

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

SAMIR ROY, M.D.,  
RESPONDENT.

FINAL DECISION AND ORDER  
LS 9605024 MED  
96 MED 115

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

Samir Roy, M.D.  
705 Sagebrush Trail S.E.  
Albuquerque, NM 87123

Wisconsin Medical Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

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

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Samir Roy, M.D., Respondent, DOB November 20, 1945, is a physician licensed to practice medicine and surgery in the state of Wisconsin, pursuant to license #27494, which was first granted April 25, 1986.
2. Respondent's last address reported to the Wisconsin Department of Regulation and Licensing is 705 Sagebrush Trail, S.E., Albuquerque, NM 87123.
3. Respondent's practice specialty is psychiatry.
4. On February 29, 1996, following a two day hearing, the State of New Mexico Board of Medical Examiners found that Respondent had engaged in unprofessional conduct within the meaning of NMSA 1978 §61-6-15(D)(29) conduct unbecoming a person licensed to practice medicine, for having engaged in a sexual relationship with Patient #1, whom

Respondent was treating as a patient at the time, in violation of New Mexico Board of Medical Examiners Rule 16.3(b.) (sexual misconduct)

5. As a result of that finding, on February 29, 1996, the New Mexico Board of Medical Examiners revoked Respondent's license to practice medicine in the State of New Mexico.

6. The State of New Mexico Board of Medical Examiners' February 29, 1996 Findings of Fact, Conclusions of Law and Decision and Order made the following substantive findings:

a. Respondent is a licensed physician who began providing psychiatric treatment to Patient #1 in late spring of 1992 in conjunction with psychotherapy she was receiving from Dr. Norman Katz, a psychologist. Patient #1 was referred by Dr. Katz to Respondent to obtain medication for sleeping and depression. Patient #1 began sessions with Respondent which involved counseling as well as drug treatment and monitoring.

b. In the fall of 1992, Patient #1 began having a sexual relationship with Dr. Katz. Patient #1 apprised Respondent of that fact. Respondent knew Patient #1 was having a sexual relationship with Dr. Katz and did nothing to stop it.

c. Patient #1 told Respondent that Dr. Katz had told her that he planned to divorce his wife so that he could be with Patient #1 for the rest of his life. Patient #1 told Respondent that she expected and wanted this to occur.

d. In March 1993, Dr. Katz ended his sexual relationship with Patient #1, after ending psychotherapy treatment of her at an earlier point. As a result, Patient #1 felt (sic) abandoned, deeply depressed and desperately dependent upon Respondent for emotional support, affection and the medications that he was providing to her, both by sample and by prescription.

e. Respondent told Patient #1 that he was available to meet all her needs. Respondent blurred his role as a treating psychiatrist by offering to be a spiritual advisor, yogi teacher and lover to Patient #1. He provided his pager number to her so that she could reach him without having to call his secretary.

f. Respondent committed numerous boundary violations in his relationship with Patient #1. Respondent began visiting Patient #1 at her home after work, during which visits Respondent and Patient #1 consumed alcoholic beverages together. Respondent began disclosing details of his personal life to Patient #1 including problems in his marriage. Respondent gave gifts to Patient #1 including perfume, flowers and a sexually graphic book entitled The Perfumed Garden. There was much activity by Respondent that fits the category of "grooming" in his relationship with Patient #1.

g. In May or June of 1993, Respondent began having a sexual relationship with Patient #1 involving intercourse and oral sex. Respondent and Patient #1 had such encounters approximately once per month in her apartment.

h. Patient #1 testified that Respondent's conduct during their sexual encounters was "very forceful and very voracious" and that she became frustrated with the rushed atmosphere in which these encounters took place.

i. During this time period, Respondent continued to give advice to Patient #1 concerning her relationships with men. Respondent advised Patient #1 that "sex was fine and [she] could let as many men as [she wanted] between [her] legs, but [she] shouldn't let any of them in [her] head." Patient #1 testified that Respondent had warned her that she should not disclose the existence of their sexual relationship to any else. The advice Respondent gave to Patient #1 was very harmful, completely inappropriate and damaging to her.

