

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
JEFFREY GOTTLIEB, MD,	:	LS0206193MED
RESPONDENT.	:	

---

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

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

Dated this 23<sup>rd</sup> day of October, 2002.

Darold Treffert  
Chairperson  
Medical Examining Board

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : LS0206193MED  
JEFFREY GOTTLIEB, M.D., :  
RESPONDENT :

---

**PARTIES**

The parties to this action for purposes of section 227.53, Wis. Stats., are:

Jeffrey Gottlieb, M.D.  
c/o Palmer Correctional Center  
P.O. Box 919  
Palmer, AK 99645

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

**PROCEDURAL HISTORY**

A hearing in the above-captioned matter was held on August 14, 2002, before Administrative Law Judge Jacquelynn B. Rothstein. Attorney Steen M. Gloe appeared on behalf of the Division of Enforcement. Dr. Gottlieb appeared *pro se*.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Medical Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

## **FINDINGS OF FACT**

1. Jeffrey Gottlieb (DOB 4/12/51) is duly licensed to practice medicine and surgery in the State of Wisconsin (License #33724). His license was first granted on September 24, 1992. Dr. Gottlieb's most recent biennial registration with the State of Wisconsin expired on October 31, 2001.
2. Dr. Gottlieb's most recent address on file with the Medical Examining Board is 3003 W. 35<sup>th</sup> Avenue, Anchorage, Alaska. His last known address is the Palmer Correctional Center P.O. Box 919, Palmer, Alaska.
3. In 1992, Dr. Gottlieb, in connection with his Wisconsin application for a medical license, falsely indicated that he held a medical license in the State of Pennsylvania, when, in fact, he only held a one-year license as a graduate medical trainee.
4. At the time Dr. Gottlieb applied for a medical license in Wisconsin, he had failed three clinical rotations while at the Monsour Medical Center in Jeannette, Pennsylvania, with a recommendation that he not continue in the program.
5. On or about May 11, 2000, the Alaska Medical Board entered an order in which it summarily suspended Dr. Gottlieb's license to practice medicine on the basis that he posed a clear and immediate danger to the public health and safety.
6. On or about April 26, 2002, Dr. Gottlieb was convicted in the State of Alaska of 234 criminal counts.

## **CONCLUSIONS OF LAW**

1. The Medical Examining Board has jurisdiction in this matter pursuant to §448.02, Wis. Stats.
2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, Dr. Gottlieb is in default under § RL 2.14, Wis. Admin. Code, and the Medical Examining Board may make Findings and enter an Order on the basis of the Complaint and evidence presented at the hearing.
3. By engaging in the conduct as set forth in Finding of Fact #3, Dr. Gottlieb engaged in unprofessional conduct contrary to § Med 10.02 (2) (c), Wis. Admin. Code.
4. Dr. Gottlieb, by having had his license to practice medicine summarily suspended in Alaska, engaged in unprofessional conduct contrary § Med 10.02 (2) (q), Wis. Admin. Code.
5. Dr. Gottlieb, by having been criminally convicted by the State of Alaska on 234 counts, engaged in unprofessional conduct contrary to § Med 10.02 (2) (h), (m), (p), (r), and (z), Wis. Admin. Code.

## **ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the license of Jeffrey Gottlieb to practice medicine and

surgery in the State of Wisconsin shall be **REVOKED**.

**IT IS FURTHER ORDERED** that the assessable costs of this proceeding be imposed upon Jeffrey Gottlieb, pursuant to sec. 440.22, Wis. Stats.

### **OPINION**

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint, he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

A Notice of Hearing and Complaint were sent to Dr. Gottlieb both by certified mail and by regular U.S. mail at the Palmer Correctional Center. Although Dr. Gottlieb filed what he claims was an answer to the above-captioned complaint, he did so well after the twenty days allowed by administrative rule. In addition, his "answer" is not responsive to the Complaint. As a result, Dr. Gottlieb is in default and has effectively admitted all of the allegations contained in the complaint.

