

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	:	FINAL DECISION AND ORDER
	:	91 MED 122
MARK A. HUFFMAN, M.D.,	:	92 MED 451
RESPONDENT.	:	

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

Mark A. Huffman, M.D.
4421 North Maryland
Shorewood, 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 the final decision 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. Mark A. Huffman (D.O.B. August 23, 1958) is duly licensed to practice medicine and surgery in the state of Wisconsin pursuant to license #27226, which license was first granted on October 25, 1985.

2. Respondent's latest address on file with the Department of Regulation and Licensing is 4421 North Maryland, Shorewood, WI 53211.

91 MED 122

3. On June 10, 1991, Respondent, through his attorneys, contacted the Wisconsin Department of Regulation and Licensing, Division of Enforcement, for the purpose of reporting that Respondent had been charged, in Milwaukee County Circuit Court-Criminal Division case number F-911996, with one count of third degree sexual assault and one count of second degree sexual assault.

4. The incidents alleged in the criminal complaint took place February 5, 1991 and May 21, 1991. On each occasion Respondent allegedly had contact with a patient's penis, without the consent of the patient, for non-medical purposes.

5. On May 22, 1991, following the second alleged incident, Respondent voluntarily became an inpatient at Milwaukee Psychiatric Hospital, in Wauwatosa, Wisconsin, under the care of Dinshah Gagrath, M.D., a psychiatrist, for treatment of depression.

6. Following Respondent's discharge from the inpatient hospitalization on June 12, 1991, Respondent has remained in outpatient treatment with his psychiatrist Dinshah Gagrath, M.D., through this date.

7. Respondent has not practiced medicine or seen patients for any purpose since May 22, 1991.

8. That on June 20, 1991, with Respondent's agreement, the Wisconsin Medical Examining Board issued an Order, effective May 22, 1991, which among other things ordered:

- a. "That Dr. Huffman shall not examine or treat any patient in person."
- b. "Following documentation being sent to the Department of Regulation and Licensing, Division of Enforcement, from Dr. Huffman's treating psychiatrist certifying that Dr. Huffman is psychiatrically and psychologically able to perform such tasks competently, Dr. Huffman shall be allowed to: consult with other physicians; do research which does not require examination or touching of patients or research subjects; answer medical inquiries; teach, so long as the teaching does not require contact with patients; analyze medical paperwork for insurance claims; review medical paperwork for the purpose of giving second or expert opinions."
- c. "That Dr. Huffman shall not dispense, prescribe, or administer any controlled substance as defined by Chapter 161, Wis. Stats., in circumstances which bring him into physical contact with patients."

9. That on January 14, 1992, the criminal charges in case F-911996 were reduced and Respondent was convicted, based upon his pleas of guilty, of two counts of fourth degree sexual assault, misdemeanor offenses.

10. That on April 14, 1992, Respondent was sentenced to the Wisconsin prison for 9 months on each count, consecutive, which sentence was stayed. Respondent was placed on probation for a period of 3 years and was ordered to be incarcerated for a period of 7 months at the Milwaukee County Huber Center, with work-time release. The work-time release was for psychological treatment and 1,000 hours of public service to the AIDS Resource Center of Wisconsin, or St. Benedict's Clinic, and the Victim Reconciliation Program if receptive.

11. That Respondent has completed his incarceration and the 1,000 hours of community service. He remains on probation.

12. That prior to September of 1990 Respondent had completed a Family Practice Residency and was board certified by the American Board of Family Practice. He had extensive emergency medicine experience and was an assistant clinical professor in the emergency medicine program at the Medical College of Wisconsin. However, Respondent had never completed an emergency medicine residency, and was not Board Certified in emergency medicine.

13. That in September of 1990, Respondent volunteered for and was called to active duty by the United States Army Reserves as part of operation Desert Shield. Respondent was ordered to report to Darnall Army Hospital at Ft. Hood, Texas.

14. That upon Respondent's arrival at Darnall Army Hospital, he presented to the credentials coordinator a certificate Respondent had forged indicating that Respondent had completed an emergency medicine residency at the Medical College of Wisconsin. The military authorities determined the fraudulent nature of the certificate and denied Respondent privileges at Darnall Army Community Hospital, Ft. Hood, Texas.