j. Michael Muldawer, M.D., a psychiatrist engaged in the treatment of sexually abused patients and in providing forensic assessments, testified that he currently is treating Patient #1. Dr. Muldawer testified that Patient #1 had developed a feeling that her relationship with Dr. Katz had a future and permanence; that Dr. Katz's abandonment of her had a devastating effect on her; that Respondent's role became extremely important to Patient #1 at that point; that Patient #1 was highly susceptible to being abused in an interpersonal relationship when Dr. Katz abandoned her, and extremely vulnerable to that abuse; and that she was very fragile and easily maneuvered by someone aware of Dr. Katz's treatment of her and who had gained her confidence and trust.

k. Dr. Muldawer testified that Respondent committed a series of "boundary violations" in his interactions with Patient #1 including giving gifts such as perfume to her and drinking alcohol with her, revealing aspects of his personal life to her and providing her with sexually graphic books. Dr. Muldawer testified that Respondent's initiation of and maintaining a sexual relationship with Patient #1 over a long period of time had a devastating effect on her, as it deprived Patient #1 of the therapy needed to help her with the problems that Patient #1 had initially tried to address in sessions with Dr. Katz, and compounded those problems.

l. Dr. Muldawer testified that Respondent's conduct was unethical and constituted boundary violations which were not technical or borderline, but which were extreme, and caused extreme damage. The Board finds Dr. Muldawer's testimony credible and his conclusions persuasive.

m. Edgar Arnold Jones, M.D., a psychiatrist currently treating Respondent, testified that Respondent suffers from recurrent major depression, a form of mental illness that affects his ability to practice medicine. Dr. Jones testified that Respondent's depression causes boundary problems which are primarily external, i.e., which interfere with his ability to behave in a manner appropriate to being a physician or psychiatrist. Advice given Patient #1 by Respondent was "extremely damaging." The Board concurs with this observation.

n. Dr. Jones testified that he has not always found Respondent to be open and honest concerning his problems.

o. Dr. Jones testified that Respondent's mental illness is treatable with ongoing medication and ongoing psychotherapy, and that eventually, Respondent might be able to resume medical practice if closely supervised and if limited to conducting evaluations. Dr. Jones stated, however, that he did not believe that private practice or giving psychotherapy would ever be appropriate for Respondent because of the inherent boundary problems that exist in that setting. Dr. Jones testified that he did not believe Respondent was a sexual predator (i.e., a doctor who begins a doctor-patient relationship with the intention of manipulating the patient for the doctor's sexual purposes) but rather a sexual drifter or wanderer. Dr. Jones stated that Respondent had some characteristics of a sexual predator, though not to a great degree. Dr. Jones testified that no degree of sexually predatory behavior is tolerable in a psychiatrist.

p. Margery Noel, Psy.D., a clinical psychologist specializing in sex therapy, testified that she had performed a psychological evaluation of Respondent, which included review of his medical records, the allegations regarding Respondent's conduct toward Patient #1, eight clinical hours in session with Respondent, and discussions with four colleagues of Respondent.

q. Dr. Noel testified that, based on her evaluation, she believes that Respondent perceives the world in a highly idiosyncratic way, i.e., in a way not shared by most other people in the same situation. Dr. Noel testified that Respondent does not see himself as a person with sexual problems. She testified he has narcissistic traits. In psychological tests, the Respondent assumed a defensive posture and attempted to present himself in the best possible light, rendering tests less useful. She stated that Respondent had not always been truthful and honest with her.

r. Dr. Noel testified that, in her opinion, Respondent is a boundary violator, but not a sexual predator. She testified that he gave Patient #1 "terrible advice" the kind of advice that a sexual predator might use. Dr. Noel testified that Respondent did act to maintain Patient #1's dependency on him, and that his gifts to her, compliments, sharing of his personal life and problems and similar actions could be considered "grooming" behaviors that could be consistent with sexually predatory conduct.

s. Dr. Noel testified that, with substantial long term psychotherapeutic intervention, ethical education and practice restrictions, it was possible that Respondent could continue to practice medicine. She stated that the risk of recidivism was increased in people with narcissistic traits and with a pattern of responses seen in Respondent's psychological testing.

t. Respondent testified that he had engaged in close sexual contact with Patient #1, but had not actually had sexual intercourse with her. Respondent was evasive in answering the administrative prosecutor's questions concerning the nature of his sexual activities with Patient #1. Respondent's testimony conflicts with the testimony of Patient #1, is contradicted by other evidence in the case, and is not credible.

