

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
ALFRED J. GALLUZZO, D.P.M., : LS-9302261-MED  
RESPONDENT. :

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

Alfred J. Galluzzo, D.P.M.  
1123 Suffolk Drive  
Janesville, WI 53545

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

**FILE COPY**

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. Alfred J. Galluzzo, D.P.M., Respondent herein, (D.O.B. 4/27/52) is  
duly licensed and registered to practice podiatric medicine and surgery in the  
State of Wisconsin, pursuant to license number 418, which license was first  
granted on 1/20/78.
2. Respondent's latest address on file with the Department of  
Regulation and Licensing is 1123 Suffolk Drive, Janesville, WI 53545.
3. That Respondent has acquiesced in the summary suspension of his  
license to practice podiatric medicine and surgery in the state of Wisconsin  
since February 24, 1993.

11/18/77 (77) 11/18/77

4. That 29 Code Federal Regulations sec. 1910.1030 applies to all occupational exposure to blood or other potentially infectious materials defined by that section. Those regulations define as "regulated waste" blood, items caked with dry blood, and needles which have the presence of blood or could reasonably be anticipated to have the presence of blood on them. The section further requires that "regulated waste" be disposed of in specified manners and in specified containers.

5. That according to medical assistants who were employed by Respondent from April of 1991 to February of 1993, Respondent, after the effective date of 29 CFR 1910.1030:

- a. Threw away capillary tubes of blood in the normal trash, which was unlabeled and did not comply with the federal regulations;
- b. Threw used syringes with needles into a cardboard box under the sink, after use, which did not comply with the federal regulations;
- c. Threw used rubber gloves back into the drawer with clean rubber gloves, which did not comply with the federal regulations.

6. That on October 12, 1992 and February 8, 1993, federal agents examined Respondent's trash left out for normal trash pick up and found capillary tubes of blood in that trash.

7. That Respondent sometimes disposed of capillary tubes of blood by simply throwing them in the normal trash.

8. From April 1991 to February 1993, Respondent sometimes advised patients that blood tests were necessary and would draw blood from the patients in capillary tubes. Respondent sometimes threw the capillary tubes away without performing any tests on the contents. Respondent would then write into the patients' records average test results for hemoglobin, blood glucose, bleeding time, and coagulation time, although Respondent had no basis for determining what the patients' actual values were for those items.

9. That following Respondent's procedure of drawing blood into capillary tubes and throwing the tubes away without testing the contents and writing average results of blood tests into the patient's records, the Respondent would bill Medicare for the blood tests which he had not done.

10. That Doppler studies are sometimes performed by podiatrists prior to performing a podiatric surgery. The reason for performing a Doppler study is to determine whether there is adequate circulation to the foot. If circulation is not adequate, it may not be safe to perform the surgery.

11. That from April 1991 through February 1993, there were occasions when Respondent would have the Doppler study performed after he performed the surgery. There was no podiatric medical reason to perform the Doppler study after the surgery.

12. If a Doppler study was done after surgery, Respondent would modify the date on the claim made to Medicare in order to get paid for the service.

13. That from August 1992 through February 1993, Respondent sometimes took foam impressions of patients' feet and advised the patients that the patient would receive custom made orthotics (shoe inserts). Respondent maintained standard shoe inserts which cost the Respondent \$12.00 per pair. Respondent sometimes heated and bent the standard inserts and provided those inserts to the patients and charged them \$300.00 for these ordinary inserts which he represented were custom made.

14. That on at least one occasion between August of 1992 and February of 1993, Respondent performed surgery on a patient while wearing gloves which had previously been worn while providing services to another patient.

15. That Respondent maintained records on patients which consisted of the date of the service, what the service was and the amount billed and little more. That, when Respondent was asked, at a later date, to produce patients' medical records by third party payors, Respondent would sometimes dictate full-narrative notes from his scant records and have his medical assistants transcribe full-narrative notes of the care going back for years. Respondent instructed the medical assistants to use different colored ink for the entries to make it appear that they were made contemporaneous with the service.

#### CONCLUSIONS OF LAW

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

2. The Wisconsin Medical Examining Board has Authority to enter into this stipulated resolution of this matter pursuant to sections 227.44(5) and 448.02 (5), Wis. Stats.

3. That Respondent's conduct in handling of "hazardous waste", as set out above, was in violation of 29 CFR 1910.1030 and constituted conduct which tends to constitute a danger to the health, welfare, or safety of a patient or the public in violation of Wis. Adm. Code MED 10.02(2)(h).

4. That Respondent's conduct in sometimes placing alleged blood test results into patient's records when Respondent had not tested the blood was conduct which tends to constitute a danger to patients or public and a violation of Wis. Adm. Code, Sec. Med 10.02(2)(h).

5. That Respondent's conduct in billing Medicare for blood tests which he had not performed was the obtaining or attempting to obtain a professional fee or compensation by fraud or deceit in violation of Wis. Adm. Code, sec. MED 10.02(2)(m).

6. That by performing Doppler studies after surgery, rather than before surgery, Respondent has engaged in conduct which constitutes a danger to the patient or public and is a violation of Wis. Adm. Code, sec. MED 10.02(2)(h).

7. That Respondent's conduct in performing some Doppler studies after surgery and in seeking payment for those studies as though they had been performed before surgery constitutes the obtaining or attempting to obtain a professional fee or compensation by fraud or deceit and is a violation of Wis. Adm. Code, sec. MED 10.02(2)(m).

8. That Respondent's conduct in representing to some patients that he was providing them with custom made orthotics when he was actually providing them with standard orthotics constitutes the obtaining or attempting to obtain a professional fee or compensation by fraud or deceit in violation of Wis. Adm. Code, MED 10.02(2)(m).

