

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

FREDRICK E. EKBERG, M.D.,  
RESPONDENT.

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:  
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:  
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**FINAL DECISION AND ORDER**

**000262?**

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Division of Legal Services and Compliance Case No. 13 MED 048

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

Fredrick E. Ekberg, M.D.  
Radiological Associates of Duluth, LTD  
925 E. Superior Street, #109  
Duluth, MN 55902

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

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
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 disposition of this matter, subject to the approval of the Medical Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Fredrick Eugene Ekberg, M.D., (dob June 30, 1937), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 40508-20, first issued on October 23, 1998, with registration current through October 31, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Radiological Associates of Duluth, LTD, 925 E. Superior Street, #109, Duluth, Minnesota, 55902.

2. On January 12, 2013, Respondent entered into a Stipulation and Order with the Minnesota Board of Medical Practice. The basis for the discipline was Respondent's admission

that, in 2010 and 2011, he prescribed for family members, controlled substances, including ongoing opioid medications. Respondent failed to document the prescriptions in a patient health care record and failed to communicate his care with each family member's treating physician or provider. A true and correct copy of the Minnesota Board of Medical Practice Order is attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

3. Respondent has retired from the practice of medicine.

### CONCLUSION OF LAW

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 pursuant to Wis. Stat. §§ 227.44(5) and 448.02(5).

### ORDER

1. The attached Stipulation is accepted.
2. The Board accepts the SURRENDER of the registration (number 40508-20) to practice medicine and surgery of Respondent Fredrick E. Ekberg, M.D.
3. Respondent may not engage in the practice of medicine and surgery in the State of Wisconsin, nor may he hold himself out as one authorized to practice medicine and surgery in this state.
4. This SURRENDER constitutes Respondent's permanent relinquishment of his registration to practice medicine and surgery in the State of Wisconsin. The Board will not, at any time in the future, process or otherwise consider an application by Respondent for a registration to practice medicine and surgery in the State of Wisconsin.
5. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

by:   
A Member of the Board

akt

2/18/13  
Date

BEFORE THE MINNESOTA  
BOARD OF MEDICAL PRACTICE

**TRUE AND EXACT  
COPY OF ORIGINAL**

In the Matter of the  
Medical License of  
Fredrick E. Ekberg, M.D.  
Year of Birth: 1937  
License No.: 16,940

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Fredrick E. Ekberg, M.D. ("Respondent"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Kathryn J. Bergstrom, Gray Plant Mooty, 80 South Eighth Street, Suite 500, Minneapolis, Minnesota 55402, telephone (612) 632-3000. The Committee was represented by Kermit N. Fruechte, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

**FACTS**

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on July 2, 1965. Respondent is board-certified in radiology.

EXHIBIT

A

b. In December 2011, the Board received a complaint alleging that Respondent inappropriately prescribed medications, including excessive quantities of narcotics, for several members of his family for an extended period of time.

c. In December 2011, the Board initiated an investigation into Respondent's care and treatment of his family members, documentation, and prescribing practices and procedures. The investigation revealed that Respondent authorized a series of prescriptions for several members of his family, over a two year period of time, including narcotics on a weekly or monthly basis. Respondent failed to document the prescriptions in a clinic record for each family member; failed to document a physical examination, diagnosis, or medical history for each family member; and failed to document communications with each family member's treating physician or provider regarding his prescriptions or specific care.

d. On July 26, 2012, Respondent met with the Complaint Review Committee and admitted that he had written prescriptions for several family members during 2010 and 2011, including ongoing narcotic medications, but stated that the prescriptions were medically appropriate and used for therapeutic purposes on previously diagnosed conditions. Respondent admitted that he failed to document the prescriptions in a clinic record and failed to communicate his care with each family member's treating physician or provider. Respondent stated that, as of January 2012, he had stopped authorizing prescriptions for his family members. Respondent acknowledged the concerns presented by his prescribing practices to family members and expressed regret for his actions.

## STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(g) (unethical conduct), (k) (unprofessional conduct), (o) (failure to maintain adequate medical records), and (s) (inappropriate prescribing practices) (2010), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

## REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further Order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an Order conditioning and restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

- a. Respondent is REPRIMANDED.
- b. Respondent shall successfully complete a course on professional boundaries, approved in advance by the Committee or its designee. Successful completion shall be determined by the Board or its designee.
- c. Respondent shall read the "Model Policy for the Use of Controlled Substances for the Treatment of Pain," adopted as policy by the House of Delegates of the Federation of State Medical Boards of the United States, Inc. (FSMB), May 2004. Respondent shall also read *Responsible Opioid Prescribing, A Clinician's Guide, Second Edition*, by Scott M. Fishman, M.D., published by Waterford Life Sciences, Washington D.C., 2012.

d. Respondent shall not prescribe Schedule I through Schedule V controlled substances, except in a hospital setting. Respondent is however prohibited from prescribing Schedule I through Schedule V controlled substances to himself or family members in all circumstances.

e. This Stipulation and Order shall remain in effect for a minimum of two years. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of her residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, including timely submission of required reports, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

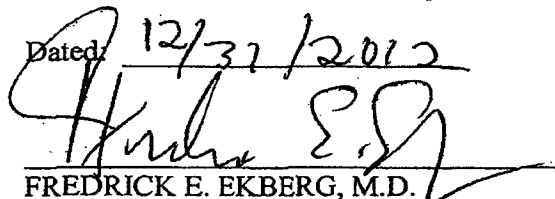
At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

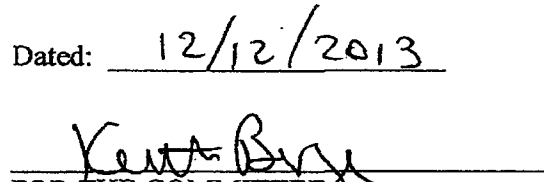
9. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.



10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

11. Respondent hereby acknowledges that he has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: 12/31/2012  
  
FREDRICK E. EKBERG, M.D.  
Respondent

Dated: 12/12/2013  
  
FOR THE COMMITTEE

**ORDER**

Upon consideration of this Stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board this 12<sup>th</sup> day of January, 2013.

MINNESOTA BOARD OF  
MEDICAL PRACTICE

By: 