patient, immediate relatives of said patients or friends of said patients except as provided in paragraph 4.1(G).

F. The respondent shall not diagnose, treat or prescribe any medication for any female with whom he has had a romantic relationship or sexual relationship nor shall he diagnose, treat or prescribe any medication for family members of said females.

G. Condition "E" above with regards to sexual contact or sexually oriented conduct shall not apply to the former patient identified by confidential attachment A as long as she is willing to remain in a personal relationship with respondent. Confidential attachment A shall not be disclosed to the public based upon the privacy exemption in RCW 42.17.310(1)(d) and shall not be subject to the reporting requirements stated in paragraph 4.2 herein.

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H. The respondent shall continue in individual therapy two times weekly with Dr. David Rowlett, III, or another therapist approved by the Board.

I. The respondent shall continue to participate in the one hour group supervision sessions with psychiatric colleagues biweekly.

J. The respondent shall continue to have one hour supervision of therapy cases biweekly with Dr. Robert Thompson or another doctor approved by the Board.

K. The respondent shall provide to the Board reports from Dr. Rowlett, III and Dr. Thompson four times each year by January 1, April 1, July 1 and October 1 and at the Board's request. The reports shall address the respondent's progress in therapy and his ability to practice medicine in a safe manner. If at anytime either has reason to believe that patients are at risk as a result of the respondent's behavior or psychological condition, he shall immediately report these concerns to the Board.

L. The respondent shall undergo polygraph examinations concerning respondent's compliance with this stipulation and order, if requested by Dr. Rowlett, III, Dr. Thompson or by the Board or the Board's designated representative. The results shall be provided to the Board. The results of the polygraph shall not be considered to constitute evidence of violation or establishment of fact. The expense of the polygraph shall be the responsibility of the respondent as provided by RCW 18.130.160.

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M. Practice review The respondent shall permit a representative of the Department of Health to make announced ^{or unannounced} visits to inspect office and medical records, interview staff and the co-therapist and otherwise review the respondent's practice to monitor compliance with the order. These visits shall occur at least yearly prior to respondent's compliance hearing. The representative shall make an effort not to interfere with patient care.

N. Compliance review (1) The respondent shall personally appear before the Board for a compliance review hearing every six months or as soon thereafter as the Board's schedule permits for the first year from the effective date of this order and every year or as soon thereafter as the Board's schedule permits after the first year. (2) The respondent shall have an independent evaluation of his progress in therapy by a psychiatrist or psychologist of the Board's choice prior to the first compliance review at the respondent's expense. (3) The Board may order the respondent to undergo subsequent evaluations by specialists who deal with sexual problems at the respondent's expense should the Board find that such evaluations are necessary to aid the Board in its assessment of the respondent's risk to the public.

O. The respondent shall obey all federal, state and local laws and regulations governing the practice of medicine in the State of Washington.

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P. The respondent shall notify all hospitals and/or clinics at which he currently has privileges and all hospitals and/or clinics that he obtains privileges of the conditions of this order by providing a copy of this stipulation and order to said hospitals and/or clinics.

Q. The respondent shall provide to Dr. Rowlett, III, and all medical and professional staff in respondent's office a copy of this stipulation and agreed order. At other places that respondent practices medicine, a copy of this stipulation and agreed order shall be given to the administrators, accompanying professionals and all professionals that respondent works with. All new medical and professional staff in the above locations shall be given a copy of this stipulation and agreed order at the time they are employed. If there is any change of practice group or location, the respondent shall report this to the Board immediately and the same disclosure requirements shall apply.

4.2 This stipulation and agreed order shall be subject to the reporting requirements of RCW 18.130.110 and the National Data Bank.

4.3 The respondent shall pay a fine in the amount of \$1000. Payment shall be made within twelve months of the effective date of this order to the following address: Medical Disciplinary Board, Department of Health, 1300 Quince Street, M/S EY-25, Olympia, Washington 98504.

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4.4 If the respondent violates the conditions of probation in any respect, the Board may take any of the following actions:

A. Revoke the stay of revocation against the respondent's license.

B. Impose conditions as are appropriate under RCW 18.130.160 to protect the public, following notice to the respondent and the opportunity to be heard; and/or

C. Issue charges of unprofessional conduct under RCW 18.130.180.

4.5 In the event the respondent should leave the State of Washington to reside or to practice outside the state, he shall notify the Board in writing of the dates of departure and return and his new residence and office address within ten days.

4.6 The respondent may not request termination of the Board's jurisdiction sooner than five (5) years from the effective date of this order. The respondent may not request a change in any of the conditions in this stipulation and agreed order sooner than one (1) year from the date of this order. All such requests shall be heard by the Board at the next scheduled compliance review hearing unless otherwise ordered by the Board. Minor adjustments to the terms and conditions to accommodate changes in respondent's work place or work situation may be tentatively approved by the Medical Disciplinary Board medical consultant or his designee. Any such adjustments shall be approved in writing and shall be reviewed by the Board at the next scheduled compliance review hearing.

