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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
THE INVESTIGATION OF

RICHARD T. SHORE, M.D.,

Licensee

MEMORANDUM AND ORDER ON SETTLEMENT CONFERENCE

TO: Stephen L. Crocker
Attorney at Law
1 South Pinckney Street
P.O. Box 1806
Madison, WI 53701-1806

Arthur Thexton
Attorney at Law
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

An informal settlement conference was conducted in the above-captioned matter before an informal settlement conference committee of the Medical Examining Board on July 23, 1991. The purpose of the conference was to provide interested parties with an opportunity to discuss allegations received pertaining to the practice of Dr. Shore as a physician, and to attempt to reach a fair and consensual resolution of the matter.

The committee consisted of Doctors Michael P. Mehr and Clark O. Olson. Dr. Shore appeared in person and by Attorney Stephen L. Crocker. Others present included Wayne Austin, the board's legal counsel, and Arthur Thexton, attorney for the Department of Regulation & Licensing, Division of Enforcement.

The parties orally presented their respective positions regarding the matter to the committee, and the committee deliberated on a possible disposition of the matter. The committee thereafter presented a proposed Stipulation for Dr. Shore's

consideration, a copy of which is attached hereto and made a part hereof. The Stipulation was ultimately executed by Dr. Shore, Mr. Crocker and Dr. Mehr, board Secretary.

Based upon the proceedings at the conference, and upon the Stipulation of the parties, the board enters the following order.

ORDER

NOW, THEREFORE, IT IS ORDERED that based on the findings and conclusions in this case, as set forth in the Stipulation of the parties hereto, this case be, and hereby is, dismissed.

Dated this 24 day of ~~September~~ October, 1991.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

by Michael P. Mehr M.D.
Michael P. Mehr, M.D.
Secretary

WRA:BDLS2:795

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
THE INVESTIGATION OF

RICHARD T. SHORE, M.D.,

Licensee

STIPULATION

Richard T. Shore, M.D. (Dr. Shore), and the Medical Examining Board (board), having reached agreement on disposition of the informal complaint identified as 89 MED 651, agree and stipulate as follows:

1. This Stipulation shall be made a part of a Memorandum and Order on Settlement Conference to be issued by the board, and all terms of the Stipulation shall be binding on Dr. Shore as a part of the board's order.

2. This Stipulation and the board's order shall be placed in Dr. Shore's permanent file, and may be used if there are further complaints against him.

3. Dr. Shore is licensed to practice medicine and surgery in Wisconsin by license #14828, issued on October 21, 1963, and he practices at 2315 North Lake Drive, Suite 819, Milwaukee, WI 53211.

4. Patient B. was a 78 year old male with a history of myocardial infarction in 1970. In late August, 1989, the patient began to develop recurrent and progressive anginal symptoms, and he underwent cardiac catheterization by a Dr. Michaelson at Norwalk Hospital, Norwalk, Connecticut on September 20, 1989. The procedure revealed severe three vessel coronary artery disease.

5. The patient was referred to Dr. Shore for revascularization and was admitted to St. Luke's Medical Center, Milwaukee, Wisconsin, on October 7, 1989, for that purpose. The patient's past medical history included left ventricular failure with symptomatic congestive heart failure and edema, hypertension, bilateral claudication after one block, numerous surgeries for squamous cell carcinoma, removal of a melanoma from the right shoulder, removal of rectal polyps and hemmorrhoidectomy,

and a recent diagnosis of hiatus hernia. Medications on admission included Cardizem, Trental, Isordil, Folate, Mevacor, Pepcid, Allopurinol, Maxzide, Carafate, Sectral, Valium, Lasix, aspirin, Persantine, and nitroglycerine.

6 Upon admission and prior to surgery, the patient's creatinine was 1.9 and BUN was 30. The patient was treated for depressed renal function, however no further preoperative testing or evaluation of renal function was done.

7. Coronary artery bypass graft and left carotid endarterectomy surgery was performed on October 9, 1989. After surgery, Patient B was transferred to the ICU in critical but satisfactory condition. Postoperatively, the patient's creatinine was 2.1 and BUN was 35. By October 13, creatinine had risen to 2.9 and BUN to 56. J.D. Wallach, M.D., was called in for a renal consult and diagnosed acute and chronic renal failure with suspected underlying renovascular disease or arteriolar nephrosclerosis.

8. The patient's condition improved with transfer out of the ICU and onto the Ward. BUN and Creatinine had stabilized, and he had become ambulatory. He experienced respiratory distress early in the morning of October 18, 1990. A sizable pleural effusion was tapped and the patient improved for a few hours. He then experienced further respiratory distress, was transferred into the ICU, reintubated and placed on ventilatory assist. Despite improvement over a few days, he could not be weaned and a tracheostomy was done. Later, bronchoscopy revealed intra-bronchial concretions and blood debris. Repeat bronchoscopy could not stop the formation of these hard casts.

9. The patient's condition continued to deteriorate, with worsening azotemia related to renal failure, increasing muscular weakness and associated inability to bring up bronchial secretions, and multiorgan dysfunction or failure. The patient died on November 13, 1989.

10. The parties agree that Dr. Shore's management of this case was appropriate and that the matter should therefore be dismissed.

Dated this 10 day of September, 1991.

Richard T. Shore

Richard T. Shore, M.D.

(continued)

Dated this 12 day of SEPTEMBER, 1991.

Stephen L. Crocker, Attorney for Dr. Shore

Dated this 24 day of October, 1991.

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

by Michael P. Mehr MD
Michael P. Mehr, M.D., Secretary

WRA:BDLS2:342

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)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is October 30, 1991.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.