

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
GARY R. ROCHON, M.D., : 95 MED 192
RESPONDENT. : 96 MED 130

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Gary R. Rochon, M.D.
1011 East Donges Road
Bayside, WI 53217

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gary R. Rochon, M.D., Respondent, (D.O.B. 10/25/50) is currently licensed and registered as a physician to practice medicine and surgery in the state of Wisconsin, pursuant to license number 35792, which was first granted on July 22, 1994.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 1011 East Donges Road, Bayside, WI 53217.
3. Respondent was a psychiatric resident at the Medical College of Wisconsin in Milwaukee, Wisconsin from July 1, 1993 through June, 1995.

4. Respondent provided psychiatric services to Patient 1, who was then 26 years of age, at Columbia Psychotherapy Center from September 23, 1994 through January 25, 1995.
5. On September 23, 1994, Respondent arrived at an initial diagnosis of Patient 1 of bipolar disorder, and noted that she expressed suicidal ideation and appeared very distraught.
6. Respondent provided psychotherapy services to Patient 1 on September 23 and 27, 1994.
7. Because of concern regarding Patient 1's condition and her prior diagnosis by Dr. Kwang Soo, a psychiatrist who was managing Patient 1's psychotropic medications, Respondent contacted Dr. Soo. Dr. Soo, because of Patient 1's continuing suicidal ideation and thoughts admitted Patient 1 to Milwaukee Psychiatric Hospital, where she had insurance coverage. She was hospitalized there from September 28, 1994 to October 2, 1994. Dr. Soo's discharge diagnosis accepted the diagnosis of Respondent and changed his original diagnosis to bipolar affective disorder with depression.
8. Respondent provided psychotherapy services to Patient 1 on:
 - October 6, 11, and 18, 1994
 - November 1, 8, 15, 17, 22 and 29, 1994
 - December 1, 6, 9, 13, 15, 20 and 26, 1994
 - January 5, 17, 19 and 24, 1995.
9. Following her September 28, 1994 hospitalization, Patient 1 engaged in self mutilating behaviors such as cutting and burning herself. During the time Patient 1 was in therapy with Respondent, the frequency of that behavior decreased, and Respondent believed it had stopped.
10. During a therapy session in December, Respondent told Patient 1 that he was attracted to her. Respondent states that he intended his statement as a verification of Patient 1's positive qualities and did not intend it to indicate a romantic attraction.
11. On January 19, 1995 during an evening psychotherapy session, Patient 1 told Respondent that she was attracted to him. Following the session, Respondent offered Patient 1 a ride to her home in his car. Patient 1 accepted the ride. When they arrived at Patient 1's home, they sat in the car and talked. They also kissed romantically and caressed each other.
12. On January 20, 1995 Respondent called Patient 1 and asked her to meet him to talk on January 23. They met on January 23, agreed that he was no longer her psychiatrist and had sexual contact including sexual intercourse. They also agreed that she would keep her appointment with him that was scheduled for the next day so that they could terminate the therapy relationship in a way which would appear formal.

13. On January 24, 1995, Respondent and Patient 1 met at Columbia Psychotherapy Center for the last time and a termination note was placed in her chart.

14. Respondent and Patient 1 continued their personal-sexual relationship. Patient 1 describes the relationship as intensely romantic and sexual for the first month, with meetings two or three times a week. Patient 1 describes herself as becoming anxious because of the deception involved in the relationship and as a result increased her self mutilating behavior.

15. Patient 1 states that following the first month of the personal-sexual relationship Respondent withdrew from her emotionally. They met only once a week and there were fewer phone calls between meetings.

16. During the second month of the personal-sexual relationship with Respondent, Patient 1 became increasingly depressed and began drinking alcohol more heavily.

17. On March 20, 1995, Patient 1 and Respondent met to discuss their relationship problems. They agreed they wanted to restore the intimacy they previously had and committed to trying to do so. They then had sexual intercourse for the last time. When Respondent left he promised to call that night, but did not do so.

