

Report RE: *Stephanie Waggel v. The George Washington University*

Reviewer: Joan M. Anzia, M.D.
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Date: September 18, 2017

Introduction:

This report represents my review and evaluation of the residency training experience of Stephanie Waggel, M.D (will be referred to as SW) at the George Washington (GW) University Department of Psychiatry. I will review her experience beginning in June 2014 through her dismissal from the program in summer of 2016. In preparation for this report I have reviewed the following:

1. Complaint
2. Defendant's Answer to Complaint
3. Plaintiff's Initial Disclosures
4. Defendant's Initial Disclosures
5. Plaintiff's Answer to Interrogatories
6. Defendant's Answer to Interrogatories
7. Transcripts of Depositions:
 - a. Victoria H. Anderson, Program Coordinator, July 26, 2017
 - b. Lisa A. Catapano, M.D., Ph.D., Program Director, July 27, 2017
 - c. James L. Griffith, M.D., Chair, Department of Psychiatry, July 28, 2017
 - d. Jeffrey Berger, M.D., Corporate Designee, August 25, 2017
 - e. Allen Dyer, M.D., Corporate Designee, August 28, 2017
 - f. Lisa A. Catapano, M.D., Corporate Designee, September 7, 2017.
8. Letter of Deficiency dated July 15, 2015 (GWU 001120-001121)
9. Clinical Competence Committee Minutes dated October 23, 2015 (GWU 001137-001138)
10. Letter of Deficiency dated October 28, 2015 (GWU 001122)
11. Letter of Deficiency dated November 19, 2015 (GWU 001123-001124)
12. Memo dated December 3, 2015, Dr. Waggel requesting review of determination of course failure in Psychodynamic Thought (GWU 003235)
13. Letter of Deficiency dated December 10, 2015 (GWU 001125)
14. Memo dated January 20, 2016 re Dr. Cioletti's review interview of Dr. Catapano, Dr. Kels, Ms. Tucker (GWU 002481- 002483)
15. Memo dated January 21, 2016 re Dr. Cioletti's review interview of Dr. Waggel, Ms. Tucker (GWU 002484-002487)
16. Memo dated February 15, 2016, Dr. Catapano to Dr. Waggel re Unprofessional Conduct (GWU 000964-000966)

17. Memo dated February 16, 2016 re Meeting: Notification of Misconduct (GWU 002416-002417)
18. Letter dated February 22, 2016, Dr. Cioletti to Dr. Berger upholding determinations re failure of Neuroscience and Psychodynamic courses and non-promotion to PGY3 year in July 2016 (GWU 003228-003234)
19. Letter dated February 25, 2016, Dr. Berger to Dr. Waggel reporting Dr. Cioletti's determination upholding course failures and non-promotion and absence of extenuating circumstances, including Dr. Waggel's denial of any physical, medical, or emotional issues affecting performance (GWU 003225-003227)
20. Letter dated March 25, 2015, Dr. Berger to Dr. Waggel noting procedural error (failure to follow Academic Improvement Policy requiring CCC recommendation to Program Director) and remanding determinations re course failure and non-promotion to the Department and Program Director (GWU 003223-003224)
21. Letter dated April 7, 2016, Dr. Berger to Drs. Waggel and Catapano re results of Dr. Berger's Full Inquiry investigation of misconduct (GWU 002427-002429)
22. Clinical Competence Committee Minutes dated April 8, 2016 (GWU 001156-001161)
23. Letter of Deficiency dated April 27, 2016, Dr. Berger to Dr. Waggel for misconduct in the clinical learning environment (GWU 002430-002431)
24. Letter dated May 2, 2016, Dr. Catapano to Dr. Waggel re dismissal from program (GWU 003467-003468)
25. Letter dated May 15, 2016, Dr. Waggel to Dr. Berger re appeal of dismissal (GWU 003471-003475)
26. Plaintiff's EEO Informal Grievance filing and letter dated May 16, 2016 (GWU 001988-001998)
27. Letter report dated July 6, 2016, Dr. Lucas to Dr. Berger re review of Dr. Waggel's appeal of decision for dismissal and affirming dismissal (GWU 003297-003301)
28. Letter dated July 13, 2016, Dr. Berger to Dr. Waggel providing formal notification of Dr. Lucas's determination that decision for determination was reasonably made (GWU 003302-003303)
29. Letter dated July 22, 2016, Dr. Waggel to Dean Simons noting further appeal (GWU 003494-003497)
30. Letter dated August 10, 2016, Dean Simons to Dr. Waggel upholding decision for dismissal (GWU 003308-003309)
31. Extensive further documents, particularly emails, George Washington University Policies and Procedures, three audiotapes of surreptitiously recorded meetings between Dr. Waggel and GW faculty and administrators; medical records, and pharmacy records forwarded in hard copy and via Dropbox, including the following:
 - a) GWU Document Production (GWU 000001 – 000787); GWU Supplemental Document Production (GWU 000788 – 003222); GWU Second Supplemental Document Production (GWU 003223 – 003502); GWU Third Supplemental Production (GWU 003503 – 004365)
 - b) GW Medical Faculty Associates Records (MFA 0001 – 0052); CVS Pharmacy records CVS 0001 – 00037), Dr. Kecmanovic records (Kecmanovic

