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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

| | | |
|-------------------------------|---|----------------|
| IN THE MATTER OF DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | FINAL DECISION |
| | : | AND ORDER |
| F. GREGORY KREMBS, M.D., | : | LS9207271MED |
| RESPONDENT. | : | |

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER


NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 25 day of Aug, 1993.



STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

| | | |
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| IN THE MATTER OF THE DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | |
| | : | PROPOSED DECISION |
| F. GREGORY KREMBS, M.D., | : | LS9207271 MED |
| RESPONDENT. | : | |

The parties to this proceeding for purposes of s. 227.53, Stats., are:

F. Gregory Krembs, M.D.
2415 N. Terrace Avenue
Milwaukee WI 53211

Medical Examining Board
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

A hearing was held in this matter on February 3 and 4, 1993. Respondent F. Gregory Krembs, M.D., appeared in person, and with counsel Bruce Ehlke of the firm Lawton & Cates, 214 West Mifflin Street, Madison, Wisconsin 53703-2594. Complainant was represented by John R. Zwieng of the Division of Enforcement, Department of Regulation and Licensing.

The parties introduced a stipulation as to some of the facts and law relating to Count I of the Complaint, and stipulated to the admission of documents intended to provide a basis for findings of fact and conclusions of law relating to Count II of the Complaint. The parties left the determination of the appropriate discipline to be imposed, if any, because of the conduct described in the stipulation and exhibits to the administrative law judge and the Medical Examining Board.

Based upon the entire record, the administrative law judge recommends that the Medical Examining Board adopt the following Findings of Fact, Conclusions of Law and Order as its Final Decision in this matter.

FINDINGS OF FACT

1. F. Gregory Krembs, M.D., Respondent herein, DOB: October 8, 1943, is a physician duly licensed and registered to practice medicine and surgery in the State of Wisconsin pursuant to license number 17365, which was granted October 26, 1970. His last address reported to the Wisconsin Department of Regulation and Licensing is 2415 N. Terrace Avenue, Milwaukee, Wisconsin 53211.

2. Respondent was treated at DePaul Rehabilitation Hospital in Milwaukee, Wisconsin for alcohol abuse and opioid dependence on the following dates:

- a. January 4, 1983, through February 4, 1983, in-patient hospitalization.
- b. February 8, 1983, through June 22, 1983, out-patient treatment.
- c. March 7, 1986, through March 26, 1986, in-patient hospitalization.
- d. March 28, 1986, through October 29, 1986, out-patient treatment.

3. From November 4, 1986 through February 7, 1987, Respondent was treated as an out-patient at the McBride Center in Wauwatosa, Wisconsin.

4. There is no evidence that subsequent to 1986 that Respondent has used alcohol or inappropriately used controlled substances.

5. From January 12, 1989, through January 19, 1989, Respondent was treated at the Ivanhoe Treatment Center in Milwaukee, Wisconsin because of his reported depression. The discharge diagnosis was: alcohol and drug dependence in full remission; adjustment disorder with depressed mood; and, personality disorder, unspecified.

6. From January 22, 1989, through January 27, 1989, Respondent was treated for depression at Elmbrook Memorial Hospital.

7. From October 30, 1989 through June 13, 1990, Respondent was treated as an out-patient by Dr. Robert Frances, a Milwaukee area psychiatrist.

8. Respondent has seen Dr. Geoffrey Wandry, a psychiatrist, for treatment of depression and Dr. William Mc Daniels, a family practitioner, for medications relating to his mental health since being treated by Dr. Francis. Dr. Wandry reported that Respondent was under his care for approximately five months, receiving psychotherapy approximately every two weeks. Dr. Wandry reported that therapy was progressing well but was terminated for financial reasons. Dr.

Wandry's report does not include a diagnosis; Dr. McDaniel's report consists of a list of medications he is prescribing for Respondent.

9. In April, 1991 Dr. Steven V. Hansen, M.D., a Milwaukee area psychiatrist, performed a psychiatric evaluation of Respondent. The evaluation was done at the suggestion of the Division of Enforcement and was at Respondent's expense. Dr. Hansen's evaluation makes the Axis II diagnosis of Narcissistic Personality Disorder.

10. Other than the complaint which is the subject of Count I of this proceeding, the Department of Regulation & Licensing and the Medical Examining Board have not received any complaint from any patient or former patient of Respondent's alleging that he had sexual contact with them.