18. On March 21, 1995, Patient 1 made an appointment to see a female psychotherapist. Patient 1 paged Respondent several times that week because she wanted to find out whether the rules of confidentiality would cover her telling the new therapist about their affair. Respondent was out of state during this period and consequently, did not return the pages, and Patient 1 did not mention her personal-sexual relationship with Respondent or its resultant emotional effects in the two psychotherapy sessions she had with her new therapist that week.

19. On March 24, 1995, Patient 1 attempted suicide with an overdose of Klonopin and Ativan. She was stabilized at St. Michael Hospital Emergency Room, transferred on emergency detention to Milwaukee County Mental Health Complex, transferred on March 25 to Milwaukee Psychiatric Hospital and discharged on March 29, 1995.

20. Respondent met with Patient 1 on March 30, 1995. He told her that he felt guilty about their personal-sexual relationship because of their prior doctor-patient relationship and because of his marriage. He asked if they could continue to have a personal relationship, without a sexual relationship, and she agreed. They continued to meet a few times in April 1995 and although there was no sexual contact, he held and kissed Patient 1 in a manner which she stated friends do not.

21. On approximately June 1, 1995, Patient 1 provided Dr. Soo with the information regarding her personal-sexual relationship with Respondent. As a result of that report, Respondent resigned from his psychiatric residency effective July 1, 1995.

22. Respondent provided psychiatric services for depression to Patient 2, who was then 31 years of age, at Columbia Psychotherapy Center from November 1994 through June, 1995.

23. Patient 2 felt that by the end of 1994 that she had developed a good rapport with Respondent and that there was a mutual attraction, although neither stated this to the other. Then at a therapy session Respondent mentioned to Patient 2 that he was married.

24. The discovery that Respondent was married distressed Patient 2. As a result, she called him on January 4, 1995, told him that she was very depressed and requested an appointment that day. He agreed to meet her at Columbia Psychotherapy Center at 6:00 p.m. that date.

25. The January 4, 1995 session was hours in length. During the session Respondent told Patient 2 that he was so attracted to her that he wanted her to know that he was married and unavailable.

26. At approximately 1:00 a.m. that night, Respondent asked Patient 2 if she would like to go for a walk in the neighborhood. Respondent and Patient 2 did go for the walk and Patient 2 describes it like friends being together.

27. During the walk, Patient 2 mentioned that at one time she played tennis, but had been unable to do so recently. Respondent told her that they would play. The next day he called her and they met for coffee to decide when they could play tennis. They played tennis on January 13.

28. In the second half of January, 1995 Patient 2 became ill and Respondent brought soup and a book to her at her home.

29. In February, 1995 Patient 2 was hospitalized with a viral illness and Respondent visited her briefly at the hospital. Following Patient 2's discharge, Respondent called Patient 2 to see if she needed anything. She told him that she did, and he obtained the items and brought them to her at her home.

30. On February 24, 1995 Patient 2 became very depressed and was having suicidal thoughts. Patient 2 called the doctor on call at Columbia Psychotherapy and spoke with him. That doctor called Respondent at Respondent's home and Respondent called Patient 2 that night. After she talked with Respondent, Patient 2 felt better. Respondent told Patient 2 that he would stop by her home to see her the next day, Saturday, February 25, 1995.

31. When Respondent visited Patient 2 at her home on February 25, 1995, he greeted her with a warm hug. They sat on the couch and talked. He put his arm around her and kissed her. As intimacies progressed, Respondent and Patient 2 moved to her bedroom where they undressed. Patient 2 indicated that they could not have sexual intercourse because of her concerns about pregnancy and disease. They then had sexual contact including oral sex.

32. Respondent and Patient 2 continued to have similar sexual contact on occasion until the end of April of 1995. The sexual contact ended because of lack of opportunities.

33. Respondent and Patient 2 continued to have social contacts until June 30, 1995. On that date they met and he told her he had left the residency program because of a conflict with the director and because they would not allow him to do the amount of research that he desired to do in the third year. He told Patient 2 that he was looking for a new residency. They agreed to see a certain movie together and he told her he would call her. He called the next week and left a message on her answering machine that he would call her and let her know what was happening with him. He never did so.