9. That Respondent's conduct in performing surgery on a patient while wearing gloves which had previously been used while providing services to a previous patient is conduct which tends to constitute a danger to the health, welfare or safety of the patient in violation of Wis. Adm. Code, MED 10.02(2)(h).

10. That Respondent's conduct in generating records of services provided years earlier in response to a request for those records from a third party payor was knowingly making false statements in practice with fraudulent intent in violation of Wis. Adm. Code, Sec. MED 10.02(2)(h).

#### ORDER

NOW, THEREFORE IT IS HEREBY ORDERED that the surrender of Respondent's license to practice podiatric medicine and surgery in the state of Wisconsin is hereby accepted, effective immediately.

IT IS FURTHER ORDERED that Respondent shall be prohibited from applying for a license to practice podiatric medicine and surgery in the state of Wisconsin for at least five years from the date of this Order.

IT IS FURTHER ORDERED that if Respondent applies for a license to practice medicine and surgery following the five year period:

1. The decision whether to grant Respondent a license to practice medicine and surgery, and whether to impose reasonable limitations and conditions on any license the Board elects to grant, shall be solely in the discretion of the Board and any denial of relicensure in whole, or in part, shall not entitle Respondent to a hearing pursuant to sections 227.01(3) and 227.51, Wis. Stats.

2. Respondent shall provide evidence sufficient to the Board to show that he is then capable of practicing podiatric medicine and surgery with reasonable safety to patients and public. Such evidence shall include, but not be limited to, Respondent taking and successfully completing such professional competency exams as the Board shall deem appropriate.

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

Dated at Madison, Wisconsin this 22nd day of September, 1994.



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

ATY2-6492

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
	:	
ALFRED J. GALLUZZO, D.P.M.,	:	LS-9302261-MED
RESPONDENT.	:	92 MED 184, 93 MED 081,
	:	93 MED 086 and 94 MED 268

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It is hereby stipulated and agreed, by and between, Alfred J. Galluzzo, D.P.M., Respondent; John A. Fiorenza of Fiorenza & Hayes, S.C., attorneys for Respondent; and, John R. Zwieg, as attorney for the Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

1. On February 24, 1993, a disciplinary complaint was filed in this matter, based on allegations contained in Department of Regulation and Licensing, Division of Enforcement, file 92 MED 184 that Respondent had: violated federal laws regarding disposal of regulated waste, including blood and needles; failed to test blood drawn from patients, which was a danger to patients; billed patients for the blood tests which were not conducted; performed after surgery procedures which are presurgical diagnostic procedures (doppler studies) which was a danger to patients; billed for post surgical doppler studies reporting that they were done prior to surgery; sold standard foot inserts to patients as custom made orthotics for \$300 per pair; and, created detailed medical records, months or years after treatment was provided, when requested to furnish such records to support billings to third party payors.

2. That Respondent acquiesced in the summary suspension of his license to practice podiatric medicine in the state of Wisconsin on February 24, 1993. The suspension occurred without an evidentiary hearing and has continued to this date.

3. That file 92 MED 184 also contains allegations that Respondent provided podiatric services to patients below the requisite level of care for a podiatrist and allegations that the Respondent violated U.S. Food and Drug Administration rules which prohibit the resale of sample medications. The parties agree that this stipulated resolution shall result in the only discipline for all allegations contained in file 92 MED 184.

4. That the Wisconsin Department of Regulation and Licensing, Division of Enforcement, has two more investigative files pending regarding Respondent, 93 MED 081 and 93 MED 086, which contain allegations that Respondent provided podiatric health care services to patients, which care fell below the requisite level of care for a podiatrist. The parties agree that this stipulated resolution shall result in the only discipline for all allegations contained in files 93 MED 081 and 93 MED 086.



5. That the Wisconsin Department of Regulation and Licensing, Division of Enforcement, has logged an additional investigative file regarding Respondent, 94 MED 268, which the Medical Examining Board's screening panel is expected to open for investigation on September 21, 1994. That investigative file is based upon a civil settlement made recently on Respondent's behalf in Rock County Circuit Court civil action 92-CV-150. The Division has conducted no investigation of the validity of the allegations. The parties agree that this stipulated resolution shall result in the only discipline for all allegations contained in file 94 MED 268.

6. The parties agree that this stipulated resolution may be presented directly to the Wisconsin Medical Examining Board and need not be presented to the Administrative Law Judge appointed in this matter.

7. 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 the allegations by clear 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.

8. Respondent is aware of his right to seek legal representation and has done so prior to signing this Stipulation.

9. Respondent denies the allegations of the Complaint and the investigative files and the Findings of Fact in the Order of Summary Suspension, but for personal reasons withdraws his Answer to the Complaint and agrees to the issuance 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.

10. 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.

11. Respondent hereby tenders the surrender of his license to practice podiatric medicine and surgery in the state of Wisconsin.


12. The parties to this Stipulation agree that the Respondent, his counsel, 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.

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12. 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 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 this 19 day of September, 1994.

  
Alfred J. Galluzzo, D.P.M.  
Respondent

Dated this 19th day of September, 1994.

  
John A. Fiorenza  
Fiorenza & Hayes, S.C.  
Attorneys for Respondent

Dated this 19th day of September, 1994.

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

ATY2-6490

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## NOTICE OF APPEAL INFORMATION

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### Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

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1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708.

**The Date of Mailing this Decision is:**

SEPTEMBER 29, 1994.

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#### 1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

#### 2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

## SECTIONS 227.49 AND 227.53, OF THE WISCONSIN STATUTES

**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.

**227.53 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, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank 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 5.

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.

5. The savings bank 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 bank 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, the savings and loan review board and the savings bank 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.