Likewise, Complainant's first set of requests for admissions and interrogatories are deemed to be admitted with the exception of Paragraph 9. While Dr. Gottlieb submitted what he believes is a legitimate response to those items, the actual "answer" shows otherwise. It is apparent from his submissions that he did not make a reasonable attempt to respond to the admissions and interrogatories and they are therefore admitted with the exception noted above.

On his application to practice medicine in the State of Wisconsin, dated March 3, 1992, Dr. Gottlieb clearly indicated that he held an unlimited license to practice medicine in the State of Pennsylvania. However, he, in fact, only held a one-year certificate as a graduate medical trainee. Dr. Gottlieb attempted to address that discrepancy at the hearing by suggesting that the residency program in which he was enrolled was about to lose its accreditation and that, as a result, he was unable to obtain his full licensure as originally planned. Dr. Gottlieb's explanation is not convincing.

Regardless of the status of Dr. Gottlieb's residency program, he did not hold a full-fledged medical license from Pennsylvania at the time he applied for licensure in Wisconsin. As a result, he had an obligation to disclose that information on his application. But instead of doing so, he indicated that he held a valid Pennsylvania license, thereby making a false statement on his Wisconsin application in violation of the professional rules of conduct.

Dr. Gottlieb's explanation is further undermined by the other physicians with whom he worked. According to several different letters and evaluations that various supervisory physicians submitted, Dr. Gottlieb was not highly regarded either personally or professionally. Consequently, it was recommended that he not continue his residency program at the Monsour Medical Center. Indeed, one physician, Dr. Thomas L. Whitten went so far as to write that he did "[n]ot believe that Dr. Gottlieb [was] teachable, he represents a significant liability to his preceptors, and most of all is a potential menace to any patient he may treat." Dr. Whitten added that "Dr. Gottlieb is the most contrary person I have ever had the misfortune to know."

Additionally, on or about May 11, 2000, the Alaska Medical Board entered an order in which it summarily suspended Dr. Gottlieb's license to practice medicine on the basis that he posed a clear and immediate danger to the public health and safety. The basis for the petition against Dr. Gottlieb was an indictment in which he was charged with 236 counts of criminal conduct. Among the counts were the following: perjury, forgery, theft, and misconduct involving a controlled substance. It was further based upon the expert witness report of Ted Parran, M.D., who indicated that Dr. Gottlieb is an "active danger to his patients and to the community in which he purports to practice medicine."

In response, Dr. Gottlieb indicated that his criminal conviction is currently on appeal. He further stressed that his Alaskan medical license was summarily suspended, but not revoked. While all that may be true, it in no way diminishes the fact that Dr. Gottlieb was criminally convicted of 234 counts and that he no longer has a license to practice medicine in Alaska, due, in large part, to his conviction. If and when Dr. Gottlieb's convictions are overturned and his license to practice medicine in Alaska is restored, he may certainly present that information to the Wisconsin Medical Examining Board for its consideration. But until such time, his pending appeals are of little value to this proceeding.

The question therefore remains as to what the appropriate form of discipline is for Dr. Gottlieb. Revocation of his license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

During the course of the hearing, Dr. Gottlieb expressed no remorse for any of his behavior. Instead, he employed a rather peculiar logic to explain away the information he included on his licensing application. He also sidestepped the severity of his conviction by repeatedly informing the undersigned that the matter was on appeal. And, by suggesting that his Alaskan medical license was merely suspended and not revoked, he similarly minimized the discipline that had been imposed upon him by that state.

Accordingly, there is no reason to believe that imposing any discipline short of revocation would have a rehabilitative effect on Dr. Gottlieb or that he even has an interest in being rehabilitated at this time. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Moreover, revocation remains the only appropriate way in which to safeguard the public.

With respect to the imposition of costs, section 440.22(2), Wis. Stats., provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the respondent is a discretionary decision on the part of the Medical Examining Board and that the Board's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The undersigned's recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions, and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding.

Dated this 4<sup>th</sup> day of September, 2002, at Madison, Wisconsin.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison, Wisconsin 53708

Telephone: (608)266-5836

FAX: (608)267-0644

Jacquelynn B. Rothstein

Administrative Law Judge