34. Approximately July 1, 1995, another psychiatric resident was assigned to provide psychiatric services to Patient 2 at Columbia Psychotherapy Center. For the first month of that professional relationship, Patient 2 spent much of the time in sessions crying. She felt she could not disclose to her new therapist the nature of her relationship with Respondent. Over months of therapy, Patient 2 gradually revealed the nature of her full relationship with Respondent.

35. Respondent's conduct with Patients 1 and 2 fell below the minimal standards of the profession and exposed Patients 1 and 2 to unreasonable risks of harm to which a minimally competent physician would not expose a patient.

36. Patient 1 and Patient 2 do not know each other and did not know of each other's existence or complaints until after both complaints were made to the Department of Regulation and Licensing, Division of Enforcement.

37. In the process of the investigation of the complaint of Patient 1, Respondent admitted to having a sexual relationship with Patient 1 following termination of the professional relationship, and denied having a sexual relationship with any other patient or former patient. Subsequent to that time, the Division received Patient 2's complaint.

38. Respondent has agreed to surrender his license to practice medicine in the state of Wisconsin, under the terms set out below.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to sec. 448.02(3), Stats.

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to sec. 227.44(5) and 448.02(5), Stats.

3. That Respondent, by entering into the relationships with Patients 1 and 2 described in the Findings of Fact, has engaged in conduct which tends to constitute a danger to the health, welfare or safety of those patients, which constitutes unprofessional conduct as defined by sec. 448.02(3), Stats., and Wis. Adm. Code sec. MED 10.02(2)(h)

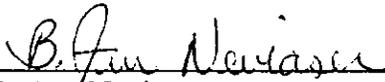
ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the surrender of Gary R. Rochon's license to practice medicine and surgery in the state of Wisconsin is accepted, effective 30 days from the date of this Order.

IT IS FURTHER ORDERED that Gary R. Rochon shall never reapply for a license to practice medicine and surgery in the state of Wisconsin.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 27th day of June, 1996.



B. Ann Neviasser
Chair
Wisconsin Medical Examining Board

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STATE OF WISCONSIN
BEFORE THE WISCONSIN MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	95 MED 192
GARY R. ROCHON, M.D.	:	96 MED 130
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between Gary R. Rochon, M.D., Respondent; and Dean A. Strang, of Shellow, Shellow & Glynn, SC, attorneys for the Respondent; and John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigations of Respondent by the Department of Regulation and Licensing, Division of Enforcement, on behalf of the Wisconsin Medical Examining Board (95 MED 192 & 96 MED 130)

2. Respondent understands that by the signing of this stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of his right to seek legal representation prior to signing this stipulation; and has done so.

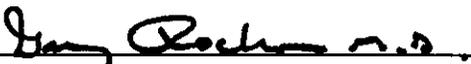
4. Respondent neither admits nor denies the allegations in this matter, but agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the Respondent, Respondent's attorney, the member of the Board appointed as the investigative advisor in these matters, and an attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

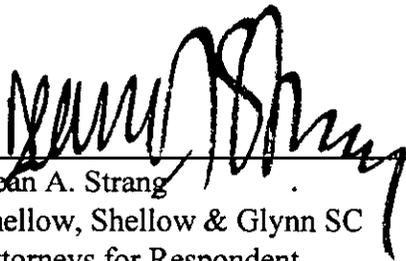
7. Attached to this stipulation is the current licensure card of Respondent. If the Board does not accept this stipulation, Respondent's license shall be returned to the Respondent with a notice of the Board's decision not to accept the stipulation.

Dated this 24 day of June, 1996.



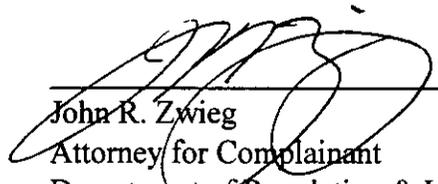
Gary R. Rochon, M.D.
Respondent

Dated this 21st day of June, 1996.



Dean A. Strang
Shellow, Shellow & Glynn SC
Attorneys for Respondent

Dated this 20th day of June, 1996.



John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

July 1, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)