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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE TO
PRACTICE MEDICINE & SURGERY OF

DAVID M. WILHELM, M.D.

FINAL DECISION AND ORDER

The Wisconsin Medical Examining Board, having met on May 27, 1993, and having received and considered a Stipulation, a copy of which is attached hereto and incorporated herein;

And the Wisconsin Medical Examining Board, having determined that it has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 448.02(3);

NOW, THEREFORE, IT IS ORDERED that the attached Stipulation is approved and adopted by the Wisconsin Medical Examining Board.

IT IS FURTHER ORDERED that Dr. David M. Wilhelm's license to practice medicine and surgery in the state of Wisconsin, license #28303, shall be and hereby is limited as follows:

- a. Dr. Wilhelm will participate in and satisfactorily complete an educational program involving the diagnosis and treatment of pediatric infectious diseases developed and administered through the University of Wisconsin School of Medicine, Continuing Medical Educational Program, under the direction and supervision of Thomas C. Meyer, M.D. This educational program will have an evaluation component, a home study educational component, a clinical component and a monitoring component.
- b. Dr. Wilhelm will commence an initial assessment and evaluation of his knowledge and skills in the diagnosis and treatment of pediatric infectious diseases within 30 days of the date of this Final Decision and Order. The purpose for this initial assessment and evaluation is to assist Dr. Meyer in developing the home study educational component and the clinical component of the educational program.
- c. After the initial assessment and evaluation, Dr. Meyer will submit to the Medical Examining Board for approval a specific proposal for a home study educational program and a clinical program. If Dr. Meyer is unable to develop a home study educational program, and a clinical program adequate to address the results of the initial assessment and evaluation, Dr. Meyer will so notify the Medical Examining Board and the matter will be returned to the Division of Enforcement for further proceedings.
- d. Dr. Wilhelm will commence the educational program within 30 days of Medical Examining Board approval of the program. He will complete this program within the time designated by Dr. Meyer.
- e. Dr. Wilhelm will take and pass oral or written evaluations administered over the course of the home study educational program and the clinical program.

- f. At the conclusion of the home study educational program and the clinical program, Dr. Meyer will report to the Medical Examining Board on Dr. Wilhelm's performance in these programs and, if accomplished, will certify to the Medical Examining Board satisfactory completion of the home study educational program, the clinical program and the written and oral evaluations.
- g. Dr. Wilhelm will participate in a quarterly review of his medical records and medical practice for a period of one year commencing on the date on which Dr. Wilhelm satisfactorily completes the home study educational program, the clinical program and the written and oral evaluations. This review will be conducted by a physician recommended by Dr. Meyer and approved by the Medical Examining Board. Dr. Wilhelm will make all of his pediatric patient medical records available to the reviewing physician and permit the reviewing physician to select the records which will be reviewed. Dr. Wilhelm will assist the reviewing physician in making this selection. The reviewing physician will serve under the direction and supervision of Dr. Meyer and will file written quarterly reports with Dr. Meyer setting forth the results of each review. If at any time the reviewing physician is unable or unwilling to serve, Dr. Meyer will designate a new reviewing physician and advise the Medical Examining Board of his or her identity. Dr. Meyer will submit a final report to the Medical Examining Board at the conclusion of the one year period of review summarizing Dr. Wilhelm's performance in the home study educational program, the clinical program, the written and oral evaluations and the results of the one year period of review of Dr. Wilhelm's pediatric medical records and medical practices.

IT IS FURTHER ORDERED that Dr. Wilhelm will be responsible for all of the costs of developing and administering the initial assessment and evaluation, for the costs of developing and administering the home study educational program and the clinical program, for compensating the reviewing physician for the reasonable value of his or her professional services and for the costs incurred in conjunction with the review process.

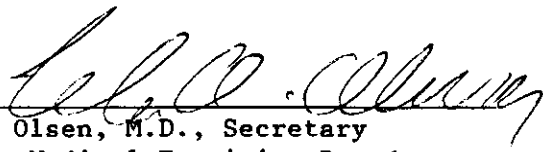
IT IS FURTHER ORDERED that Dr. Wilhelm will appear before the Medical Examining Board after he has completed the home study educational program, the clinical program and the one year review of his pediatric medical records and medical practices to establish that he has complied with all of the terms of this Final Decision and Order.

IT IS FURTHER ORDERED that the pending investigation, investigative file 91 MED 356, shall be, and hereby is, closed without further investigation and no formal action will be commenced as a result of this investigation.

IT IS FURTHER ORDERED that, pursuant to the authority of Wis. Stats. sec. 448.02(4) and Wis. Adm. Code Ch. RL 6, should the Medical Examining Board determine that there is probable cause to believe that David M. Wilhelm, M.D., has violated the terms of this Final Decision and Order of the Medical Examining Board, the Medical Examining Board may order that the license of David M. Wilhelm, M.D., to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

Dated at Madison, Wisconsin this 27 day of May, 1993.

BY THE BOARD



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

GCL:daw
ATY:2501

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE TO	:	
PRACTICE MEDICINE & SURGERY OF	:	
	:	STIPULATION
DAVID M. WILHELM, M.D.	:	

It is hereby stipulated between David M. Wilhelm, M.D., personally; and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. David M. Wilhelm, M.D., of 1687 E. Division Street, River Falls, Wisconsin, 54022, is a physician duly licensed and currently registered to practice medicine and surgery in the state of Wisconsin, license #28303, said license having been granted on April 10, 1987.
2. Dr. Wilhelm, M.D. specializes in family practice.
3. An investigation of Dr. Wilhelm is pending before the Medical Examining Board, investigative file 91 MED 356.
4. The parties to this Stipulation agree that the Medical Examining Board may render the Final Decision and Order attached hereto, the terms of which have been agreed upon by the parties.
5. The parties to this proceeding waive all costs of the investigation except that Dr. Wilhelm agrees to pay all costs of the evaluation, education, and monitor components of the program developed and administered through the University of Wisconsin School of Medicine, Continuing Medical Education Program, as more fully described in the Final Decision and Order, a copy of which is attached hereto.
6. Dr. Wilhelm understands that by signing this Stipulation, he freely, voluntarily, and knowingly waives his rights, including the right to be represented by an attorney; the right to a hearing on any allegations against him; the right to confront and cross examine witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify on his own behalf; 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 and order; the right to petition for rehearing; the right to judicial review; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
7. The parties to this Stipulation and the Board Advisor, Rodolfo Molina, M.D., may appear before the Medical Examining Board in support of this Stipulation. Any appearance by either party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

8. If any term of this Stipulation or the incorporated Final Decision And Order is not accepted by the Medical Examining Board, then no term of this Stipulation or the Final Decision And Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: _____

5-6-93

David M. Wilhelm M.D.
David M. Wilhelm, M.D.

Dated: _____

4/27/93

Gilbert C. Lubcke
Gilbert C. Lubcke, Attorney
Department of Regulation and Licensing,
Division of Enforcement

GCL:daw
ATY-2500

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 June 3, 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 as 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 s. 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.