000001 – 000003); GW University Hospital records (GWUH 000001 – 000429); Urologic Surgeons of Washington Records (USOW 000001 – 000003); Washington Medical Group, PC Records (WMG 000001 – 000052); Washington Radiology Associates Records (WRA 000001 – 000005); MedStar Health Records (MedStar Health 000001 – 000068);

c) Plaintiff's document production – indexes to materials attached.

32. Plaintiff's Rule 26(a)(2) Disclosures as well as the materials related to Plaintiff's expert on resident training and disciplinary matters, Deborah Spitz, M.D., and Dr. Spitz's report dated July 3, 2017.

Summary of Qualifications:

I am the Residency Program Director of the Adult Psychiatry Program and the Vice Chair for Education in the Department of Psychiatry and Behavioral Sciences at Northwestern University's Feinberg School of Medicine. I am a Professor of Psychiatry and Medical Education at the Feinberg School of Medicine. I am also the Physician Health Liaison for Northwestern Memorial Hospital and chair the Physician Wellness Committee, and I routinely evaluate and counsel faculty members with medical or surgical illnesses, cognitive impairment, addiction, and disruptive behavior. I regularly perform Fitness-for-Duty evaluations for our faculty and occasionally residents and fellows for our Graduate Medical Education Committee. I advise our Associate Dean for Graduate Medical Education on remediation and due process for resident and fellow difficulties.

I am the former President of the Association for Academic Psychiatry, and I currently serve on the Graduate Medical Education Committee for McGaw (Northwestern University), the Psychiatry Residency Review Committee for the ACGME and as a Director of the American Board of Psychiatry and Neurology. I have served as a residency training director for over 25 years at both University of Illinois at Chicago (Associate Program Director) as well as Northwestern. I have spent my entire career as a psychiatric educator, and I have trained residents with a variety of physical disabilities (cerebral palsy, legal blindness, and hearing impairment) as well as medical and surgical illnesses (encephalitis, cancer, preeclampsia, appendicitis, and blood disorders). I have also trained scores of residents with various learning programs and deficits in all competency areas. I have presented in national workshops on physician and trainee Fitness-for-Duty at AADPRT (American Association for Directors of Psychiatry Residency Training) and ACP (American College of Psychiatrists). I attend and present workshops at AADPRT annually.

I believe I am qualified to review and comment on Stephanie Waggel's training experience at GW. I charge \$400 per hour for record review, preparation of reports, telephone conferences on substantive issues, any interviews that may be necessary, and research; the charge for deposition and court testimony is \$600 per hour and travel time is \$200 per hour. I have been paid a retainer of \$3,200. I have expended approximately 10 hours to date reviewing this matter, consulting with counsel, and preparing my report which has been incurred, but not yet invoiced or paid. I have testified as an expert witness in one legal matter in the last four years.

