

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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BEFORE THE STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

VIJAY V. KULKARNI, M.D.,
RESPONDENT.

AFFIDAVIT OF SERVICE

Glenda Nelson, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on September 30, 1991 she served the following upon the respondent's attorney:

ORDER dated September 25, 1991

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent's attorney:

Thomas E. Brown
Gimbel, Reilly, Guerin & Brown
111 East Kilbourn Avenue, Suite 2400
Milwaukee, WI 53202
Certified P 568 984 678

Subscribed and sworn to before me
this 30 day of September, 1991.

STATE OF WISCONSIN
PATSY M. STRASBURG
NOTARY PUBLIC

Patsy M. Strasburg
Notary Public
Dane County, Wisconsin
My Commission expires 11/06/94

Glenda Nelson
Glenda Nelson
Department of Regulation and Licensing

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

VIJAY V. KULKARNI, M.D.,
RESPONDENT.

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:
:

ORDER

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

Vijay V. Kulkarni, M.D.
2315 North Lake Drive, Suite 711
Milwaukee, WI 53211

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 an interim disposition 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. That Vijay V. Kulkarni, M.D., Respondent, date of birth November 28,
1931, is a physician licensed to practice medicine and surgery in the State of
Wisconsin pursuant to license number 19580, which was granted July 29, 1975.

2. That Respondent is an orthopedic surgeon who resides and practices
medicine and surgery in the Milwaukee Metropolitan area.

3. That on June 6, 1991, Respondent was charged in Milwaukee County
Circuit Court-Criminal Division with two counts of fourth degree sexual
assault. The charges contend that the alleged sexual assaults were of
patients, while Respondent was performing physical examinations of those
patients. That the incidents alleged in the criminal complaint took place
March 4, 1991 and April, 1991.

4. That based upon information regarding the criminal charges, the
Division of Enforcement opened investigative file 91 MED 100.

5. That on September 18, 1991, the Department of Regulation and Licensing, Division of Enforcement, received an Amended Criminal Complaint, dated September 5, 1991, which charged Respondent with three additional counts of fourth degree sexual assault. These charges also contend that the alleged sexual assaults were of patients, while Respondent was performing physical examinations of those patients. That the new incidents alleged in the amended criminal complaint took place October 15, 1990, January 23, 1991, and February 18, 1991.

6. That Respondent was released on bond in the criminal matter and a condition of his release is that he must have a third party in the examination room when he examines or treats any female patient.

7. That it is essentially Respondent's position that the contact he had with the patients in counts 1 through 4 of the Criminal Complaint was part of a necessary and reasonable physical examination of the patients. Although that is the Respondent's position, he has ceased engaging in such contact with patients while examining them. Regarding the fifth count of the criminal complaint, it is Respondent's position that the touching did not take place.

8. That the trial on the first four counts of the Criminal Complaint is scheduled to begin October 7, 1991 and should be completed prior to the end of that week. That the Respondent is not seeking a continuance of that trial date and will be prepared to try the matter on that date.

9. That on September 23, 1991 the Division of Enforcement served on Respondent and his attorney a Notice of Presentation of Petition for Summary Suspension and Petition for Summary Suspension, to be heard on September 25, 1991 at 10:15 a.m. in Madison, Wisconsin.

10. That on September 23, 1991, shortly after Respondent's attorney was served with the summary suspension documents, Respondent's attorney called the Complainant's attorney and advised the Complainant's attorney that Respondent's attorney could not be present at the date and time scheduled for the presentation of the Petition for Summary Suspension because he had depositions scheduled in Milwaukee at that time on that date.

CONCLUSIONS OF LAW

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

2. That the Wisconsin Medical Examining Board has authority to enter into this interim stipulation pursuant to sec. 227.44(5), Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED, that the Department of Regulation and Licensing, Division of Enforcement's Petition for Summary Suspension shall not be considered at this time.

IT IS FURTHER ORDERED, that Vijay V. Kulkarni's license to practice medicine and surgery in the State of Wisconsin shall be SUSPENDED, effective immediately, if:

1. Respondent seeks a continuance of the trial in the criminal action, presently scheduled to begin October 7, 1991; or,

2. In the event the criminal proceeding goes forward as scheduled on October 7, 1991 and the jury renders a verdict of guilty on any count of fourth degree sexual assault.

IT IS FURTHER ORDERED, that the suspension shall remain in effect until the occurrence of one of the following:

1. The dismissal of all counts against Respondent in the criminal case currently pending in Milwaukee, case number 2-107696.

2. Upon written notice from Respondent or Respondent's attorney, or notice from any other party, that Respondent's contesting of the criminal charges in the Milwaukee County Circuit Court action, 2-107696, has concluded at the trial level without dismissal of all counts, then this suspension shall become a suspension pending hearing for a period of 90 days from receipt of such notice from Respondent or Respondent's attorney. If subsequent to receipt of such notice, Respondent or his attorneys cause a delay in the hearing process, the Board may subsequently suspend Respondent's license from the time the process is commenced until a final decision is issued or may delegate such authority to the Administrative Law Judge. The written notice by Respondent specified in this subsection shall be made to the Wisconsin Medical Examining Board at P.O. Box 8935, Madison, WI 53708, by certified mail, and to the Wisconsin Department of Regulation and Licensing, Division of Enforcement at P.O. Box 8935, Madison, WI 53708, by certified mail.