COUNT I

11. Respondent specializes in psychiatry, and from March to December 1988 was employed at the Drug Free Program, an outpatient alcohol and drug treatment program at Milwaukee County Mental Health Center (MCMHC).

12. At that time, the Drug Free treatment program at MCMHC involved three stages. The first stage was a stabilization group, which was run by an addiction specialist, and supervised by Respondent. Respondent would meet with the stabilization group approximately once per week. After four to six weeks, patients were eligible to enter a recovery group, which the addiction specialist and Respondent ran jointly as co-therapists. Respondent would also provide individual assistance to some of the participants.

13. On March 17, 1988, Patient One, a 24 year old single female, entered the Drug Free Program. At that time, Patient One had a 13 year history of alcohol/drug experimentation and abuse. She stated that she had not used drugs for two weeks and was diagnosed as being dependent on cocaine and alcohol.

14. The April 4, 1988, admission note of the addiction specialist indicates:

- a. that Patient one "has been seriously affected by her parents (sic) chemical dependency, sexual abuse by her mother's alcoholic boyfriends and physical abuse from her mother. I am recommending that she see the staff psychiatrist to deal with the aforementioned issues;"
- b. initial treatment issues to include "Begin to see staff psychiatrist - F. Gregory Krembs, MD to deal with dysfunctional family and physical/sexual abuse.

15. Patient One's treatment program in the Drug Free Program included individual sessions with Respondent on April 7, 1988; April 21, 1988; May 6, 1988; May 11, 1988; June 15, 1988; and June 22, 1988, when individual sessions were terminated.

16. The MCMHC discharge note written by the addiction specialist on September 21, 1988 and signed by Respondent on September 22, 1988, following Patient One's official discharge from the outpatient program on July 28, 1988, states: "She was seeing the psychiatrist 1X wk during this Rx episode to address sexual addiction and dysfunctional childhood . . ."

17. Respondent was also in attendance at many of the group sessions Patient One attended.

18. In the individual psychotherapy sessions, prior to Patient One's discharge from Respondent's treatment program, Respondent made flirtatious comments to Patient One; while she was in his office, he kissed her and grabbed her buttocks to pull her closer to him; during a session while she was in his office, Patient One was disrobed from the waist up while Respondent hugged and kissed Patient One and, during that session, Respondent indicated a desire to have sexual intercourse with Patient One there in his office, but Patient One declined to do so.

19. While she was in the treatment program, Respondent engaged in social activities with Patient One including working out at a health club together, visiting at his home and going out to eat.

20. On June 6, 1988, Patient One had an abortion. Respondent picked her up at the clinic immediately following the abortion to care for her, although Respondent had not had sexual intercourse with Patient One and was not responsible for her pregnancy. Respondent returned Patient One to her home later that evening.

21. While Patient One was in the treatment program, Respondent employed and paid Patient One to enter some computer data for him at his home on two or three occasions.

22. By July 18, 1988, the last time she was seen at the Drug Free Program prior to her official discharge, Patient One's depression had worsened and she began to act out sexually at an increased level. She requested in-patient psychiatric care. Respondent arranged for Patient One's admission to Columbia Hospital in Milwaukee, through a psychiatrist with whom he was acquainted. Respondent told that psychiatrist that Patient One was Respondent's friend, but did not tell the psychiatrist that she had been his patient and in treatment at his program. Respondent could have admitted Patient One as an in-patient at MCMHC but chose to have her admitted at Columbia, where he did not practice.

23. On July 18, 1988, Respondent drove Patient One to Columbia Hospital and was present while she was admitted at approximately 10:00 p.m. Neither Respondent nor Patient One told the health care providers or other people at Columbia Hospital that she had been Respondent's patient. Patient One and Respondent agreed that Patient One would tell people at Columbia Hospital that she and Respondent had met at an AA meeting.

24. Patient One was an in-patient at Columbia Hospital from July 18, 1988 to July 24, 1988, under the care of another psychiatrist. The discharge diagnosis was: Axis I: Dysthymic disorder; Axis II: Borderline personality disorder. She was referred to Columbia's out-patient program.