Conclusions:

After reviewing all documents made available to me, these are my professional opinions regarding the case *Stephanie Waggel v. The George Washington University* (U.S. District Court for the District of Columbia; Case No.1:16-cv-01412-CKK):

1) Training Deficits of Dr. Waggel:

SW was a poorly-performing resident from the early months of her first year of training, with multiple serious documented deficits in the five of the six ACGME competencies: patient care, medical knowledge, interpersonal and communication skills, practice-based learning and professionalism. There is documented evidence of many problems in areas of knowledge, skills and behavior that are alarming for a medical resident, which I will detail below. Perhaps most alarming, in the training of a physician, is the incontrovertible evidence of her lying to the program director, faculty members, and even the Associate Dean, which constitutes extremely serious misconduct for a physician. Her emailed threats to “bring down the program” are ominous and also indicative of serious misconduct. Equally alarming is her failure to notify supervisors when she was unable to perform her clinical duties (i.e. she simply would not show up to rotations) and her complete lack of insight into her deficiencies. I believe the record in this case contains evidence such that it was reasonable for the GW faculty members to have believed that the behaviors displayed by SW during her two years of training strongly suggested that her deficits were irremediable and she was unfit for the role of physician.

2) The Efforts of the Program and Institution to Support Dr. Waggel:

The GW Program Director, Chair of Psychiatry, and Associate Dean for GME (Dr. Berger) went to great lengths to assist SW in remediating her deficiencies and enabling her to continue her training, but their efforts were often stymied by SW’s unwillingness to discuss her illness with Dr. Catapano, to take adequate time off for self-care, to proactively plan for absences, and often failing the very basic expectation that she notify her clinical supervisor(s) when she was unable to come in for work. (I have worked with hundreds of residents during episodes of illness, and none has ever failed to notify a supervisor, including those about to have emergency surgery).

3) Due Process:

Overall, with a few minor exceptions (regarding timeliness of feedback and delivery of Letters of Deficiency) GW followed the due process policies of their GME at GW very responsibly, issuing a record number of letters of deficiency with plans for remediation for SW.

In reviewing the amount of FMLA leave taken by SW during 2015, and the accommodations that the program made to support her were adequate.

The reason that Dr. Simon supported SW’s appeal was for a very minor issue: i.e. the documented minutes of the CCC meeting. There was documentation that the CCC had discussed SW’s status for 30 minutes, which is a very long discussion of one trainee in

a program of this size; however, the minutes were not absolutely clear about the recommendation of the CCC to Dr. Catapano. This is, in my opinion, small gap in an overall well-documented administrative process.

4) No Evidence of Discrimination Based on Illness or Impairment:

There is no evidence that SW was discriminated against because of her surgery. Dr. Catapano urged her to take more time off for recovery from her surgery; SW refused. There is no evidence that the program was less than fully supportive of SW as she dealt with her medical problem. Dr. Catapano could not have forced SW to take more time off than she chose.

There is very abundant and clear evidence that SW was unable to perform the very basic expectable functions of a beginning resident, to the extent that she could not be trusted to take call independently. Dr. Berger, Dr. Griffith, and Dr. Catapano have a fiduciary obligation to patient safety that supersedes their commitment to the education of trainees, and there are multiple incidents that indicate that SW was not competent to care for patients in a safe manner - one that is expected of a PGY2 resident.

Data from Documents

PGY1 Year

From the beginning of her training, SW exhibited much greater-than-average difficulties with medical knowledge, patient care, communication and interpersonal problems with peers and staff, and professional behaviors. Concerns were conveyed in SW's first month from medicine Chief Resident Stephanie Cho to Dr. Lorenzo Norris, including "resistance to feedback and shows little improvement following constructive criticism", "failure to recognize severity of threat to patient safety with specific errors", and failures to complete orders and documentation prior to leaving work, failure to take responsibility for errors or near misses that would affect patient safety, and "open disrespect to other care team members".

By January on a psychiatry rotation at Inova Fairfax, attending faculty Dr. Malik reported to the Chief Psychiatry Resident, that SW seemed uninterested in care of her patients, was late for work daily wore inappropriately provocative clothing to the hospital, did not report for rounds regularly and left meetings early.