u. Respondent indicated on his license renewal form that he was board-certified in psychiatry, when in fact he had not yet taken the oral examination

required for certification. Respondent testified that he had done so based on having passed the written examination. With some evasiveness, Respondent also testified that he understood board certification required that he pass both the written and oral examinations. Respondent's actions and testimony in connection with his board certification status contribute to the Hearing Officer's overall impression that Respondent's credibility (sic) and veracity are questionable. Respondent gave conflicting answers as to whether he had sexual intercourse with Patient #1 in depositions given on November 1 and 21, 1995.

v. Gerald S. Fredman, M.D., a psychiatrist subspecializing in forensic psychiatry, testified that he had evaluated Respondent's medical records and conducted three psychiatric interviews of Respondent totaling five hours. Dr. Fredman diagnosed Respondent as having a long history of dysthymia, with recurrent major depression. Dr. Fredman testified that he viewed Respondent as being in denial about his problems concerning patient #1. He testified that Respondent was not honest with him.

w. Dr. Fredman did not believe that Respondent is a sexual predator. However, Dr. Fredman testified that Respondent's behavior toward Patient #1 could be considered grooming, and that such conduct is partially consistent with sexually predatory behavior. Dr. Fredman also stated that Respondent's warnings to Patient #1 not to disclose their relationship to others could be consistent with sexually predatory behavior and that there were many things Respondent did which were consistent with a predatory process. Dr. Fredman testified that Respondent had "certainly" engaged in boundary violations that resulted in "exploitation" with regard to Patient #1.

x. Dr. Fredman stated that Respondent had problems blurring his role as Patient #1's psychiatrist and other roles such as friend, spiritual advisor, lover. Dr. Fredman further testified that Respondent needed many restrictions on his practice and needed to be treated with antidepressant medications and psychotherapy in order to continue to practice and that restrictions with a gradual release would be a possibility (sic). Dr. Fredman felt the prognosis for Respondent's recovery from depression was "good," the chances for favorable response to psychotherapy would only be "fair".

y. Respondent committed numerous boundary violations in his doctor-patient relationship with Patient #1, including visiting her at home, giving her gifts and having sexual intercourse with her.

z. Respondent's conduct toward Patient #1 included "grooming" behavior patterns which are highly inappropriate and unprofessional. Respondent's advice to Patient #1 concerning her sexual behavior and feelings toward other men was very harmful and completely inappropriate.

aa. Respondent's behavior toward Patient #1 borders on that of a sexual predator. Such behavior is never acceptable in a psychiatrist or practicing physician.

bb. The likelihood of Respondent becoming rehabilitated through treatment is low. Respondent suffers from major depression, which is treatable. Respondent also has

narcissistic personality traits, which are often resistant to treatment. Moreover, Respondent appears to be in denial about the conduct in question. He showed little inclination or motivation in treatment for the sexual issues relating to this disciplinary action. He gave evasive or deceptive answers on psychological tests administered to him in connection with preparing his defense in this case. Respondent was evasive or deceitful in giving deposition testimony, and lied during hearing testimony in response to questions about whether he had obtained Board Certification in Psychiatry.

cc. Respondent's personality disorders make him unsuitable for the practice of psychiatry and medicine in general. The public would be at significant risk if Respondent were permitted to continue to practice medicine, even under close supervision.

7. Respondent sought judicial review in district court in New Mexico of the New Mexico Board of Medical Examiners' February 29, 1996 decision. On July 17, 1996, the district court upheld the Board's decision.

8. Respondent has appealed the district court's decision to the supreme court of New Mexico. That appeal is still pending.

9. Respondent has agreed to surrender his license to practice medicine and surgery in the State of Wisconsin, as provided in the Order, below.

#### CONCLUSIONS OF LAW

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

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

3. Respondent, by having had his New Mexico license to practice medicine revoked by the State of New Mexico Board of Medical Examiners, has engaged in unprofessional conduct as defined by §448.02(3), Stats., and Wis. Adm. Code sec. MED 10.02(2)(q).

#### ORDER

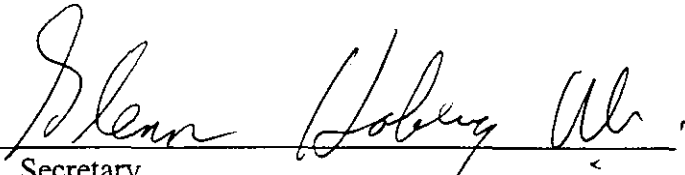
NOW, THEREFORE, IT IS HEREBY ORDERED that the voluntary surrender of the license to practice medicine and surgery in the State of Wisconsin, of Samir Roy, M.D., Respondent, is hereby accepted.