25. Patient One was being evicted from her apartment, and while Patient One was an in-patient at Columbia she and Respondent agreed that Patient One would move into Respondent's home with him upon her discharge from in-patient hospitalization. Within a few days of her discharge from in-patient hospitalization at Columbia Hospital, Patient One moved into Respondent's home and resided with him until mid-November 1988.

26. At the time Patient One moved in with Respondent they agreed that they would not have sexual contact for the first 30 days that she lived in his home. During the first 10 days that Patient One lived in Respondent's home, she and Respondent sometimes slept together. Approximately 10 days after she moved into his apartment and continuing until she moved out in mid-November 1988, Patient One and Respondent One had sexual contact and sexual intercourse on several occasions.

27. From July 28, 1988 through August 23, 1988 while Patient One was living with Respondent, she was a patient at Columbia Hospital Psychotherapy Center's out-patient program under the care of another psychiatrist. During that period, Respondent discussed therapeutic topics with Patient One; supported Patient One regarding her concerns about the recommendations of the other psychiatrist and encouraged her to discuss them with the other psychiatrist. Respondent's efforts to encourage and assist Patient One created an apparent conflict with the therapy being provided by the other psychiatrist.

28. During the period of time Patient One resided with Respondent in his apartment during 1988, Respondent also prescribed the following to Patient One:

- a. August 11, 1988, 35 units of Ritalin 5mg, a brand of methylphenidate hydrochloride, a schedule II controlled substance, which is a central nervous system stimulant.
- b. August 31, 1988, 40 units of trazodone 50mg, an antidepressant.
- c. November 4, 1988, 30 units of diazepam 2mg, an anxiolytic.

d. November 4, 1988, 120 units of Lithonate 300mg, a brand of lithium carbonate, a drug used to treat manic-depressive illness (bipolar affective disorder).

29. During the period of time Patient One lived with Respondent, she legally changed her first name with his encouragement and at the same time also changed her last name to "Krembs".

30. In September, 1988 Respondent contacted a psychiatrist he knew who worked at De Paul Rehabilitation Hospital in Milwaukee and arranged for Patient One's admission in the De Paul drug treatment program even though she lacked any insurance. Patient One was an inpatient in that program from September 30, 1988, through October 13, 1988.

31. Patient One's discharge plan from De Paul recommended a halfway house placement and indicated she was to be evaluated for that purpose at Meta House, in Milwaukee. She was evaluated at Meta House on October 19, 1988, but the staff declined to accept her into the program because of her relationship with Respondent.

32. Following the Meta House evaluation, a friend of Patient One's took her to Pathways Counseling Center in Milwaukee to meet with a counselor on one occasion. That counselor contacted a psychiatrist at MCMHC and referred Patient One there for out-patient treatment.

33. From November 11, 1988, through November 18, 1988, Patient One received outpatient psychiatric treatment at MCMHC.

34. From November 26, 1988, through December 15, 1988, Patient One was in the NewStart Meriter drug treatment program in Madison, Wisconsin, residing in their Community Based Residential Facility. Respondent loaned Patient One \$1,500 so that she could enter that program without insurance.

35. On December 19, 1988, following her treatment at NewStart Meriter in Madison, Patient One was referred by NewStart to Meta House, a residential treatment facility in Milwaukee, where she stayed until she was discharged December 23, 1988 because her urine showed positive for ephedrine and because she was engaging in disruptive behavior.

36. Patient One never returned to reside with Respondent after her December 15, 1988 release from NewStart.

37. From January 10, 1989, through November 16, 1989, Patient One returned to MCMHC and received outpatient psychiatric treatment there.

38. Respondent's conduct of engaging in sexual activity with a patient or former patient, in the circumstances set out above, was conduct which fell below the level of minimal competence accepted in the field of psychiatry and which posed unacceptable risk of harm to the health of the patient or former patient.

COUNT II

39. Respondent was retained by the plaintiffs to express his professional opinion as a physician in Milwaukee County Circuit Court case number 89-CD-01635.

40. In the course of discovery, Respondent was deposed under oath on April 29, 1992 by L. William Staudenmaier, of Cook and Franke, S.C., attorneys for the defendants in that civil action.

41. During the course of the April 29, 1992 deposition, Mr. Staudenmaier asked the following question and Respondent gave the following answer:

- "Q. Have you ever been accused of malpractice, professional malpractice or negligence to the Medical Licensing Board for the State of Wisconsin?
A. No."

