

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

:
: FINAL DECISION AND ORDER
: (92 MED 416)
:

ROBERT N. HORSWILL, M.D.

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

Robert N. Horswill, M.D.
3524 East Milwaukee Street
Janesville, WI 53546

Wisconsin Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Robert N. Horswill, M.D., personally, and by Gilbert C. Lubcke, Attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Robert N. Horswill, M.D., 3524 East Milwaukee Street, Janesville, Wisconsin 53546, was born on 10/16/42 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 04/25/75, license #19279.
2. Dr. Horswill specializes in the practice of orthopedic surgery.
3. An investigation, #92 MED 416, is pending before the Wisconsin Medical Examining Board. #92 MED 416 raises issues concerning the manner in which Dr. Horswill

performed a laminectomy on a patient on 09/23/86 and managed the post-operative complications of this procedure.

4. Dr. Horswill has self-limited his surgical practice to the extent that he no longer performs any spinal surgeries above the L3 level. Dr. Horswill has not, in fact, performed any spinal surgeries above the L3 level since 09/23/86.

5. Dr. Horswill is not licensed to practice medicine and surgery in any State other than Wisconsin.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this matter pursuant to sec. 448.02, Stats.

2. The Wisconsin Medical Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Dr. Horswill's license to practice medicine and surgery in the State of Wisconsin is limited to the extent that he will not perform any spinal surgeries above the L3 level.

IT IS FURTHER ORDERED that if Dr. Horswill wishes to expand his surgical practice to include spinal surgeries above the L3 level, he shall petition the Wisconsin Medical Examining Board for removal of this limitation on his license, he shall demonstrate to the Wisconsin Medical Examining Board that he has participated in and satisfactorily completed additional education and training approved by the Wisconsin Medical Examining Board applicable to spinal surgeries above the L3 level and he shall demonstrate to the satisfaction of the Wisconsin Medical Examining Board that he can competently perform spinal surgeries above the L3 level. Denial of Dr. Horswill's petition for failure to satisfy any one or more of the above conditions shall not be considered a denial of a license within the meaning of sec. 227.01(3)(a), Stats., and Dr. Horswill shall not have a right to any further hearings or proceedings on any denial of his petition for removal of this limitation on his license.

IT IS FURTHER ORDERED that the pending investigation, #92 MED 416, shall be, and hereby is, closed without further proceedings.

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Horswill has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Dr. Horswill to practice medicine and surgery in the State of Wisconsin be summarily suspending pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 27th day of September, 1995.

WISCONSIN MEDICAL EXAMINING BOARD


Walter R. Schwartz, Secretary

GL:lmf
ATY-GLG866

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	STIPULATION
	:	92 MED 416
ROBERT N. HORSWILL, M.D.	:	

It is hereby stipulated between Robert N. Horswill, M.D., personally, and Gilbert C. Lubcke, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Robert N. Horswill, M.D., 3524 East Milwaukee Street, Janesville, Wisconsin 53546, was born on 10/16/42 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 04/25/75, license #19279.
2. Dr. Horswill specializes in the practice of orthopedic surgery.
3. An investigation, #92 MED 416, is pending before the Wisconsin Medical Examining Board. #92 MED 416 raises issues concerning the manner in which Dr. Horswill performed a laminectomy on a patient on 09/23/86 and managed the post-operative complications of this procedure.
4. Dr. Horswill has self-limited his surgical practice to the extent that he no longer performs any spinal surgeries above the L3 level. Dr. Horswill has not, in fact, performed any spinal surgeries above the L3 level since 09/23/86.
5. Dr. Horswill is not licensed to practice medicine and surgery in any State other than Wisconsin.
6. The pending investigation, #92 MED 416, will be closed without further proceedings.
7. The parties waive all costs of this proceeding.
8. The Wisconsin Medical Examining Board may enter the Final Decision and Order, a copy of which is attached hereto and incorporated herein.
9. Dr. Horswill 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 the 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.

10. The parties to this Stipulation and the board advisor, Clark O. Olson, M.D., may appear before the Wisconsin Medical Examining Board in support of this Stipulation. Any appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.

11. If any term of this Stipulation or the incorporated Final Decision and Order is not accepted by the Wisconsin 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: 17 August 1995 - Robert N. Horswill, M.D.
Robert N. Horswill, M.D.

Dated: 8/22/95 - Gilbert C. Lubcke
Gilbert C. Lubcke, Attorney for the
Department of Regulation and Licensing
Division of Enforcement

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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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

SEPTEMBER 28, 1995.

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.)