15. That the denial of privileges at Darnall Army Hospital was reported to the State of Wisconsin by the Disciplinary Action Report of the Federation of State Medical Boards. Respondent, through his attorneys, had voluntarily brought this matter to the attention of the Department of Regulation and Licensing and the Medical Examining Board, prior to the Board receiving notice of the action from any other person or entity.

16. That on April 27, 1993, Dr. Gagrut, Respondent's psychiatrist since May 21, 1991, wrote to the Division of Enforcement and set out his diagnosis, prognosis, and recommendations regarding Respondent. Among other things, Dr. Gagrut wrote:

- a. "During his inpatient treatment and subsequent outpatient treatment, I have had ample opportunity to formulate his diagnosis. It is my conclusion that Dr. Huffman carries a diagnosis of Atypical Bipolar Disorder, Post Traumatic Stress Disorder related to childhood sexual abuse and Mixed Personality Disorder. It is my opinion that these disorders led to his behavior and lack of judgment on three occasions related to his medical career that included falsification of medical credentials to the Army in 1990 and two sexual assaults to patients in 1991."
- b. "For almost two years now he has continued in weekly individual therapy with me and we have worked on many different issues. In addition to his individual therapy, he has participated in activity therapy and two group therapies, one dealing with victim reconciliation and the other on incest survival. Currently he sees me every 2-3 weeks."

- c. "He has been extremely compliant with his medical regimen and has maintained therapeutic lithium levels. To date he remains on the following medications: Lithium 600 mg. b.i.d., Prozac 20 mg. q.d., Corgard 40 mg. daily, Xanax .25 mg. 1-2 tablets as needed, and Doxycycline 100 mg. twice daily."
- d. "During his pharmacological therapy and psychotherapy he has had no further episodes of severe hypomania or depression. He continues to have occasional minor mood swings which we expected but these cause him no problems. He has had no ruminations or desires to sexually assault any patients or other individuals since entering therapy. He recognizes what has happened to him and has taken the appropriate steps in preventing it (sic) reoccurrence and describes his state of mind as that of a 'relative inner calm'. He is actively involved in relapse prevention."
- e. "I would recommend then, that Dr. Huffman be progressively re-entered into the realm of clinical medicine. We have discussed his immediate future plans and at this time he anticipates pursuing a fellowship in addictionology. This fellowship will allow him to be continually supervised during reintegration and provide him a structured program in which to re-enter."
- f. "It is my further recommendation that the restrictions related to his voluntary restriction of license be lifted. However, I would suggest that for the first twelve months he have a witness in the room for all patient exams or procedures. This could be re-evaluated when appropriate."
- g. "He would continue biweekly to monthly individual psychotherapy, continue with his ongoing group therapy, and submit a brief written report of his progress to the Board if so desired during the first year of re-entry and this would include documentation of his Lithium level to show compliance."

17. That at the request of the Division of Enforcement, Respondent was psychologically evaluated by Dr. Charles Lodl, a Milwaukee psychologist with extensive experience in evaluating and treating sexual offenders. Dr. Lodl's report, which is dated August 30, 1993, states:

- a. With these issues in mind, I consider Dr. Huffman as able to be rehabilitated and that he has accomplished some aspects of a relapse prevention program for his past sexual improprieties with patients.
- b. He demonstrates an understanding of the impact of sexually abusive behavior on his victims, and he has considered instituting some personal restrictions designed to maintain his own safety, as well as the safety of his patients.
- c. I consequently see him as ready for reconsideration of his license with certain restrictions such as, continued supervision of his patient examinations, and that he continue ongoing psychotherapy to deal with emotional and relationship issues which appear to have an effect on his doctor/patient relationships.

- d. It would also be helpful that he obtain some specific training with regards to the doctor patient relationship and dual relationship issues, and that he work in a collegial setting where there is ample opportunity for comprehensive peer review.

18. Respondent has been accepted for a fellowship in addictionology through the Medical College of Wisconsin and Milwaukee Psychiatric Hospital. The fellowship will commence when the size of the patient population will support it.

