

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

NINA C. KOSTRABA, M.D.,
RESPONDENT.

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:
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FINAL DECISION
AND ORDER
92 MED 381

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

Nina C. Kostraba, M.D.
1201 Denney Drive
Duluth, MN 55101

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

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Nina C. Kostraba, M.D., Respondent, and Judith Mills Ohm, Attorney for Complainant, Department of Regulation and Licensing, Division of Enforcement. The Board has reviewed the Stipulation, considers it acceptable and adopts it.

Accordingly, the Board makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Nina C. Kostraba, M.D., Respondent herein, date of birth August 3, 1946, is a physician licensed and currently registered to practice medicine and surgery in the State of Wisconsin, pursuant to license number 23114, which was granted on July 11, 1980.

2. Respondent currently practices medicine and surgery in the State of Wisconsin and in the State of Minnesota.

3. On September 12, 1992, the Minnesota Board of Medical Practice entered an Order which found Respondent's practice to be inappropriate in several respects and which placed conditions and restrictions on Respondent's license to practice medicine and surgery in the State of Minnesota. A copy of the Minnesota Order is attached hereto and incorporated herein as Exhibit 1.

4. The Order entered by the Minnesota Board included requirements that Respondent practice only in a group setting approved by the Minnesota Board and that Respondent meet monthly with a supervising physician, who is to note any concerns arising out of Respondent's practice in Wisconsin and Minnesota.

5. Respondent, by having the Order entered against her by the Minnesota Board, as set forth in Paragraphs 3 and 4, has been subject to disciplinary action by the licensing authority of another state.

6. Respondent has agreed that the Wisconsin Medical Examining Board may limit her license, as set forth in the Order.

CONCLUSIONS OF LAW

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

2. The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent's conduct, as set forth in Paragraph 5 of the Findings of Fact, constitutes having a license granted by another state to practice medicine and surgery or treat the sick limited, restricted, suspended or revoked or having been subject to other disciplinary action by the licensing authority thereof, in violation of sec. 448.02(3), Wis. Stats., and sec. MED 10.02(2)(q), Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order, that Dr. Nina C. Kostraba's license to practice medicine and surgery in the State of Wisconsin is hereby limited by the following conditions and restrictions:

1. Respondent may practice only in a group setting approved in advance by the Wisconsin Medical Examining Board. To obtain approval, Respondent must make a written request to the Wisconsin Medical Examining Board, describing the proposed practice setting. Any approval by or on behalf of the Medical Examining Board must be made to Respondent in writing. The Medical Examining Board approves of Respondent's current practice setting which includes the Superior Memorial Hospital in Superior, Wisconsin and the Mesabi Medical Center in Hibbing, Minnesota.

2. Respondent shall meet monthly with a supervising physician who is licensed to practice medicine in both Wisconsin and Minnesota and who is available to supervise Respondent's work in both Wisconsin and Minnesota. The supervising physician must be approved in advance by the Wisconsin Medical Examining Board. The supervising physician shall provide a quarterly report to the Board indicating that he or she has reviewed all aspects of Respondent's practice. The supervising physician shall specifically note any concerns arising out of Respondent's practice in Wisconsin and Minnesota and shall specifically indicate the nature of the concern.

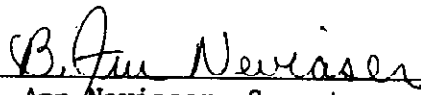
3. If Dr. Kostraba has petitioned for and been granted an unconditional license from the Minnesota Board of Medical Practice, then Dr. Kostraba may petition the Wisconsin Medical Examining Board to remove or modify the limitations set forth in Paragraphs 2 and 3. It shall be totally within the discretion of the Wisconsin Medical Examining Board to determine whether to remove or modify the limitations set forth in Paragraphs 2 and 3.

4. If Respondent determines to discontinue practicing medicine and surgery in Wisconsin, then Respondent shall promptly notify the Wisconsin Board of her new practice location, the date of departure from practice in Wisconsin and the date of return to practice in Wisconsin, if applicable. If Respondent discontinues practicing in Wisconsin while under the limitations set forth in Paragraphs 2 and 3, then those limitations shall be reinstated if Respondent returns to Wisconsin to practice, and the Wisconsin Medical Examining Board shall determine when Respondent may petition for the removal or modification of those limitations.

IT IS FURTHER ORDERED, that pursuant to the authority of sec. 448.02(4), Wis. Stats., should the Wisconsin Medical Board determine that there is probable cause to believe that Respondent has violated the terms of the Final Decision and Order of the Medical Examining Board or the Stipulation upon which it is based, the Medical Examining Board may order that the license of Nina C. Kostraba, M.D., to practice medicine and surgery in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

IT IS FURTHER ORDERED, that the effective date of this order is the date on which it is signed.

Dated this 18 day of December, 1992.


B. Ann Neviasher, Secretary
Wisconsin Medical Examining Board

/jmo
ATY2-2988

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

NINA C. KOSTRABA, M.D.,
RESPONDENT.

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:

STIPULATION
92 MED 381

It is hereby stipulated between Nina C. Kostraba, M.D., and Judith Mills Ohm, attorney for the Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Nina C. Kostraba, M.D., Respondent herein, date of birth August 3, 1946, is a physician licensed and currently registered to practice medicine and surgery in the State of Wisconsin pursuant to license number 23114, which was granted on July 11, 1980.
2. Respondent currently practices medicine and surgery in the State of Wisconsin and in the State of Minnesota.
3. Dr. Kostraba is aware of and understands each of her rights, including the right to a hearing on the allegations against her, at which time the State has the burden of proving the allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her own behalf and to compel their attendance by subpoena; the right to testify on her own behalf; the right to file objections to any proposed decisions and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for a rehearing; the right to appeal a final decision to the Wisconsin court system; and all of the rights afforded her under the United States Constitution, the Wisconsin Constitution, and the Wisconsin Statutes and Administrative Code.
4. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph 3 above.
5. For the purposes of this Stipulation, Respondent agrees that the Wisconsin Medical Examining Board may make and enter the attached Final Decision and Order without prior notice to any party.
6. The parties to this Stipulation and the Board Advisor may appear before the Board to argue in favor of acceptance of this Stipulation and the issuance of the attached Final Decision and Order.
7. If any term or condition of this Stipulation and attached Final Decision and Order is not approved by the Wisconsin Medical Examining Board, then no term of this Stipulation and attached Order shall be binding in any manner on any party.

92 MED 381
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J. Mills Ohm
Attorney for Respondent

8. The parties agree that if the Medical Examining Board rejects this Stipulation and if this disciplinary action proceeds to a hearing, the parties will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and attached Final Decision and Order or of any records relating thereto.

9. If this Stipulation is adopted by the Medical Examining Board, then the attached Final Decision and Order shall become effective immediately upon the issuance of the signed Order by the Medical Examining Board.

Dated this 12 day of December, 1992.

Nina Kostraba M.D.
Nina C. Kostraba, M.D.
Respondent

Dated this 17th day of December, 1992.

Judy Mills Ohm
Judy Mills Ohm
Attorney for Complainant
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

/jmo
ATY2-2987

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 December, 22, 1992.