BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE

In the Matter of the
Medical License of
Jane Rae Wilkens, M.D.
Year of Birth: 1952
License Number: 25, 771

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Jane Rae Wilkens, 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 Stephen K. Warch, Nilan Johnson Lewis, PA, 120 South Sixth Street, Suite 400, Minneapolis, Minnesota, 55402, (612) 305-7500. The Committee was represented by Brian L. Williams, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101, (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

   a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on August 8, 1980. Respondent is board-certified in family medicine.
b. In August 2014, the Board received a complaint alleging that Respondent inappropriately prescribed controlled substances for patient #1 who allegedly misused and sold her controlled substance prescription medication, used illegal substances and engaged in drug-seeking behavior.

c. In December 2014, the Board received a complaint alleging that Respondent inappropriately prescribed controlled substances to patient #2 who died of an overdose of medications prescribed by Respondent.

d. The Board initiated investigations into Respondent’s care of patient #1 and patient #2 and Respondent’s prescribing practices and procedures. The investigation revealed the following:

(1) Respondent frequently authorized controlled substances based upon her patients’ claims of pain or other symptoms, but failed to document objective clinical findings to support the ongoing medications, failed to consistently document an adequate physical examination, failed to address collateral health concerns, and failed to assess her patients for their risk of chemical dependency, toxicity, diversion, or suicide.

(2) Respondent failed to monitor the efficacy of prescribed medications, failed to timely implement controlled substance contracts or enforce the termination provisions when her patients violated the terms of the agreement, failed to conduct pill counts or routine biological fluid screens to consistently monitor her patients’ medication compliance or use of illicit drugs or alcohol, and failed to recognize drug seeking behavior in her patients or heed concerns or warnings raised by others regarding her patients’ inappropriate use of medications.
e. On September 29, 2016, Respondent met with the Complaint Review Committee and acknowledged concerns regarding her patient care and prescribing practices, including her failure to consistently document review of the Minnesota Prescription Monitoring Program, failure to consistently document and enforce narcotic contracts, and failure to adequately monitor her patients’ medication compliance. Respondent admitted that she was notified by anonymous sources that patient #1 was selling medications and using methamphetamine and stated that she discussed the reports with patient #1. Respondent stated that she agreed to continue patient #1 on controlled substances under tight monitoring. Respondent admitted that she did not consistently perform urine drug screens or otherwise monitor patient #2’s escalating opioid use. Respondent acknowledged that, in hindsight, patient #2 was not a good candidate for opioid therapy. Respondent stated that she has changed her practice to more effectively assess patients for appropriate use of opioids and has championed a new clinic policy on opioid prescribing which includes better documentation procedures, signed opioid agreements, and careful and comprehensive monitoring of patients.

STATUTES

4. The Committee views Respondent’s practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(g) (medical practice which is professionally incompetent, in that it may create unnecessary danger to any patient’s life, health, or safety); (k) (departure from or failure to conform to the minimal standards of acceptable and prevailing medical practice); (o) (failure to maintain adequate medical records); and (s) (prescribing for other than medically accepted therapeutic purposes) (2016); and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.
REMEDY

5. 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 conditioning Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent is **REPRIMANDED**.

b. Respondent shall read the “Model Policy for the Use Opioid Analgesics in the Treatment of Chronic Pain,” adopted as policy by the Executive Committee of the Federation of State Medical Board of the United States, Inc. (FSMB), July 2013. Respondent shall also read the “CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016,” published by the Centers for Disease Control and Prevention, March 2016.

c. Respondent shall complete the following coursework, approved in advance by the Complaint Review Committee or its designee, within one year of the date of this Order:

1) Chemical dependency awareness.

2) Chronic pain management.

3) Medical records management.

4) Professional boundaries.

Successful completion shall be determined by the Board or its designee.

d. Following successful completion of the pre-approved courses and required readings, Respondent shall write and submit for approval by the Committee a paper describing what she has learned from the coursework and readings, how she has implemented the combined
knowledge into her practice and, retrospectively, how she would apply what she has learned to her care and treatment of patient #1 and patient #2.

e. Six months following successful completion of the above-referenced coursework, Respondent shall submit to a random audit of her patient charts to be conducted by a representative of the Board as directed by the Committee. After reviewing the results of the chart audit, the Committee may recommend further audits as deemed appropriate.


g. Respondent shall develop and submit for Committee approval, a written protocol for the management and tracking of controlled substance prescriptions.

h. Respondent shall develop and submit for Committee approval, a written controlled substance agreement for use with all patients receiving controlled substances.

i. Respondent shall pay a civil penalty of $9,559.90.

j. Respondent may petition for reinstatement of an unconditional license upon completion of the terms of this Stipulation and Order. Upon hearing the petition, the Board may continue, modify or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to 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 Ruth M. Martinez, Minnesota Board of Medical
Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. 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.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, including timely submission of required reports, 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.
9. 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.

10. 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.

11. 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.

Dated: 1/18/17

Jane Rae Wilkens, M.D.
Respondent

Dated: 1/14/17

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 14th day of January, 2017.

MINNESOTA BOARD OF MEDICAL PRACTICE

By: [Signature]

8
AFFIDAVIT OF SERVICE BY U.S. MAIL

Re: In the Matter of the Medical License of Jane Rae Wilkens, M.D.
License No.: 25,771

STATE OF MINNESOTA )
COUNTY OF RAMSEY ) ss.

SANDRA SYLVESTER, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on January 17, 2017, she caused to be served the attached STIPULATION AND ORDER, by depositing the same in the United States mail at said city and state, a true and correct copy thereof, properly enveloped with prepaid first class postage, and addressed to:

Stephen K. Warch, Esq.
Nilan Johnson Lewis, PA
120 South Sixth Street, Suite 400
Minneapolis, MN  55402

Subscribed and sworn to before me on January 17, 2017.

NOTARY PUBLIC

KRISTINE LEE MYERS
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2020