19. Respondent has verified to the Division of Enforcement that from May 22, 1991 through the date he signs the attached Stipulation that he did not, and that from that date through September 23, 1993 that he will not, practice medicine and surgery in the state of Wisconsin.

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 stipulated resolution pursuant to sec. 227.44(5), Wis. Stats.

3. That Respondent having been convicted of 2 counts of 4th degree sexual assault is the conviction of a crime which relates to practice under his license and is unprofessional conduct pursuant to sec. 448.02(3), Wis. Stats. and Wis. Adm. Code MED 10.02(2)(r).

4. That Respondent having submitted a false certificate that he had completed a residency in emergency medicine at Medical College of Wisconsin is the knowingly making of a false written statement in practicing under his license and unprofessional conduct as defined by sec. 448.02(3), Wis. Stats. and Wis. Adm. Code MED 10.02(2)(m).

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the license of Mark A. Huffman, M.D. to practice medicine and surgery in the state of Wisconsin is hereby suspended, retroactively, for a period of 2 years, four months and 2 days, from May 22, 1991 through September 23, 1993.

IT IS FURTHER ORDERED that following the suspension, Respondent's license to practice medicine and surgery shall be reinstated, with the following limitations:

1. That Respondent shall continue with and fully participate in treatment with his psychiatrist, Dinshah Gagrath, M.D., as follows:

a. Respondent shall comply with all recommendations of the approved psychiatrist for inpatient or outpatient treatment or both and shall comply with all aspects of the treatment program, including medication, as recommended by that psychiatrist.

b. All costs of the treatment program shall be the responsibility of Respondent or his health insurer.

c. The approved psychiatrist shall submit formal written reports to the Board every 3 months, with the first report due 3 months from the date of this Order. The report shall indicate whether Respondent has continued to follow the psychiatrist's recommendations for treatment and shall assess Respondent's progress in treatment. Respondent shall be responsible for the timely filing of these reports.

d. Respondent shall provide and keep on file, with his approved psychiatrist and all treatment facilities, current releases which comply with state and federal laws authorizing release of all of his medical and treatment records and reports to the Wisconsin Medical Examining Board and its agents and permit his psychiatrist and other health care providers to disclose and discuss the progress of his treatment and rehabilitation with the Wisconsin Medical Examining Board and its agents.

e. That Respondent's treatment shall include the medication Lithium in therapeutic doses and shall include periodic random blood tests of Respondent's Lithium level, to insure compliance with this requirement.

f. In the event that the approved psychiatrist is unable or unwilling to continue to provide treatment to Respondent, Respondent shall find another psychiatrist to provide those services, who shall first be found to be acceptable to the Board or its designee.

g. In the event that Respondent's approved psychiatrist believes that there is no longer a need for Respondent to continue in treatment, that psychiatrist shall submit a report to the Medical Examining Board setting out the basis for that conclusion, and the Board shall consider whether to end this requirement regarding treatment.

2. There shall be another health care professional physically present in the room with Respondent for all examinations or treatments provided to patients by Respondent. That health care provider shall sign the patient's medical record and indicate in the record that the health care provider was physically present in the room at the time the Respondent examined or treated the patient.

3. Respondent shall practice medicine only in those settings, which are first approved by the Board or its designee. Such settings shall be collegial and provide ample opportunity for comprehensive peer review.

4. A physician, who practices at the same facility as Respondent and who shall first be approved by the Board or its designee, shall serve as Respondent's supervising physician for purposes of this Order. The supervising physician shall insure that the requirements of paragraph 2 are being carried out at all sites where Respondent practices. The supervising physician shall meet with Respondent on a weekly basis to discuss Respondent's practice and address any problems or concerns in Respondent's practice.

5. The supervising physician shall file reports with the Wisconsin Medical Examining Board every 3 months, beginning 3 months from the date of this Order. The report shall indicate the manner in which the requirements of paragraph 2 are being carried out, and any problems or concerns which have arisen regarding Respondent's practice.

6. That, within six months of the date of this Order Respondent shall take and successfully complete 30 credit hours of Category I continuing medical education credits in the area of doctor/patient relationships and dual relationship issues, which course or courses shall first be approved by the Board or its designee.