In March through June, while back on a medicine rotations, psychiatry Chief Resident reported to Medicine Program Director Dr. Catalanotti that there were complaints about SW's patient care, medical knowledge and personal interactions from patients, nursing, ED staff and even the hospital director. The medical team decided that she was not able to see patients independently and was to function as a medical student. This is a very serious form of remediation. Towards the end of her PGY1 year, with cumulative evidence of her deficiencies, SW was put on a structured, detailed remediation plan that is well-documented. It must be noted that at this time, SW was not dealing with a medical illness.

PGY2 Year

On July 15, 2015, SW was given her first Letter of Deficiency based on the recommendation of the Clinical Competency Committee. This letter included:

- 1) Events triggering the letter were specific and detailed
- 2) Deficient competencies were listed
- 3) Specific goals were described in behavioral language (“reporting for duty when expected”, “make arrangement for coverage”).
- 4) An Improvement Plan was arranged with Dr. Allen Dyer

This Letter of Deficiency contains all required elements of such letters, including an assigned supervisor to mentor her in professional behaviors.

At this point, SW was aware of, and receiving evaluation for, a renal cyst; she underwent laparoscopic removal of the cyst by in the latter half of July. The cyst proved to be a clear cell renal cancer that was judged by her surgeon to be totally cured by surgery. Dr. Catapano’s notes indicate that she had encouraged SW to take more time off for surgery and recovery, but that SW was resistant to doing so.

The second Letter of Deficiency was given by Dr. Jeffrey Berger on October 28, 2015 for SW’s failure to turn in her annual health clearance documentation despite being given a special extension to do so. Dr. Berger clearly outlined the expectations for professional behavior in the letter.

The third Letter of Deficiency of November 19, 2015 was in response to an event on August 25th of that year, during which SW actions revealed multiple, very serious deficiencies in medical knowledge, patient care, communication and interpersonal skills, and professionalism. This incident prompted a Root Cause Analysis, which may partially explain the time gap between the occurrence and the Letter. Drs. Catapano and Kels may have also preferred to wait until the Clinical Competency Committee could meet for discussion and consensus prior to composing the Letter. In this letter, the events were described in specific and detailed language, listing specific competencies, and a clear and detailed remediation plan with Dr. Lori Kels. At this point, the CCC had judged that SW would not be ready to advance to the PGY3 year by June 2016 and would require extended remediation. In my view, this is a generous and supportive effort on the part of the program to give SW adequate time and supervision to become successful in her training. Unfortunately, SW adamantly did not want her training extended.

This Letter of Deficiency contains all required elements of such letters, including an assigned supervisor to mentor her in professional behaviors.

The fourth Letter of Deficiency concerns SW’s failure to complete two didactic courses as expected and the communication that she would need to repeat that coursework and continue in PGY2 rotations until she was performing at an appropriate level for a PGY3 resident. The CCC minutes of February 2016 noted that since starting training in July 2014 there were concerns about SWs professionalism and performance which had been carefully documented. These

deficits were detailed with numerous examples in the CCC minutes. In these CCC minutes were descriptions of SW lying to Drs. Zinner and Berger about her coursework in neuroscience and psychodynamic psychiatry; these behaviors constitute serious misconduct.

In reviewing the final decisions of the program's Clinical Competency Committee, all of Dr. Berger's letters and transcripts of his deposition, it is my professional opinion that Graduate Medical Education of GW adhered to its stated and published policies and due process in the case of SW. The review and appeal were appropriately and thoughtfully carried out. Dr. Berger did encourage SW to consider transferring to another program, but he admitted that he is not a psychiatrist and was not familiar with the qualities and standards essential for the specialty of psychiatry, especially as regarded SW's lying and obfuscation to faculty members. I do not see evidence that the Department of Psychiatry and Residency Program presented obstacles to SW's transfer to another program. However, based on the record herein it would be unwarranted and inappropriate, for a program director, to recommend transfer of a resident like SW because of the serious deficits in most areas of competency, her problems with honesty, truthfulness and integrity, and her lack of insight and acceptance of her deficits and need for remediation. Also there is no evidence, nor any reason to believe, that the program in any way attempted to affect SW's medical licensure.

Sincerely,

/s/ Joan M. Anzia, M.D.

Joan M. Anzia, M.D.