42. On April 29, 1992, at the time of the deposition, Respondent knew that Patient One had complained to the medical licensing authorities for the State of Wisconsin accusing Respondent of a course of negligent conduct in caring for her.

43. Respondent's answer given under oath to that question was actually not correct.

44. Prior to April 29, 1992, Respondent had been contacted by Investigator Pam Ellefson of the Department of Regulation and Licensing, Division of Enforcement on three occasions explaining the nature of the investigation she was conducting for the Wisconsin Medical Examining Board regarding the allegations set out in Count I above and attempting to schedule an interview of Respondent regarding those allegations.

45. In addition, prior to April 29, 1992, Investigator Ellefson met with Respondent for almost two hours interviewing Respondent regarding the allegations set out in Count I above.

46. Respondent was deposed in this disciplinary proceeding on August 24, 1992. Respondent's explanation for why he answered the question in the manner in which he did indicates that he was suspicious of the motives of the attorney who asked the question, and he

was trying to avoid providing the attorney with information which would lead to further questions. Dr. Krembs believed that the answers to the questions would be used to place him in an unfairly unfavorable light.

47. Respondent's answer to the question in the deposition was a statement in practice. At the time of the deposition, Respondent knew his response was false, and he made the false statement with the intent of misleading the attorney asking the question.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to s. 448.02(3), Stats.

2. Respondent's conduct in entering into a sexual relationship with Patient One is unprofessional conduct as defined by sec. 448.02(3), Wis. Stats and Wis. Adm. Code sec. MED 10.02(2)(h).

3. Respondent's statement in the deposition of April 12, 1992, that he had not been accused of malpractice was a false statement knowingly made in practice with fraudulent intent, and constitutes unprofessional conduct pursuant to Wis. Adm. Code sec. MED 10.02(2)(m).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license to practice medicine and surgery in Wisconsin previously issued to F. Gregory Krembs, M.D., be and hereby is REVOKED, effective thirty days of the date of this Order.

IT IS FURTHER ORDERED that the assessable costs of this proceeding be imposed upon Respondent, F. Gregory Krembs, M.D., pursuant to s. 440.22, Stats.

OPINION

The stipulated facts in this proceeding are sufficient to show that Dr. Krembs engaged in highly inappropriate behavior with a patient, and that he lied in response to a question in a deposition which was designed to provide information about his qualifications and the weight to be given to his testimony in another case. The stipulated facts present a picture of a physician who has had difficulty controlling his use of controlled substances and alcohol, is in recovery from that very insistent problem, and who made one very bad mistake of judgment in getting romantically involved with a patient. The relationship went bad; as a consequence, the physician was under investigation by the authorities on a complaint by the patient who became his lover. The physician made another mistake when he lied about whether he had been the subject of such a complaint.

The stipulated exhibits include medical records of the patient and of Respondent which provide strong convincing support for the conclusion that Dr. Krembs engaged in a predatory program to obtain for himself a dependent sexual partner. The exhibits convincingly refute any conclusion that Dr. Krembs was simply beguiled by love, or seduced by a manipulative psychiatric patient.

Dr. Krembs was the director of the program in which the patient was enrolled, and the patient's medical records show that Dr. Krembs was involved in her care and knew the details of her history. Dr. Krembs knew that the patient was trying to beat an addiction to controlled substances, and he knew that one of the methods she had devised to help her was to substitute sexual intercourse for illicit drugs. He knew that she had a history of physical and sexually abusive relationships, and that she had a tendency to become dependent on a lover, more so when using sex as a means of staying off of drugs.

Dr. Krembs is himself a person in need of psychological help. He recognizes this, but it is clear that he resists fully participating as a patient rather than a co-therapist. Consequently, it appears that his attempts at therapy have been unsatisfactory. Dr. Wandry's evaluation that therapy was proceeding well is based on at most 10 sessions, and there is no detail available to help define what progress was made.

Counsel in this case provided stipulated facts to support a choice in the decision of whether Dr. Krembs began sexual intimacies with the patient before or after she left individual treatment under his care. The stipulation was that the patient would testify credibly that the contact began during individual treatment sessions she had with Dr. Krembs as her psychiatrist, and that Dr. Krembs would testify credibly that it had not. Because the totality of the evidence convinces me that Dr. Krembs had a predatory motive toward this patient, and because he has demonstrated a particularly fluid definition of truth, I adopt the patient's stipulated testimony as the fact.

