

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

DONALD R. BEAVER, D.O.,
RESPONDENT

FINAL DECISION AND ORDER
90 MED 232

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

Donald R. Beaver
12500 West Bluemound Road
Elm Grove, WI 53122

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 the final decision of this matter, subject to the approval of the Board. Having determined that it has jurisdiction and authority to act in this matter pursuant to Wis. Stats. §448.02(3), the Board has reviewed this Stipulation and considers it acceptable.

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Donald R. Beaver to practice medicine and surgery in the state of Wisconsin [license #21611] shall be LIMITED, in accordance with the following terms, conditions and requirements:

1. Within three (3) months from the date of this order, Dr. Beaver shall complete an assessment and evaluation of his knowledge and skills in the practice of medicine as outlined in Exhibit 1. The assessment shall be conducted by the University of Wisconsin School of Medicine, Continuing Medical Education Program. Exhibit 1 is attached and incorporated by reference into this order.

2. If the assessment report concludes that Dr. Beaver has significant deficiencies that cannot be addressed through continuing education, this stipulation and order shall be null and void; this matter shall then be returned to the Division of Enforcement for further proceedings. The results of the assessment shall be admissible in any subsequent proceedings by the Division of Enforcement, pursuant to Wis. Stats. 448.02(3)(a).

3. If the assessment referred to in ¶1, above indicates a need for further training and education, Dr. Beaver shall by no later than twelve (12) months from the date of this order participate in and successfully complete an educational program established through the University of Wisconsin School of Medicine, Continuing Medical Education Program. The educational program shall

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be designed to specifically address any deficiencies revealed in the assessment report. Dr. Beaver shall complete this educational program in addition to his required continuing medical education credits under § 448.13, Wis. Stats.

a. Failure to successfully complete the program shall constitute a violation of this order. The Board may impose additional discipline, including revocation or suspension of licensure, or the imposition of additional requirements or restrictions upon Dr. Beaver's practice, if Dr. Beaver fails to successfully complete an assessment and educational program in accordance with this Order.

b. Dr. Beaver shall permit the individuals conducting the assessment and the educational program to submit information regarding Dr. Beaver's participation in the program, including the results of any written or oral evaluations. The individuals conducting the program shall certify to the Board the results of their evaluation and specify whether Dr. Beaver has achieved the course objectives for the program.

c. Following completion of the educational program, the Board in its discretion may invite Dr. Beaver to appear before it to address any questions the Board may have concerning the assessment and educational program. Dr. Beaver shall make himself available to appear in response to an invitation by the Board.


c. Dr. Beaver shall be responsible for payment of all costs of the assessment and educational program.

IT IS FURTHER ORDERED that the pending investigation [investigative file #90 MED 232] shall be closed without further investigation.

IT IS FURTHER ORDERED, pursuant to the authority of §448.02(4), Stats. and Wis. Adm. Code RL Ch. 6, that upon a determination of probable cause to believe that Dr. Beaver has violated any of the terms of this order, the Board may in its discretion order that the license of Donald R. Beaver be summarily suspended pending full investigation of the alleged violation.

This Order shall become effective upon the date of its signing.

MEDICAL EXAMINING BOARD

By: 
Clark O. Olsen, M.D.
Secretary
Medical Examining Board

20 July 93
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DONALD R. BEAVER, D.O.
RESPONDENT

STIPULATION
90 MED 232

It is hereby stipulated between Donald R. Beaver, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. Donald R. Beaver (D.O.B. 04/10/33) is duly licensed in the state of Wisconsin to practice medicine and surgery (license #21611). This license was first granted on July 14, 1978.
2. Dr. Beaver's latest address on file with the Department of Regulation and Licensing is 12500 West Bluemound Road, Elm Grove, WI 53122.
3. This Stipulation is entered into as a result of a pending investigation of Dr. Beaver's licensure by the Division of Enforcement (88 MED 179). Dr. Beaver consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
4. Dr. Beaver understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
5. Dr. Beaver is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.
6. Dr. Beaver agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
7. If the Board accepts the terms of this Stipulation, the parties to

the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

8. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Medical Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.


9. The parties to this stipulation waive all costs.

10. The Division of Enforcement joins Dr. Beaver in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.




Donald R. Beaver, D.O.

7-5-93
Date


Mary K. Johnson, Attorney
Division of Enforcement

7-8-93
Date


Steven M. Gloe, Attorney
Division of Enforcement

7.8.93
Date



University of Wisconsin-Madison

School of Medicine

CONTINUING MEDICAL EDUCATION

Thomas C Meyer, M.D., Director 608-263-2852
Barbara E Wermuth, Secretary 608-263-1671

2715 Marshall Court
Madison, Wisconsin 53705
Telephone: 608-263-2850
FAX: 608-262-8421

Exhibit 1

MEB requests that we ascertain whether Dr. DRB

1. has knowledge of the common pathophysiologies of the GI tract such that he can recognize and appropriately treat patients who present with GI symptoms.
2. is able to perform adequate examinations on patients complaining of symptoms referable to the colon, rectum and anus.

Proposed assessment

1. Test stimulated recall based around the pathophysiology and treatments of common conditions affecting the GI tract.
2. OSCE centered around the performance of an adequate anal and rectal examination.
3. Attendance at a rectal clinic to assess Dr. DRB's ability to recognize common abnormalities and pathologies of the ano-rectal area.

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 July, 29, 1993.

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) (c). 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 employee 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.