83. 7. The requirements set out in paragraphs 2, 3, 4 and 5 shall continue for at least ~~one~~ ^{two} years from the date of this Order. Subsequent to the expiration of ~~one~~ ^{two} years, these limitations may be modified or terminated if Respondent appears before the Wisconsin Medical Examining Board and requests that these limitations on his license be modified or terminated, and if the Board grants that request. Respondent shall provide the Board with any basis for such request.

8. If the Respondent requests that any limitation on his license, which is imposed by this Order, be modified or terminated, it shall be in the sole discretion of the Board whether to modify or terminate the limitation. In the event that the Board declines to make a modification or termination requested by Respondent, it shall not be considered a denial of license, under 227.01(3)(a) which entitles Respondent to a hearing on the decision.

9. In the event Respondent, his psychiatrist, or his supervising physician, becomes aware of any complaint made against Respondent regarding alleged misconduct in the practice of medicine or surgery, that person shall immediately report the existence and details of that complaint to the Wisconsin Medical Examining Board.

10. Respondent shall appear before the Board at the time the stipulation is presented to the Board and shall appear before the Board every six months thereafter, until the Board orders otherwise. It shall be Respondent's responsibility to contact the Board office to schedule those appearances.

11. Respondent shall be permitted to continue practice upon condition that: he will refrain from engaging in unprofessional conduct; he will appear before the Board, its officers or its agents at such times as may be designated by the Board from time to time; he will fully disclose to the Board, or its officers or agents, the nature of his practice and conduct; he will fully comply with the limits placed on his practice and conduct by the Board; and, he will cooperate with the Board. [sec. 448.02(3)(e), Wis. Stats.]

12. Violation of any term or condition of this Order may constitute grounds for revocation of Respondent's license to practice medicine and surgery in the state of Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, the Board may order that Respondent's license be summarily suspended, pending hearing and determination of the alleged violation.

Dated at Madison, Wisconsin this 23rd day of September, 1993.



Clark O. Olsen, M.D.,
Secretary
Wisconsin Medical Examining Board

ATY2-4138

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK A. HUFFMAN, M.D.,
RESPONDENT.

:
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:
:
:

STIPULATION

It is hereby stipulated and agreed, by and between, Mark A. Huffman, M.D., Respondent; Stephen E. Kravit of Kravit, Gass & Weber, attorneys for Respondent; and, John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of two pending investigations of Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Wisconsin Medical Examining Board (files 91 MED 122 and 92 MED 451).

2. Respondent 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 a preponderance of the 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.

3. Respondent is aware of his right to legal representation, and has obtained such representation, prior to signing this stipulation.

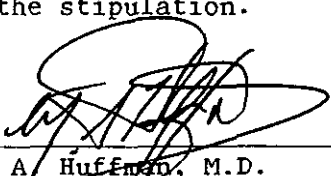
4. Respondent neither admits nor denies the allegations in this matter, but for personal reasons agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. 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.

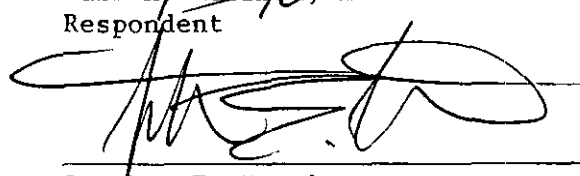
6. The parties to this stipulation agree that the Respondent, his attorney, and the attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The parties to this stipulation agree that the member of the Board appointed as the investigative advisor in this matter may appear before the Board in open or closed session 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.

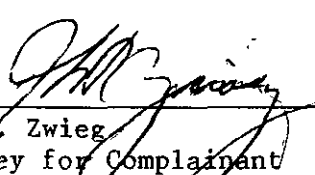
Dated: September 23, 1993.


Mark A. Huffman, M.D.
Respondent

Dated: September 23, 1993.


Stephen E. Kravit
Kravit, Gass & Weber
Attorneys for Respondent

Dated: September 23rd, 1993.


John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

JRZ:kcb
ATY2-4137

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 28, 1993.