The evidence which convinces me of Dr. Krembs' predatory motive toward this patient consists of his knowledge of her history; his intrusion into her life as a source of daily support beyond psychiatric treatment; his invitation that she live in his home, with an agreement of temporary celibacy he knew she could not keep and his agreement to let her sleep in his bed with him during the period of agreed celibacy. It is inconceivable that Dr. Krembs could allow Patient One to enter into such a relationship knowing the details of her attempts to defeat her chemical addiction, given her very recent release from the treatment program he directed, followed almost immediately by an abortion, and yet claim to have had no thought of exploiting the patient's vulnerability. Dr. Krembs knew that the patient had just come out of a program to defeat a chemical addiction, and he knew that one weapon she used to fight the chemical

addiction was the substitution of sexual intercourse. The choices of explanation for Dr. Krembs' conduct are either that he is completely incompetent in the treatment of addiction, or that he is manipulative and predatory for his own pleasure.

I am convinced that he is manipulative and predatory for his own pleasure. Dr. Krembs persisted in prescribing medications for this patient while she was living with him as his lover, even though she was under treatment by another professional who was trying to treat her without drugs. Dr. Krembs knew the treatment plan was a drug free program, and yet he prescribed medication to the patient, and discussed therapeutic issues with her. Predictably, Dr. Krembs' conduct was an apparent obstacle to the patient's treatment.

Dr. Krembs says he was in love, and that the patient manipulated him into a bad situation. Dr. Krembs testified at the hearing of this matter, and consistently described the patient as the person responsible for the situation, and described himself as a person who had been seduced and trapped into an inappropriate relationship. There is undoubtedly some truth to this perception; the patient has been diagnosed with a borderline personality disorder, and the patient's behavior is certainly consistent with the history she presented with at Dr. Krembs' program. Dr. Krembs, however, has been evaluated as having a narcissistic personality disorder, and his conduct in this matter is consistent with the exhibits describing that disorder. The portion of his conduct which does not appear to be attributable to the personality disorder is the planning, and the deceit. Dr. Krembs actively lied and by omission misrepresented his relationship with the patient to his colleagues and her physicians. He persisted in supplying the woman with drugs and therapy discussions in conflict with the treatment plan of another physician, all the while encouraging the woman in behaviors she had correctly identified as harmful to herself. She had met Dr. Krembs when she came to the program he directed, seeking help to stop the cycle of dependency, drug and sex addiction. He took her into his home, encouraged her to continue the behavior she was trying to stop, and placed obstacles in the way of her treatment. His gain was a sexual relationship.

The function of discipline is not punishment, but protection of the public health, safety and welfare. The public safety clearly requires that Dr. Krembs be removed from the practice of medicine. His predatory, dishonest behavior in regard to the patient here, and his dishonesty in the deposition which forms the basis of the second count of the complaint in this proceeding, convince me that Dr. Krembs is incapable of practicing in a manner consistent with the requirement that his patient's needs have priority over his own desires. There is no reason to believe that any education or therapy will be effective in rehabilitating Dr. Krembs. His medical records depict his resistance to other therapy, and that resistance makes license limitations

clearly inadequate for public protection. License limitations are effective only when there is either a will to comply, or a method of enforcing compliance. There is no apparent method to enforce compliance in this case. Dr. Krembs' employer testified at the hearing, and it is clear that she has accepted Dr. Krembs' version of the events as a complete and accurate one. This is not surprising in as much as she has only had one side of the story, but it does reduce the apparent value of relying on his employer as a supervisor of practice limitations. Dr. Krembs is unwilling to take any significant personal responsibility for the events leading to this proceeding, and it is therefore unlikely that he has sufficient recognition of a need for rehabilitation to give him the will to comply with license limitations.

I believe that suspension is inappropriate because a term of suspension implies some confidence in continuing competence, and an ability to correct a deficiency. I think it is clear that Dr. Krembs is not competent to practice psychiatry, and I think that his dishonesty and his inability to recognize the degree to which he failed to meet minimally competent standards of practice or responsibility with the patient here make it more likely than not that he does not recognize minimally competent standards of practice or responsibility in areas other than his chosen specialty. I believe that revocation of Dr. Krembs' license is clearly in the public interest, and that no future license should issue to him until such time as he can prove the competence required of one who has never been licensed to practice medicine.