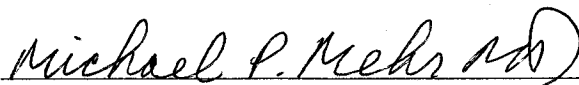
3. Agreement by all parties that the suspension shall end.

IT IS FURTHER ORDERED, that in the event that the criminal proceeding does not go forward on October 7, 1991, because of a request for a continuance by the State of Wisconsin, the Department of Regulation and Licensing, Division of Enforcement may notice the Petition for Summary Suspension for presentation before the Board.

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 this 25th day of September, 1991.

JRZ:kcb
ATY-1733


Michael P. Mehr, M.D., Secretary
Medical Examining Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

VIJAY V. KULKARNI, M.D.,
RESPONDENT.

STIPULATION

It is hereby stipulated and agreed, by and between Vijay V. Kulkarni, M.D., Respondent; Thomas E. Brown of Gimbel, Reilly, Guerin & Brown, attorneys for Respondent; John R. Zwieg, attorney for the Department of Regulation and Licensing, Division of Enforcement; and, the Wisconsin Medical Examining Board, as follows:

1. That Vijay V. Kulkarni, M.D., Respondent, date of birth November 28, 1931, is a physician licensed to practice medicine and surgery in the State of Wisconsin pursuant to license number 19580, which was granted July 29, 1975.

2. That Respondent is an orthopedic surgeon who resides and practices medicine and surgery in the Milwaukee metropolitan area.

3. That on June 6, 1991, Respondent was charged in Milwaukee County Circuit Court-Criminal Division with two counts of fourth degree sexual assault. The charges contend that the alleged sexual assaults were of patients, while Respondent was performing physical examinations of those patients. That the incidents alleged in the criminal complaint took place March 4, 1991 and April, 1991.

4. That based upon information regarding the criminal charges, the Division of Enforcement opened investigative file 91 MED 100.

5. That on September 18, 1991, the Department of Regulation and Licensing, Division of Enforcement, received an Amended Criminal Complaint, dated September 5, 1991, which charged Respondent with three additional counts of fourth degree sexual assault. These charges also contend that the alleged sexual assaults were of patients, while Respondent was performing physical examinations of those patients. That the new incidents alleged in the amended criminal complaint took place October 15, 1990, January 23, 1991, and February 18, 1991.

6. That Respondent was released on bond in the criminal matter and a condition of his release is that he must have a third party in the examination room when he examines or treats any female patient.

7. That it is essentially Respondent's position that the contact he had with the patients in counts 1 through 4 of the Criminal Complaint was part of a necessary and reasonable physical examination of the patients. Although that is the Respondent's position, he has ceased engaging in such contact with patients while examining them. Regarding the fifth count of the criminal complaint, it is Respondent's position that the touching did not take place.

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8. That the trial on the first four counts of the Criminal Complaint is scheduled to begin October 7, 1991 and should be completed prior to the end of that week. That the Respondent is not seeking a continuance of that trial date and will be prepared to try the matter on that date.

9. That on September 23, 1991 the Division of Enforcement served on Respondent and his attorney a Notice of Presentation of Petition for Summary Suspension and Petition for Summary Suspension, to be heard on September 25, 1991 at 10:15 a.m. in Madison, Wisconsin.

10. That on September 23, 1991, shortly after Respondent's attorney was served with the summary suspension documents, Respondent's attorney called the Complainant's attorney and advised the Complainant's attorney that Respondent's attorney could not be present at the date and time scheduled for the presentation of the Petition for Summary Suspension because he had depositions scheduled in Milwaukee at that time on that date.

11. That Respondent does not admit any guilt regarding the criminal charges, but enters into this agreement for personal reasons and in return for the agreements made by the Department of Regulation and Licensing, Division of Enforcement, and the Wisconsin Medical Examining Board in this Stipulation.

12. That the Department of Regulation and Licensing, Division of Enforcement, agrees to withdraw its request that the petition for summary suspension be presented and heard on September 25, 1991.

13. That the parties agree that the Wisconsin Medical Examining Board may make and enter the attached Order.

14. That the attorney for the Department of Regulation and Licensing, Division of Enforcement, may appear before the Wisconsin Medical Examining Board on September 25, 1991 to argue in favor of acceptance of this Stipulation and the entry of the attached Order, without further notice to any party.

Dated this 24th day
of September, 1991.

Vijay V. Kulkarni
Vijay V. Kulkarni, M.D., Respondent

Dated this 24 day
of September, 1991.

Thomas E. Brown
Thomas E. Brown
Gimbel, Reilly, Guerin & Brown
Attorneys for Respondent

Dated this 25th day
of September, 1991.

John R. Zwieg
John R. Zwieg, Attorney
Department of Regulation and Licensing
Division of Enforcement

Dated this 25th day
of September, 1991.

Michael P. Mehr
Michael P. Mehr, M.D., Secretary
Wisconsin Medical Examining Board

JRZ:kc
ATY-1792

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 September 30, 1991.