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4.7 The respondent agrees to appear before the Board prior to termination of Board jurisdiction, following a written request by respondent for termination of jurisdiction of the Board.

4.8 This stipulation and agreed order shall become effective ten (10) days from the date it is signed by the Board, or upon service of the Board approved stipulation and agreed order on the respondent, whichever date is sooner. The provisions of 4.1(A) shall become effective no longer than ninety (90) days from the effective date of this order. Ten (10) days ^{FROM} ~~prior~~ to the effective date of this order, respondent shall have an adult staff person/co-therapist present in situations described in 4.1(A).

I hereby certify that I have read this stipulation and agreed order in its entirety, and understand the legal significance and consequences thereof and in witness whereof I affix my signature this 18 day of January, 1998.

John Wayne Mathews, M.D.
JOHN WAYNE MATHEWS, M.D.

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John Wayne Mathews, M.D., respondent herein, personally appeared before me and acknowledged the foregoing stipulation and agreed order to be his voluntary act and deed.

Subscribed and Sworn to before me this 18th day of January, 1990.

Beverly K. Kowenow
Notary Public in and for the
State of Washington
residing in Seattle.

My Commission Expires 9/17/91

III. ACCEPTANCE OF STIPULATION AND AGREED ORDER

The Board accepts the stipulation and agreed order as outlined in preceding paragraphs. Accordingly, the Board adopts the agreed order.

DATED this 18th day of January, 1991.

STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

By:

Larry T. Brui
Chairman

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Presented by:

Marilyn Ward
MARILYN WARD
Reviewing Member
Medical Disciplinary Board

Maurice Youngs
MAURICE YOUNGS
Staff Attorney

Jack S. Eng
JACK S. ENG
Assistant Attorney General
Prosecutor

Copy received, and Approved as to
form:

Sharon Finegold
SHARON FINEGOLD
Attorney for Respondent

John Wayne Mathews, M.D.
JOHN WAYNE MATHEWS, M.D.
Respondent

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STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

In the Matter of Disciplinary)	
Action Concerning)	No. 90-04-0109MD
)	
JOHN WAYNE MATHEWS, M.D.)	CONFIDENTIAL ATTACHMENT "A"
)	AND "B" TO STIPULATION AND
Respondent.)	AGREED ORDER

A. The former patient referred to in paragraph 4.1(G) is

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B. The Respondent's non-private practice is currently with Seattle Mental Health Institute and at nursing homes to which Seattle Mental Health Institute provides services.

CONFIDENTIAL ATTACHMENT "A" TO
STIPULATION AND AGREED ORDER - 1

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Release

STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

In the Matter of Disciplinary)	
Action Concerning)	No. 90-04-0109MD
)	
JOHN WAYNE MATHEWS, M.D.)	AMENDED STATEMENT OF CHARGES
)	
Respondent.)	
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The Medical Disciplinary Board of the State of Washington, having determined that there is reason to believe that a violation of RCW 18.130.180 and RCW 18.72.030 has occurred and alleges as follows:

I.

At all times material to this Amended Statement respondent has been licensed to practice medicine by the state of Washington.

II.

That on or about August 14, 1989 respondent's privileges to practice at Overlake Hospital and Medical Center located in Bellevue, Washington were summarily suspended for gross violation of Overlake's bylaws and medical staff rules and regulations. Said suspension was due to respondent falsifying and/or failing to provide information on his reappointment application regarding a lawsuit against respondent that was pending in Massachusetts.

III.

The alleged conduct specified in paragraphs II above, if proven, constitutes grounds for disciplinary action pursuant to RCW 18.130.180(1) which defines unprofessional conduct as:

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The commission of any act involving moral turpitude, dishonesty or corruption relating to the practice of the person's profession . . .

IV.

That respondent had a romantic sexualized relationship with a patient starting in or about the year 1979.

V.

That respondent had a romantic relationship and sexual contact with a patient starting in or about the year 1988.

VI.

That alleged conduct specified in paragraph IV above, if proved, constitutes grounds for disciplinary action pursuant to RCW 18.72.030(11) for conduct occurring prior to June 11, 1986, which defines unprofessional conduct as:

Incompetency or negligence in the practice of medicine and surgery resulting in serious harm to the patient.

VII.

The alleged conduct specified in paragraphs IV and V above, if proved, constitute grounds for disciplinary action pursuant to RCW 18.130.180(4) which defines unprofessional conduct as:

Incompetence, negligence or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.

and RCW 18.130.180(24) which defines unprofessional conduct as:

Abuse of a client or patient or sexual contact with a client or patient.

VIII.

The Board alleges that the conduct referred to in this Amended Statement of Charges affects the public health, safety and welfare,

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to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based....;

2.2 The violations alleged in paragraphs 1.3, 1.6, 1.7, and 1.8 above constitute grounds for disciplinary action, pursuant to RCW 18.130.180(4), which defines unprofessional conduct as:

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.

