

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice)	
as a Physician and Surgeon of)	Docket No. 97-06-A-1140MD
)
EVELYN HANSHEW, M.D.,)	ORDER ON COMPLIANCE
License No. MD26630,)	REVIEW AND REQUEST FOR
)
	MODIFICATION OF
)
Respondent.)	COMMISSION ORDER
_____)	

This matter came before the Medical Quality Assurance Commission (the Commission) and Health Law Judge Michael T. Concannon, Presiding Officer for the Commission, on July 13, 2000, at the Heathman Lodge in Vancouver, Washington. Members of the Commission present and considering the matter were.

Janice Paxton, PA-C, Panel Chair; Rogelio Ruvalcaba, M D.; Sunanda Uberoi, M D.; David Karges, M.D.; and Robert Newell, M.D. Evelyn Hanshew, M.D. appeared on her own behalf, and was not represented by counsel. Marcia Stickler, Staff Attorney, appeared on behalf of the Department of Health (the Department). The Reviewing Commission Member is Dr. Laura Roderick, who was present at the hearing. The proceedings were recorded by Kathy Larchick, court reporter.

Based on consideration of the evidence presented at the hearing and the files and records herein, the Commission hereby issues the following:

I. PROCEDURAL HISTORY

1.1 On January 24, 1997, the Commission issued a Statement of Charges

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(SOC) alleging that the Respondent had committed unprofessional conduct in her practice, including poor prescribing practices on many patients, poor charting practices, and false representations to a Department investigator. After 6 days of hearings in 1998 and 1999, the Commission issued a Findings of Fact, Conclusions of Law and Final Order, dated July 15, 1999 (the Prior Order).

1.2 The Prior Order suspended the Respondent's license for a period of at least 5 years; the suspension was stayed and the Respondent permitted to continue in practice provided she complies with certain disciplinary restrictions. The Prior Order requires Respondent to, *inter alia*, not prescribe, administer or dispense controlled substances or legend drugs (hereafter, the Prescription Restriction) at least until the results of ordered psychiatric and psychological examinations are examined by the Commission, obtain an assessment of her professional skills at the Colorado Personalized Education for Physicians Program (CPEPP), keep all patient records using the SOAP format, submit to practice reviews on a periodic basis, and appear before the Commission regularly for compliance purposes. Although the suspension is indefinite ("at least 60 months"), Section 4.5 of the Prior Order permits the Respondent to petition to have the Prescription Restriction altered or released upon the completion of both the mental health examinations and CPEPP evaluation. The present appearance by the Respondent is the first one before the Commission since the Prior Order.

1.3 The Prior Order was modified in an Order Granting Petition For Reconsideration In Part and Denying In Part, dated September 3, 1999 (the

Reconsideration Order). The Reconsideration Order left the Prior Order essentially intact, but did set forth additional detail on the mental health examinations required and who should perform them.

1.4 In a letter dated December 13, 1999, (the Modification Request) the Respondent asked the Commission to consider amending or eliminating the Prescription Restriction. Originally, a hearing was scheduled in January 2000 and postponed. Subsequently, on June 13, 2000, the Adjudicative Clerk Office issued the Respondent a Notice of Hearing, setting the hearing on the Modification Request for July 13, 2000.

1.5 At the hearing, the Department and the Respondent set forth their respective arguments, the Respondent testified on her own behalf, the Reviewing Commission Member offered her opinion on the Modification Request, and the Commission considered both the Respondent's compliance with the Prior Order and the Modification Request.

II. FINDINGS OF FACT

2.1 The Respondent is a physician duly licensed to practice medicine in the state of Washington, and her practice has been subject to the continuing discipline of the Prior Order.

2.2. The Respondent sought and obtained from CPEPP an evaluation, which was performed in August 1999 and transmitted by CPEPP to the Commission on November 8, 1999. It is 16 pages in length, and reference is made to the record for its full contents. CPEPP does recommend that the Respondent establish a

preceptor/practice monitor relationship with an experienced family physician as part of a remedial "educational strategy" to assist the Respondent in dealing with "knowledge and judgment deficits with more complicated medical problems." The first report by CPEPP on the Respondent's education plan was for the January-March 2000 quarter and only covered part of that 3-month period in terms of logistics/scheduling with the Respondent. In that report by Donna L. Sullivan, the CPEPP Medical Education Director, stated the Respondent had been "slow to provide most materials, and to date has not met any 'deadlines' for provisions of charts, written responses, payments, etc."

2.3 With respect to the mental health analysis requirement, the Respondent was examined by Dr. H. Berryman Edwards and a report prepared by Dr. Edwards in August 1999 in which he stated: "In my opinion, Dr. Hanshew suffers from no mental illness or substance use disorder. In my opinion from a psychiatric perspective she is fully capable of practicing with skill and safety."

2.4 In opening remarks, Ms. Stickler, in referring to the terms of the Prior Order and the timeliness of the Respondent's compliance with certain aspects, stated that the Department did not recommend further disciplinary action against the Respondent but also did not support the Modification Request (i.e. a release of the Prescription Restriction).