Dated this 6th day of July, 1993.



James E. Polewski
Administrative Law Judge

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 August 30, 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) (e). 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 employe 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

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

F. GREGORY KREMBS, M.D.,
RESPONDENT.

:
:
: AFFIDAVIT OF COSTS
: OFFICE OF BOARD LEGAL SERVICES
: LS 9207271 MED
:

STATE OF WISCONSIN
COUNTY OF DANE, s.s.:

James E. Polewski, being first duly sworn on oath, deposes and says that

1. He is an attorney licensed to practice in Wisconsin, and is employed by the Office of Board Legal Services, Division of Legal Services and Examinations, Department of Regulation and Licensing.

2. In the course of that employment, he was assigned to preside as administrative law judge in the captioned case, and in the course of that assignment he expended the following time and committed the Department to the following expense:

| <u>DATE</u> | <u>ACTIVITY</u> | <u>TIME</u> |
|-------------|--------------------------------------|--------------------|
| 8/3/92 | Prepare Notice of Prehearing | 30 min. |
| 12/18/92 | Preside at Prehearing, prepare Order | 30 min. |
| 2/3/93 | Preside at Hearing | 3 hr. 30 m. |
| 2/4/93 | Preside at Hearing | 2 hr. 45 m. |
| 2/8/93 | Review exhibits | 2 hr. 30 m. |
| 6/21/93 | Draft decision | 45 min. |
| 6/22/93 | Draft decision | 1 hr. 15 m. |
| 6/23/93 | Draft decision | 3 hr. 30 m. |
| 6/28/93 | Draft decision | <u>2 hr. 30 m.</u> |
| TOTAL TIME: | | 17 hr. 45 m. |

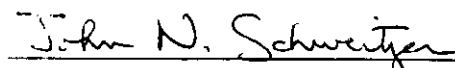
Administrative Law Judge cost, 17.75 hr @ \$29.82: \$ 529.30

Court reporter cost (Magne-Script, Madison) \$ 798.70

TOTAL ASSESSABLE COSTS, OFFICE OF BOARD LEGAL SERVICES: \$1328.00


James E. Polewski

Sworn and subscribed before me this 6th day of July.


Notary Public
My Commission is Permanent.

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

| | | |
|-----------------------------------|---|--------------------|
| IN THE MATTER OF THE DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | |
| | : | AFFIDAVIT OF COSTS |
| F. GREGORY KREMBS, M.D., | : | LS9207271MED |
| RESPONDENT. | : | |

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

JOHN R. ZWIEG, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

| <u>Date</u> | <u>Activity</u> | <u>Time Spent</u> |
|-------------|--|-------------------|
| 12/27/90 | Letter to atty Ehlke, and enclosed proposed letter to Dr. Gonsiorek. | 2 hr 45 min |
| 01/03/91 | Tele. conv. with Dr. Gonsiorek | 15 min |
| 02/28/91 | Review of Dr. Gonsiorek's evaluation of Respondent. | 1 hr 45 min |
| 03/01/91 | Tele. conv. with atty Ehlke. | 15 min |
| 03/06/91 | Tele. conv. with atty Ehlke (2) and obtaining of names of Drs. to do evaluation. | 45 min |
| 03/27/91 | Letters to atty Ehlke and Dr. Hansen, and draft evaluation agreement. | 45 min |
| 05/14/91 | Review Dr. Hansen's evaluation. | 1 hr 15 min |