2.3 The violations alleged in paragraphs 1.2, 1.3, and 1.7 above constitute grounds for disciplinary action, pursuant to RCW 18.130.180(6), which defines unprofessional conduct as:

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself.

2.4 The violations alleged in paragraphs 1.2, 1.3, 1.6, and 1.7 above constitute grounds for disciplinary action, pursuant to RCW 18.130.180(13), which defines unprofessional conduct as:

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession.

2.5 The violations alleged in paragraph 1.2 above constitute grounds for disciplinary action, pursuant to RCW 18.130.180(17), which defines unprofessional conduct as:

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended....

2.6 The violations alleged in paragraphs 2.1 through 2.5 above constitute grounds for the imposition of sanctions under RCW 18.130.160.

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STATE OF WASHINGTON
MEDICAL DISCIPLINARY BOARD

In the Matter of Disciplinary)	
Action Concerning)	No. 90-04-0109MD
)	
JOHN WAYNE MATHEWS, M.D.)	STATEMENT OF CHARGES
)	
Respondent.)	
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The Medical Disciplinary Board of the State of Washington, having determined that there is reason to believe that a violation of RCW 18.130.180 and RCW 18.72.030 has occurred and alleges as follows:

I.

At all times material to this Statement Respondent has been licensed to practice medicine by the state of Washington.

II.

That on or about August 14, 1989 respondent's privileges to practice at Overlake Hospital and Medical Center located in Bellevue, Washington were summarily suspended for gross violation of Overlake's bylaws and medical staff rules and regulations. Said suspension was due to respondent falsifying and/or failing to provide information on his reappointment application regarding a lawsuit against respondent that was pending in Massachusetts.

III.

The alleged conduct specified in paragraph II above, if proven, constitutes grounds for disciplinary action pursuant to

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RCW 18.130.180(1) which defines unprofessional conduct as:

The commission of any act involving moral turpitude, dishonesty or corruption relating to the practice of the person's profession . . .

IV.

That respondent had a romantic relationship and sexual contact with a patient starting in or about the year 1979.

V.

That respondent had a romantic relationship and sexual contact with a patient starting in or about the year 1988.

VI.

The alleged conduct specified in paragraph IV above, if proved, constitutes grounds for disciplinary action pursuant to RCW 18.72.030(11) for conduct occurring prior to June 11, 1986, which defines unprofessional conduct as:

Incompetency or negligence in the practice of medicine and surgery resulting in serious harm to the patient.

VII.

The alleged conduct specified in paragraphs IV and V above, if proved, constitute grounds for disciplinary action pursuant to RCW 18.130.180(4) which defines unprofessional conduct as:

Incompetence, negligence or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.

and RCW 18.130.180(24) which defines unprofessional conduct as:

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Abuse of a client or patient or sexual contact with a client or patient.

VIII.

That respondent self prescribed the drugs benzodiazapines and desyrel, which are controlled substances.

IX.

That the alleged conduct specified in paragraph VIII above, if proved, constitutes grounds for disciplinary action pursuant to RCW 18.130.180(6) which defines unprofessional conduct as:

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself.

X

The Board alleges that the conduct referred to in this Statement of Charges affects the public health, safety and welfare, and the Board directs that a notice be issued and served on the Respondent as provided by law, giving Respondent the opportunity to defend against the allegations in this Statement of Charges. If Respondent fails to defend against these allegations, Respondent shall be subject to such discipline as is appropriate under RCW 18.130.160 and RCW 18.130.170(2).

In determining what sanctions to impose, the Board may receive evidence of and consider the following: 1) prior disciplinary

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actions in this or any jurisdiction; 2) information developed by and/or actions relating to peer review activities; 3) prior malpractice actions, 4) other evidence of unprofessional conduct.

The Board reserves the right to amend this Statement of Charges, including the right to bring additional charges, in the event additional information is received supporting such amendment or addition.

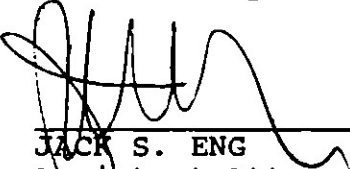
DATED this 26th day of September, 1990.

MARILYN WARD
Secretary, Washington State
Medical Disciplinary Board

By:


Bonnie King
Program Manager

Presented by:


JACK S. ENG
Assistant Attorney General
900 Fourth Avenue, Suite 2000
Seattle, Washington 98164
Telephone (206) 464-6746

Marilyn Ward
Reviewing Board Member

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Redaction Summary (1 redaction)

1 Privilege / Exemption reason used:

1 -- "Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1)" (1 instance)

Redacted pages:

Page 14, Healthcare Information Readily Identifiable to a Person - RCW 42.56.360(2), RCW 70.02.020(1), RCW 42.56.070(1), 1 instance