

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: JOSEPH G. MCNAMARA, M.D.
 License No.: 0101-039965

ORDER

In accordance with Sections 54.1-2400(10), 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with Joseph G. McNamara, M.D., on April 18, 2013, in Henrico, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Special Conference Committee ("Committee") were: Wayne Reynolds, D.O., Chair; Stuart Mackler, M.D.; and Michael Signer, J.D., Ph.D. Dr. McNamara appeared personally and was represented by legal counsel, John Hart, Jr., Esquire. Julia K. Bennett, Adjudication Specialist, was present as a representative for the Administrative Proceedings Division of the Department of Health Professions.

The purpose of the informal conference was to consider Dr. McNamara's Application for Reinstatement of License to Practice Medicine and Surgery and to receive and act upon evidence that grounds exist to deny that Application. These matters are set forth in a Notice of Informal Conference dated December 3, 2012.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact and Conclusions of Law:

1. Joseph G. McNamara, M.D., was issued license number 0101-039965 by the Board to practice medicine and surgery in the Commonwealth of Virginia on August 12, 1986. Said license was summarily suspended on February 23, 2007, and continued on indefinite

suspension by Consent Order entered on June 14, 2007. On or about March 10, 2011, the Board denied a petition by Dr. McNamara requesting reinstatement of his medical license.

2. On or about October 4, 2011, Dr. McNamara filed an Application for Reinstatement of License to Practice Medicine and Surgery in the Commonwealth of Virginia ("Application").

3. Dr. McNamara is in violation of Section 54.1-2915.A(4) of the Code in that he was clinically incompetent to safely practice medicine, as evidenced by:

- a. The fact that he has not practiced medicine since 2007.
- b. A comprehensive clinical competency evaluation which included psychological and ethical evaluations of Dr. McNamara performed by the University of Florida Comprehensive Assessment Services for Health Care Practitioners and Competency Advancement Program ("CARES") on July 15-16, 2010 revealed deficiencies in multiple areas that required remediation, to include the following:
 - Dr. McNamara's patient communication skills demonstrated relative weaknesses in his questioning techniques and he appeared to lose his train of thought and failed to take notes during any of the simulated patient encounters.
 - Dr. McNamara's history taking lacked structure, resulting in his missing important information. For example, he failed to ask female patients of child-bearing age to whom he anticipated prescribing about their last menstrual cycle. Additionally, he failed to obtain a social

history regarding drug use in patients to whom he proposed the prescription of opioids/narcotics.

- Dr. McNamara's medical decision making showed relative weaknesses in differential diagnosis and his knowledge of treatment approaches to some medical conditions appeared outdated.
- Diagnostic impressions of major depression (moderate, chronic) and traits of narcissistic and dependent personality disorders; longstanding personality patterns that continued to place Dr. McNamara at risk for maladaptive behavior; and lack of insight and coping abilities.

4. The cognitive data from the Florida CARES assessment indicated that Dr. McNamara would be able to practice medicine if certain concerns about competencies were addressed.

5. Dr. McNamara stated to the Committee that his performance at the Florida CARES evaluation was compromised due to his ongoing depression, stress, and time constraints imposed by the examination.

6. Dr. McNamara addressed with the Committee his responses on his Application to include: denial of licensure in West Virginia (based on his Virginia Board history) and denial of re-credentialing of his Ireland medical license (again based on the Virginia Board's actions), his loss of privileges at Rockingham Hospital, and the loss of his DEA registration. The Committee did not find that his responses were intentional or designed to deceive the Board.

7. In a letter dated February 11, 2013, the psychiatrist with whom Dr. McNamara received treatment from September 2010 to June 2012 stated that he did not regard Dr. McNamara to be a risk in returning to the practice of medicine.

8. Dr. McNamara's previous psychologist opined in September 2011 that Dr. McNamara should be permitted to return to the practice of medicine.

9. By letter dated July 11, 2012, Professional Boundaries, Inc. wrote that it was confident Dr. McNamara would adhere to the Code of Ethics of the profession, the laws and regulations of Virginia, and from an ethical perspective was ready to return to work as a physician. Dr. McNamara continues to participate on a weekly basis with Professional Boundaries, Inc. to enhance his professional accountability and reinforce ethical foundations through peer discussion.

10. Dr. McNamara stated to the Committee that, if reinstated, he would follow any and all restrictions deemed necessary by the Board. He outlined a practice plan for the Board for its consideration.

ORDER

WHEREFORE, based on the above Findings of Fact and Conclusions of Law, it is hereby ORDERED that Dr. McNamara's petition for the REINSTATEMENT of his license to practice medicine and surgery is GRANTED.

It is further ORDERED that Dr. McNamara's license shall be placed on INDEFINITE PROBATION subject to the following terms and conditions:

1. Prior to the issuance of his license, Dr. McNamara shall remit all fees associated with activating the license for the current biennium.

2. During the period of indefinite probation, Dr. McNamara shall engage in the practice of medicine only in a Board-approved group setting. Prior to commencing such practice, Dr. McNamara shall submit to the Board a practice plan for its review and approval, which shall include submission of the name and curriculum vitae of a proposed, currently licensed Virginia physician who is willing to and shall serve as Dr. McNamara's supervisor in the group practice setting for the period of indefinite probation. Dr. McNamara will ensure that this supervising physician will submit reports to the Board on a quarterly basis that include information regarding Dr. McNamara's clinical skills, medical decision-making, record keeping, and professionalism. Dr. McNamara's practice plan must include the requirement that he see all female patients with a chaperone present.

3. Within six (6) months of returning to practice, Dr. McNamara shall submit evidence satisfactory to the Board of taking and passing the Special Purpose Examination (SPEX) administered by the Federal of State Medical Boards.

4. In not less than 12 months from the entry of this Order, and upon satisfaction of the foregoing terms, the Committee authorizes the Executive Director of the Board to review and close this matter or refer it to a Special Conference Committee for review.

Violation of this Order may constitute grounds for suspension or revocation of Dr. McNamara's license. In the event that Dr. McNamara violates this Order, an administrative proceeding may be convened to determine whether such action is warranted.

Dr. McNamara shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Title 54.1, Chapter 29 of the Code and all laws of the Commonwealth.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2400(10) of the Code, Dr. McNamara may, not later than 5:00 p.m., on May 28, 2013, notify William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on May 28, 2013, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD



William L. Harp, M.D.

Executive Director

Virginia Board of Medicine

ENTERED: 4/22/13