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| 05/16/91 | Letter to Dr. Arndt. | 30 min |
| 05/17/91 | Letter to atty Ehlke. | 15 min |
| 05/22/91 | Disc. with Dr. Arndt. | 15 min |
| 05/24/91 | Meeting with atty Ehlke. | 30 min |
| 06/13/91 | Letter to Dr. Arndt. | 15 min |
| 06/19/91 | Tele. conv. with Dr. Gonsiorek. | 15 min |
| 06/26/91 | Disc. with Dr. Arndt. | 30 min |
| 08/08/91 | Tele. conv. with atty Ehlke (2) and Dr. Hansen. | 45 min |
| 09/16/91 | Tele. conv. with atty Ehlke. | 15 min |
| 10/04/91 | Review of letter from Dr. Hansen. | 30 min |
| 10/08/91 | Letter to Dr. Arndt. | 30 min |
| 10/11/91 | Letter to atty Ehlke. | 15 min |
| 10/11/91 | Review of letter and materials from atty Ehlke. | 20 min |
| 10/29/91 | Letter to Dr. Arndt, telephone conv. with atty Ehlke and with Dr. Arndt. | 45 min |
| 02/06/92 | Letter to atty Ehlke. | 15 min |
| 05/05/92 | Telephone conv. with atty Staudenmaier. | 40 min |
| 05/06/92 | Letter and affidavit to atty Staudenmaier. | 1 hr 10 min |
| 05/18/92 | Telephone conv. with atty Staudenmaier. | 30 min |
| 07/15/92 | Tele. conv. atty Pledl. | 45 min |
| 07/17/92 and 07/20/92 | Review of file and drafting Complaint. | 6 hr 40 min |
| 07/22/92 | Letter to Patient 1, with releases. | 40 min |
| 07/24/92 | Obtain ALJ and hearing dates, draft Notice of Hearing, and arrange for service, letter to atty Ehlke. | 45 min |
| 07/27/92 | Tele. conv. atty Ehlke. | 15 min |

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| 07/29/92 | Making arrangements for deposition of Respondent, prep. of medical records, and drafting Notice of Dep. and Notice of Filing Health Care Records, letter to atty Ehlke. | 1 hr |
| 07/30/92 | Letter to atty Staudenmaier. | 15 min |
| 07/30/92 | Review of letter from Atty Ehlke. | 15 min |
| 07/30/92 | Letter to Atty Pledl | 15 min |
| 07/31/92 | Meeting with atty Ehlke. | 15 min |
| 08/04/92 | Review of Notice of Prehearing Conf. | 15 min |
| 08/05/92 | Letter to atty Ehlke. | 30 min |
| 08/10/92 | Review of letter from atty Pledl. | 15 min |
| 08/10/92 | Letter to Pt. 1. | 20 min |
| 08/11/92 | Tele. conv. with atty Schuett of Cook and Franke | 30 min |
| 08/13/92 | Review of materials sent from Cook & Franke | 45 min |
| 08/18/92 | Prep. for and Prehearing Conf. | 30 min |
| 08/18/92 | Letter to Columbia Hosp. | 15 min |
| 08/21/92 | Disc. with ALJ and tele. conv. with Atty Ehlke re extension of time to answer. | 20 min |
| 08/21/92 | Tele. conv with Pt. 1. | 1 hr 10 min |
| 08/24/92 | Prep. for deposition of Respondent and attend deposition. | 7 hr 15 min |
| 08/26/92 | Review Answer. | 1 hr 30 min |
| 08/26/92 | Tele. Conversation with Dr. Steven Hansen and arranging for expert witness contract. | 1 hr 10 min |
| 08/27/92 | Tele. Conversation with Dr. Kathryn Brimhall. | 45 min |
| 08/27/92 | Prep. for meeting with Patient 1, draft subpoena for Pt. 1, travel to Milwaukee, review Columbia Hosp. records on Patient 1, travel to Racine, meet with Patient 1, return to Madison. | 10 hr 30 min |
| 08/28/92 | Review Columbia Psychotherapy Center records on Pt. 1. | 1 hr 40 min |