2.5 One of the allowances for the Respondent in the Prescription Restriction allows another physician to "prescribe, administer or dispense controlled substances and legend drugs to the Respondent's patients, but that physician shall be responsible for the legitimacy of that prescribing, administering or dispensing." With the admitted

need for a preceptor/practice monitor in accordance with CPEPP recommendations, and the turnover in the Respondent's office in terms of professional partnering relationships with other physicians, the testimony revealed that having a "prescribing physician" in addition to a preceptor/practice monitor has become unwieldy and difficult for both the Respondent to administer and the Department to monitor/investigate. At times, Dr. Barnicle has been the prescribing physician even though not presently (though formerly) officed with the Respondent, while Dr. Fernando Vega is the preceptor/practice monitor and now doing "double duty" as the prescribing physician. The Commission finds that having one physician perform two functions (i.e. preceptor and prescriber) is not the optimum approach to effective monitoring.

2.6 As an alternative to the Prescription Restriction, the Reviewing Commission Member, Dr. Roderick, stated that a monitoring program by the Commission using triplicate prescriptions written by the Respondent (instead of a prescribing physician) would be acceptable in light of Dr. Roderick's view that the preceptor/practice monitor requirement is not going to be a temporary/short-term requirement. Dr. Roderick viewed the Respondent's actions to date as "barely" in compliance with the requirements of the Prior Order.

2.7 The Commission finds that because of a variety of factors, including the timing of the CPEPP education plan implementation and the preceptor/practice monitor vs. prescribing physician dichotomy, the Respondent's program is in its early stages and a stable period of examination of her practice and procedures over the near term will be necessary for the Commission to assess overall compliance. Meanwhile, with a

triplicate prescription regimen, the Commission finds the Modification Request can be granted within certain parameters that allow proper monitoring.

III. CONCLUSIONS OF LAW

3.1 The Commission has jurisdiction over the Respondent and over the subject matter herein. As provided by RCW 18.71.019, the Uniform Disciplinary Act (Chapter 18.130 RCW-the UDA) governs the discipline of physician licensees by the Commission.

3.2 RCW 18.130.160 in the UDA permits the Commission to fashion appropriate remedies in disciplining the Respondent including, without limitation, imposing restrictions or limitations on the Respondent's practice. The Prior Order provides for restrictions and/or limitations on the Respondent's practice, and the Commission must consider what is necessary to protect the public in imposing (or continuing) sanctions. RCW 18.130.160.

3.3 Based on the Findings of Fact, the Commission concludes that an order should be entered finding the Respondent in compliance, and granting a modification of the Prescription Restriction.

IV. ORDER

Based on the foregoing Procedural History, Findings of Fact, and Conclusions of Law, the Commission makes the following order:

4.1 The Respondent, Evelyn Hanshew, M.D., is in compliance with the Prior Order.

4.2 The Modification Request is GRANTED to the following extent:

a. Section 4.2 of the Prior Order is rewritten in its entirety to provide as follows: "Respondent shall write all prescriptions for the following drugs on triplicate sequentially numbered prescription pads: all Schedule II-Schedule IV controlled substances, and any legend drugs for either thyroid replacement or for anti-depressant treatment. With respect to the triplicate copies, the white copy shall be given to the patient, the pink copy shall be placed in the patient's chart, and the Respondent shall send the yellow copies to the Commission on a quarterly basis."

b. The Respondent is further ordered to cause Dr. Fernando Vega, or such other preceptor/practice monitor required by the CPEPP education plan and approved by the Commission or its designee, to provide quarterly reports to the Commission (which may be the same as those provided to CPEPP, if any), with the first quarterly report due on October 15, 2000, for the July-September calendar quarter, and future reports due on January 15, April 15, and July 15 for the preceding calendar quarter.

c. The Respondent is ordered to appear before the Commission on the January 2001 calendar, or as soon thereafter as possible on the Commission's schedule, to demonstrate continuing compliance with the Prior Order, as amended by this Order.

d. In order to promote continuity of analysis in this complex and detailed disciplinary matter, at the January 2001 compliance appearance, the Commission panel examining such shall have a majority of its members consisting of as

many of the five Commission members that heard the present matter in July 2000 as possible.

As provided in RCW 34.05.461(3) and RCW 34.05.470, and WAC 246-11-580 either party may file a petition for reconsideration. The petition must be filed within ten (10) days of service of this Order with the Adjudicative Clerk Office, 1107 Eastside Street, P.O. BOX 47879, Olympia, WA 98504-7879. The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration shall not stay the effectiveness of this Order. The petition for reconsideration is deemed to have been denied twenty (20) days after the petition is filed if the Adjudicative Clerk Office has not acted on the petition or served written notice of the date by which action will be taken on the petition.

Proceedings for judicial review may be instituted by filing a petition in the Superior Court in accord with the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review must be filed within thirty (30) days after service of this Order, as provided in RCW 34.05.542.

“Filing” means actual receipt of the document by the Adjudicative Clerk Office.

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RCW 34.05.010(6). This Order was "served" upon the Respondent on the day it was deposited in the United States mail. RCW 34.05.010(18).

DATED THIS ^{4th} 28 DAY OF AUGUST, 2000.

MEDICAL QUALITY ASSURANCE COMMISSION


JANICE PAXTON, PA-C
Panel Chair

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Program No. 95-05-0089MD & 95-08-0009MD

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