

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

RICHARD D. KLAMM, M.D., :  
RESPONDENT. :

FINAL DECISION  
AND ORDER

LS9802251MED  
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The parties to this proceeding for purposes of sec. 227.53, Stats., are:

Richard D. Klamm, M.D.  
1504 South Commercial St.  
Neenah, WI 54956

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

Department of Regulation And Licensing  
Division of Enforcement  
1400 E. Washington Ave.  
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 Richard D. Klamm, 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. Richard D. Klamm, M.D., 1504 South Commercial Street, Neenah, Wisconsin, 54956, was born on 1/21/50 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 7/1/81, license #23800.
2. Dr. Klamm specializes in family practice.

3. An 18 year old patient presented at Dr. Klamm's office on 6/3/88 complaining of a subcutaneous mass on the left side of her neck. Dr. Klamm examined the patient and recommended that they continue to watch the mass for six weeks before making a decision to perform a biopsy. The mass persisted for six weeks and on 8/2/88 Dr. Klamm performed a lymph node biopsy in his office. During the surgical procedure, Dr. Klamm permanently damaged the patient's spinal accessory nerve.
4. Dr. Klamm has not performed lymph node biopsies since 1988.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to sec. 448.02, Stats.
2. The Wisconsin Medical Examining Board has the authority to resolve this proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Klamm's conduct as set forth in the Findings of Fact was conduct in violation of sec. 448.02(3), Stats., and Wis. Admin. Code sec. MED 10.02(2)(h).

#### ORDER

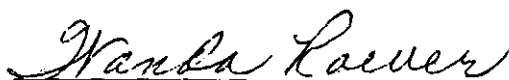
NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Richard D. Klamm's license to practice medicine and surgery in the state of Wisconsin, license # 23800, is limited in that he will not perform lymph node biopsies.

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

Dated at Madison, Wisconsin, this 25 day of February, 1998.

WISCONSIN MEDICAL EXAMINING BOARD



Member, Wisconsin Medical Examining Board

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : STIPULATION  
RICHARD D. KLAMM, M.D., : (93 MED 219)  
RESPONDENT. :

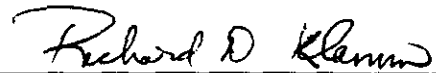
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It is hereby stipulated between Richard D. Klamm, M.D., personally, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

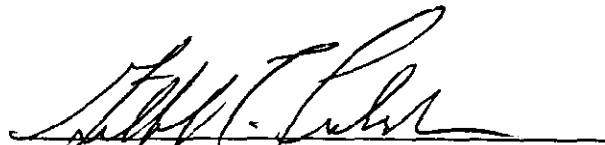
1. Richard D. Klamm, M.D. 1504 South Commercial Street, Neenah, Wisconsin 54956, was born on 1/21/50 and has been licensed and currently registered to practice medicine and surgery in the state of Wisconsin since 7/1/81, license #23800.
2. An investigation, 93 MED 219, is pending before the Wisconsin Medical Examining Board.
3. Dr. Klamm consents to the entry of a Final Decision And Order, a copy of which is attached hereto and incorporated herein, as the full and final resolution of this matter.
4. The parties waive all costs of this proceeding.
5. Dr. Klamm 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.
6. The parties to this Stipulation and the Case Advisor, Sidney E. Johnson, 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.
7. This Stipulation is subject to approval by the Case Advisor, Sidney E. Johnson, M.D., and by the Supervisor of Attorneys in the Division of Enforcement, and acceptance by the Wisconsin Medical Examining Board. If any term of this Stipulation or the incorporated Final

Decision And Order is not approved by the Case Advisor and by the Supervisor of Attorneys, and 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: 1/22/98

  
Richard D. Klamm, M.D.

Dated: 1/26/98

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



## NOTICE OF RIGHTS OF APPEAL

TO: RICHARD D KLAMM MD

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 3/2/98 Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### **SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:**

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935