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| 08/28/92 | Telephone conversation with Atty Ehlke. | 15 min |
| 08/28/92 | Letter to Meriter Hosp. | 15 min |
| 08/31/92 | Letter to DePaul Hosp. | 15 min |
| 08/31/92 | letter to atty Ehlke. | 20 min |
| 09/01/92 | Tele conv. with and letter to Atty Pledl. | 50 min |
| 09/01/92 | Tele message and letter and release to Pt. 1. | 30 min |
| 09/02/92 | Tele. conv. with Atty Ehlke. | 30 min |
| 09/04/92 | Letter to Racine Co. D.A. | 15 min |
| 09/04/92 | Review of Meriter records on Pt. 1. | 45 min |
| 09/08/92 | Prep. for meeting with Atty Ehlke and Pt. 1. | 1 hr 20 min |
| 09/09/92 | Travel to Racine and meet with Atty Ehlke and Pt. 1. | 6 hr 15 min |
| 09/10/92 | Review of DePaul records re Pt. 1. | 40 min |
| 09/17/92 | Review of letter and materials from Atty Pledl. | 1 hr 30 min |
| 09/21/92 | Review of medical literature and obtaining learned treatises at U.W. Med. Library | 4 hr 45 min |
| 10/13/92 | Tele. conversation with ALJ and atty Ehlke. | 30 min |
| 10/21/92 | Tele. messages and letter to Pt. 1. | 45 min |
| 11/04/92 | Draft Stip of Facts and Law and letter to Atty Ehlke. | 5 hr 30 min |
| 11/05/92 | Tele. conversations with Atty Ehlke, and ALJ. | 30 min |
| 11/06/92 | Prep. for and meeting with Atty Ehlke, and joint meeting with ALJ. | 3 hr |
| 12/30/92 | Completion of re-draft of Stip. of Facts, and letter to Atty Ehlke. | 2 hr 30 min |
| 01/08/93 | Prehearing Conference. | 20 min |
| 01/12/93 | Tele. conv. with Atty Ehlke. | 15 min |
| 01/22/93 | Meeting with Atty Ehlke and memo, re stip. and hearing. | 1 hr 30 min |

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| 02/02/93 | Review of file in prep. of hearing. | 3 hr |
| 02/03/93 | Prep. for and hearing. | 5 hr |
| 02/04/93 | Prep. for and closing arguments. | 4 hr 45 min |
| 03/19/93 | Review of letter and article from Atty Ehlke. | 30 min |
| 03/31/93 | Letter to ALJ and Atty Ehlke, re article. | 15 min |
| 07/07/93 | Review Proposed Decision and record. | 1 hr 15 min |
| 08/02/93 | Review Objections to Proposed Decision. | 1 hr 45 min |
| 08/05/93 and 08/09/93 | Review record and prepare Response to Objections. | 5 hr 20 min |
| 08/24/93 | Prep. for oral argument to Board. | 2 hr 30 min |
| 08/25/93 | Prep. for and oral argument to Board. | 1 hr 15 min |
| TOTAL HOURS | | 110 hr 50 min |

Total attorney expense for
hours and minutes at \$30.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: \$3,325.00

COSTS OF DEPOSITIONS

1. Depositions taken by complainant (original and one copy)

Deposition of Respondent \$ 643.10

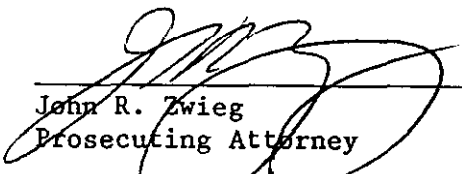
MISCELLANEOUS DISBURSEMENTS

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| 1. | Meta House records on Pt. 1. | \$ 4.00 |
| 2. | Ivanhoe treatment records on Respondent. | 7.00 |
| 3. | HMIS treatment records on Respondent. | 4.20 |
| 4. | HMIS treatment records on Pt. 1. | 8.00 |
| 5. | Photocopying of 2 sets of records to send to Dr. Gonsiorek and Atty Ehlke.(1140 pp at \$0.10) | 114.00 |
| 6. | Fed. Express materials to Gonsiorek 1/11/91. | 38.00 |

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| 7. | Photocopying of set of records to send to Dr. Hansen. (570 pp at \$0.10) | 57.00 |
| 8. | Mileage to Milwaukee, Racine and back 08/24/92 (217 miles at \$0.20) | 43.30 |
| 9. | Mileage to Racine and back 09/09/92 (211 miles at \$0.20) | 42.20 |
| 10. | Meriter Hosp. Records on Pt. 1. | 11.60 |
| 11. | HIMS treatment records on Pt. 1. | 7.80 |
| 12. | Columbia Records on Pt. 1. | <u>5.00</u> |

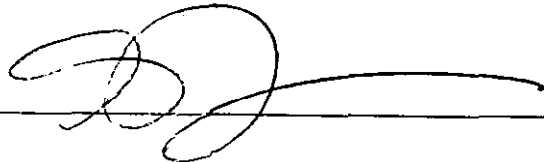
TOTAL DISBURSEMENTS: \$985.20

TOTAL ASSESSABLE COSTS \$4,310.20



 John R. Zwieg
 Prosecuting Attorney

Subscribed and sworn to before me this 9 day of September, 1993.



Notary Public
 My Commission is permanent