IT IS FURTHER ORDERED THAT Respondent's license to practice medicine and surgery in the State of Wisconsin, shall be reinstated upon notification that: Respondent's New Mexico appeal has been successful, the New Mexico Board of Medical Examiners' decision has been overturned and Respondent's New Mexico license has been reinstated

IT IS FURTHER ORDERED THAT if the New Mexico Board of Medical Examiners relicenses Respondent, with or without limitations, Respondent may petition this Board for relicensure to practice medicine and surgery in the state of Wisconsin and shall provide evidence satisfactory to the Board that Respondent is able to practice medicine and surgery with reasonable skill and safety for patients and public. The decisions whether or not to license Respondent and whether or not to impose limitations on any license granted shall be in the discretion of the Board while considering the purposes of professional licensure discipline.

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 23rd day of January, 1997.

  
Secretary  
Wisconsin Medical Examining Board

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STATE OF WISCONSIN  
BEFORE THE WISCONSIN MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

SAMIR ROY, M.D.  
RESPONDENT.

STIPULATION  
LS 9605024 MED  
96 MED 115  
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It is hereby stipulated and agreed, by and between Samir Roy, M.D., Respondent; Kathleen E. Bonville of Gutglass Erickson Bonville S.C., attorneys for the Respondent; and John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of an investigation (96 MED 115) and pending disciplinary proceeding (LS 9605024 MED) against Respondent by the Department of Regulation and Licensing, Division of Enforcement, on behalf of the Wisconsin Medical Examining Board

2. The parties agree that this proposed 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.

3. Respondent understands that by the signing of this stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

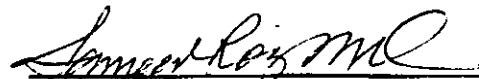
4. Respondent is aware of his right to seek legal representation prior to signing this stipulation, and has done so.

5. Respondent agrees to the adoption of the attached Final Decision and Order by the 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

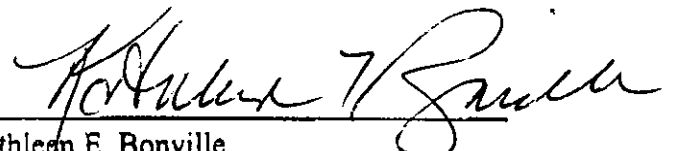
6. If the terms of this stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

7. The parties to this stipulation agree that the Respondent, Respondent's attorney, the member of the Board appointed as the investigative advisor in these matters, and an 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.

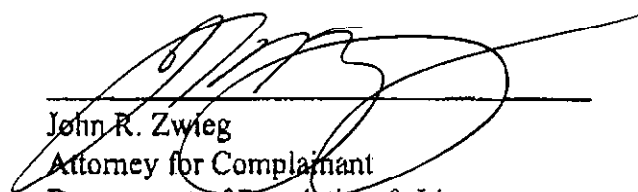
Dated this 31<sup>st</sup> day of December, 1996.

  
\_\_\_\_\_  
Samir Roy, M.D.  
Respondent

Dated this 9<sup>th</sup> day of January 1996.

  
\_\_\_\_\_  
Kathleen E. Bonville  
Gutglass Erickson Bonville S.C.  
Attorneys for Respondent

Dated this 17<sup>th</sup> day of January, 1996.

  
\_\_\_\_\_  
John R. Zwiag  
Attorney for Complainant  
Department of Regulation & Licensing  
Division of Enforcement

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STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Samir Roy, M.D.,

AFFIDAVIT OF MAILING

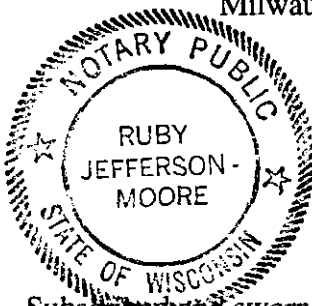
Respondent.

STATE OF WISCONSIN    )  
  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On January 24, 1997, I served the Final Decision and Order dated January 23, 1997, LS9605024MED, upon the Respondent Samir Roy's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 377 271.

Kathleen E. Bonville, Attorney  
735 N. Water Street, Suite 1400  
Milwaukee WI 53202-4267



*Kate Rotenberg*  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 24<sup>th</sup> day of January, 1997.

*Ruby Jefferson-Moore*  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

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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:**

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

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

January 24, 1997

### 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.)