

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
:
ERIC B. SCHWIETERING, M.D., :
RESPONDENT. : ORDER 0000720

Division of Enforcement Case Nos. 06MED303 and 10MED167

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Eric B. Schwietering, M.D. ("Respondent")
418 N. Third Street, Unit 350
Milwaukee, WI 53203

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Medical Examining Board ("Board")
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The Division of Enforcement filed a formal complaint on March 6, 2008 in the matter of 06MED303. Respondent agreed to an interim suspension of his license to practice medicine until a final order is issued by the Board. The parties further agreed that discovery in 06MED303 would be suspended until 30 days after final disposition at trial in Waukesha County Circuit Court Case No. 2007 CF 1218. Sentencing in the Waukesha case occurred on October 18, 2010.

The parties in this matter now agree to the terms and conditions of the attached Stipulation as the final decision of this matter as well as the matter of 10MED167, 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. Eric B. Schwietering, M.D., Respondent, date of birth May 14, 1966, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine in the state of Wisconsin pursuant to license number 35641-20, which was first granted July 1, 1994.
2. Respondent's address of record with the Department of Regulation and Licensing is 418 N. Third Street, Unit 350, Milwaukee, Wisconsin 53203.
3. Respondent's practice specialty listed with the Department is psychiatry.
4. At the time of the events set out below, Respondent was practicing as a physician in the field of child psychiatry at Cornerstone Counseling, Inc., 16535 W. Bluemound Road, Suite 200, Brookfield, Wisconsin.
5. On September 12, 2006, in Milwaukee County Circuit Court, Case No. 06CF04824, Respondent was charged with seven counts of possession of child pornography, in violation of Wis. Stat. § 948.12, and one count of possession of drug paraphernalia, in violation of Wis. Stat. §§ 961.571(1) and 961.573(1).
6. During the investigation, Respondent told police that he was able to differentiate between his role as someone who viewed child pornography from his role as a physician. He denied inappropriate contact with any of his patients and said he had never thought about acting inappropriately with his patients.
7. Child pornography memorializes the sexual abuse of children.
8. The distribution, possession and viewing of child pornography further exploit the depicted children and constitute danger to public welfare.
9. On February 26, 2007, Respondent pled guilty to two counts of possession of child pornography, in violation of Wis. Stat. § 948.12(1m).
10. On May 4, 2007, the court sentenced Respondent to 36 months in the Wisconsin prison system on each count, consecutive. The court ordered 18 months of initial confinement and 18 months of extended supervision. The court stayed Respondent's sentence and placed him on probation for 4 years. As conditions of probation, the court ordered that Respondent is to:
 - a) serve 45 days in the House of Correction;
 - b) complete an AODA assessment and cooperate with recommended treatment programs;
 - c) have no contact with any illegal drugs, drug paraphernalia, drug dealers, drug users, and/or drug houses;
 - d) submit random urine screens and breathalyzers;
 - e) continue treatment with Dr. Jurgensen;

- f) pay all Court costs, fees, assessments, and surcharges;
- g) provide DNA sample within 90 DAYS, if not already given, pay DNA surcharge;
- h) maintain absolute sobriety;
- i) have limited computer use, subject to modification by probation agent;
- j) possess no pornography;
- k) perform community service.

11. In addition, on June 4, 2010, Respondent entered a no contest *Alford* plea to an amended separate charge of one count of 4th degree sexual assault, in violation of Wis. Stat. § 940.225(3)(m), and one count of exposing genitals to child, in violation of Wis. Stat. § 948.10(1), meaning that Respondent, while maintaining his innocence, admitted that sufficient evidence existed with which the prosecution could likely convince a judge or jury to find him guilty beyond a reasonable doubt. Pursuant to the no contest *Alford* plea, Respondent was convicted of both charges, which are Class A misdemeanors. On October 18, 2010, the Court sentenced Respondent to nine months in the county jail for each charge. Respondent is to serve the two terms consecutively.

12. Respondent's probation supervision terminates as of May 4, 2011. Due to Respondent's conviction of possession of child pornography, Respondent must register as a sex offender until 2026.

13. Respondent has fully complied with the terms of the Interim Order. The Board views Respondent's Stipulation to the Interim Order as an indication of his willingness to accept responsibility for his actions, and as an effort undertaken for the benefit of his patients and the medical profession.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging, or by having been convicted of engaging despite maintaining his innocence, in the conduct described in paragraphs 5 through 12, committed unprofessional misconduct, as defined by Wis. Admin. Code § MED 10.02(2)(z), Wis. Admin. Code § MED 10.02(2)(h), and Wis. Admin. Code § MED 10.02(2)(r). Respondent is therefore subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

IT IS HEREBY ORDERED that the license of Eric B. Schwietering, M.D., to practice medicine and surgery in the State of Wisconsin is hereby **REVOKED**.

1. Respondent shall not reapply for restoration of his license to practice medicine and surgery, pursuant to Wis. Stat. § 448.02(6), before two years from the date of this Order.

2. Upon the conclusion of not less than a two (2) year period, Respondent shall not reapply for licensure except as follows:

- a. Respondent is in full compliance with the terms of any and all orders of the Medical Examining Board;
- b. Respondent has paid costs and fees due, as specified in this Order;
- c. Respondent provides written recommendations for reinstatement along with recommendations for conditions of reinstatement from any and all professionals who have provided sex offender and AODA treatment to Respondent in the preceding three years who are reasonably available to provide such recommendations. The treaters must have re-evaluated Respondent within 60 days of any reapplication to the Board;
- d. Respondent must have authorized full release of otherwise confidential information between any person who provided treatment discussed in paragraph c., and the Board or its designee. The release shall specifically authorize conversations between treatment providers and the Board or its designee.

3. The Board retains full discretion to grant or deny Respondent licensure at any time after two years from the date of this Order. In the event that the Board denies Respondent's application for licensure, it shall issue a written opinion explaining its decision.

4. If the Board decides to grant Respondent licensure in the future, the Board may impose conditions and limitations it deems necessary. Respondent agrees that appropriate conditions may include:

- a. An indefinite period of suspension, imposed and stayed;
- b. Continued participation in chemical dependency and sexual compulsion support groups;
- c. A period of monitoring of mental health treatment, random urinalysis, and professional mentoring;
- d. Proof of competence for re-entry.

5. Respondent shall, prior to any application for reinstatement, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$1,900.00 pursuant to Wis. Stat. § 440.22(2).

6. Payment shall be mailed or delivered to:


Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

7. Because of the serious nature of the alleged underlying misconduct and the circumstances in which it allegedly occurred, the Board intends, for purposes of specific and general deterrence, that Respondent shall not provide health care services to patients under age eighteen years, except as specifically authorized by the Board in writing and in advance, or in cases of true emergency. "True emergency" means that a patient faces imminent and unacceptable risk of severe injury or death if Respondent does not act. If Respondent provides health care services to any child in a "true emergency," Respondent shall notify the Board of his actions within 24 hours. Respondent may not practice medicine and surgery in any manner. Respondent is not otherwise precluded, from consulting or otherwise working on case reviews which may involve review of treatment of patients under eighteen years, so long as no direct contact with the patient occurs, except as otherwise stated in this paragraph (as specifically authorized by the Board in writing and in advance, or in cases of true emergency).

This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By:


A Member of the Board

3/16/11
Date