

BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
)
 ROBERT C. VON BORSTEL, II, MD) STIPULATED ORDER
 LICENSE NO. MD22078)
)

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. Robert C. Von Borstel, II, MD (Licensee) holds a license to practice medicine in the state of Oregon.

2.

The Board issued a Complaint and Notice of Proposed Disciplinary Action, dated May 5, 2008, in which the Board proposed taking disciplinary action pursuant to ORS 677.205 against Licensee for violations of the Medical Practice Act, to wit: ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined in ORS 677.188(4)(a); ORS 677.190(14) gross or repeated acts of negligence; ORS 677.190(24) violation of the federal Controlled Substances Act; and ORS 677.190(25) prescribing controlled substances without a legitimate medical purpose or without following accepted procedures for examination or patients or record keeping.

3.

Licensee is a psychiatrist practicing in Portland, Oregon. Licensee entered into an Interim Stipulated Order that was approved by the Board on November 1, 2007, withdrawing from practice until the Board completed its investigation. The acts and conduct alleged to violate the Medical Practice Act follow:

3.1 Patient A, an adult female, was a social friend of Licensee, beginning in 1995, while Licensee was still in medical school. They gradually drifted apart, and Licensee did not

1 see Patient A for three years, until October 2001, when Licensee began seeing her as a patient.
2 Licensee knew that Patient A was a heroin addict. Patient A complained of severe depression.
3 To manage her withdrawal symptoms, Licensee prescribed Clonazepam (Schedule IV, klonopin)
4 with periodic refills for Patient A, without patient records, regular office visits or urine
5 monitoring. From October 2001 through 2003, Licensee provided about ½ hour of therapy
6 approximately every six months. Patient visits were not charted. Licensee did not refer Patient
7 A to a drug treatment center. In 2004, Patient A began to receive psychiatric care from another
8 provider.

9 Between 2005 and 2007, Licensee violated professional boundaries by extending Patient
10 A loans and gifts of money. In early 2006, Licensee engaged in sexual misconduct by entering
11 into a sexual relationship with Patient A that continued for about three months. On two
12 occasions, Licensee used Schedule I controlled substances, with Patient A. In January 2007,
13 Licensee prescribed morphine sulphate (oral) (Schedule II) to taper Patient A off heroin. In
14 August 2007, Licensee prescribed buprenorphine (Schedule III) to curb Patient A's use of
15 heroin. Licensee failed to maintain an appropriate chart or follow recognized monitoring
16 protocol.

17 3.2 Beginning in May 2003, Licensee provided psychiatric care to Patient B, an adult
18 female, over the course of 38 patient visits. Patient B's history included neglect and abuse as a
19 child, overdoses on controlled substances, and bipolar disorder. Licensee's chart for Patient B
20 contains no formal intake, no formal history and no treatment plan, is not problem oriented and
21 lacks a standardized, understandable format for recording patient medical evaluation
22 information, such as subjective, objective, assessment and plan (S.O.A.P.) notes. The chart also
23 fails to reflect a medication list, and the medications that were prescribed appear to have been
24 selected without any documented rationale or justification. Licensee prescribed Lithium without
25 appropriate pre-lithium laboratory analysis and lithium levels were not monitored.

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4.

Licensee and the Board agree to close this investigation and agree that Licensee will not practice any form of medicine in the state of Oregon by surrendering his license to practice medicine while under investigation, consistent with the terms of this Order. The Board acknowledges that Licensee has stated a commitment to recovery and rehabilitation and has voluntarily taken steps to address the root causes of the misconduct. Licensee has provided proof that he has been in ongoing psychotherapy twice weekly since October 2007, and has completed the Continuing Medical Education course entitled, "Maintaining Proper Boundaries" sponsored by the Center for Professional Health at Vanderbilt University Medical Center.

Licensee understands that he has the right to a contested case hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing of and entry of this Order in the Board's records. Licensee understands that this document is a public record and is reportable to the National Practitioners Data Bank. Licensee stipulates that he engaged in the conduct described in paragraph 3 and that this conduct violated ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined in ORS 677.188(4)(a); ORS 677.190(14) gross or repeated acts of negligence; ORS 677.190(24) violation of the federal Controlled Substances Act; and ORS 677.190(25) prescribing controlled substances without a legitimate medical purpose or without following accepted procedures for examination of patients or record keeping.

5.

Licensee and the Board agree to resolve this matter by the entry of this Stipulated Order subject to the following conditions, effective upon the signing of this Order by the Board's designee:

5.1 Licensee immediately surrenders his license to practice medicine while under investigation. Licensee will not practice any form of medicine, to include administrative medicine and individual medical examinations (IMEs).

1 5.2 Licensee is reprimanded.

2 5.3 Licensee shall pay a \$2,500 fine payable no later than 6-months from the date this
3 Order is signed by the Board Chair.

4 5.4 Should licensee seek re-licensure with the Board, prior to submitting an
5 application, Licensee will undergo an evaluation at a pre-approved multi-disciplinary center at
6 his own expense, with Licensee signing all necessary releases to allow full communication
7 between the center and the Board. Licensee also will have to demonstrate, to the Board's
8 satisfaction, verifiable sobriety by providing documented proof that he has no substance abuse or
9 chemical dependence problems. Licensee will likewise have the obligation to provide
10 documented proof that he is in recovery and is safe to practice medicine.

11 5.5 Consistent with paragraph 5.4 above, Licensee will have the obligation to present
12 a re-entry plan that will satisfy the Board's need to protect the public. Licensee's plan will
13 address how he will achieve verified medical competency, to include updating his medical
14 knowledge and clinical practice skills, and how he will practice in a supervised practice setting.

15 5.6 Licensee stipulates and agrees that any violation of the terms of this Order will be
16 grounds for further disciplinary action under ORS 677.190(18).

17
18 IT IS SO STIPULATED this 30 day of JANUARY, 2009.

19
20 (Signature Redacted on Copies

21 ROBERT C. VON BORSTEL, MD —

22 IT IS SO ORDERED this 5th day of FEBRUARY, 2009.

23 OREGON MEDICAL BOARD
24 State of Oregon

25
26 (Signature Redacted on Copies

27 DOUGLAS B. KIRKPATRICK, MD
 Board Chair