

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

PHILIP A. MCCREEDY, M.D. :
RESPONDENT. :

Case No L59805213MED

FINAL DECISION AND ORDER

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

Philip A. McCreedy, M.D.
430 Aspen Place
Golden, CO 80403

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 Medical Examining 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. Philip A. McCreedy, M.D., Respondent, date of birth April 9, 1936, is licensed, but not currently registered, by the Wisconsin Medical Examining Board as a physician in the state of Wisconsin pursuant to license number 34350, which was first granted May 27, 1993.
2. Respondent's last address reported to the Department of Regulation and Licensing is 430 Aspen Place, Golden, CO 80403.

3. Respondent, for personal reasons, did not renew the registration of his license to practice medicine and surgery in the state of Wisconsin when the registration expired on November 1, 1997. As a result, § 448.07(1), Stats., has prohibited Respondent from practicing medicine and surgery in Wisconsin since November 1, 1997.

4. Pursuant to § 440.08(3), Stats., and Wis. Admin. Code § MED 14.06(2)(a), Respondent could renew his license at this time by providing evidence of having met the continuing education requirements and by payment of a late renewal fee.

5. Between February 5, 1994, and February 28, 1994, Respondent was employed by the Beloit Clinic, S.C., in Beloit, WI, as a locum tenens physician. Respondent was granted locum tenens admitting and clinical physician privileges at Beloit Memorial Hospital, in Beloit, WI, to provide coverage in the hospital's Department of Obstetrics/Gynecology.

6. While performing breast and pelvic exams for Beloit Clinic, S.C., and Beloit Memorial Hospital, Respondent engaged in the following behavior:

a. Medical assistants at Beloit Memorial Hospital reported that often rather than draping his patients' breast, stomach and abdominal areas with their gowns and/or sheets while performing breast and pelvic exams, Respondent repeatedly pulled up his patients' gowns and sheets so that his patients' bodies were completely exposed from the neck down throughout his entire examination.

b. Medical assistants also reported that while in the process of performing pelvic exams on patients at Beloit Memorial Hospital, Respondent repeatedly sang the song "Oh Where, Oh Where Has My Winnie Gone?".

c. Medical assistants at Beloit Memorial Hospital also reported that pelvic examinations performed by Respondent took longer than pelvic examinations performed by other physicians and it appeared to the medical assistants that rather than properly feeling patients' reproductive organs (e.g., ovaries, uterus), Respondent would move his finger(s) in and out of the patients' vagina.

d. A medical assistant at Beloit Memorial Hospital also reported that on at least one occasion while performing a pelvic examination, Respondent put one hand on a patients' breast while he had the fingers of his other hand in her vagina. There was no medical purpose for doing so.

7. On February 13, 1994, at Beloit Memorial Hospital, Respondent hugged and kissed Ms. A after delivering her baby. Ms. A was caught by surprise and was uncomfortable with this because Respondent was her temporary doctor and she did not really know Respondent.

8. On February 18, 1994, Ms. B was admitted to Beloit Memorial Hospital to deliver her second child. Ms. B's regular physician was out of town, and Respondent attended Ms. B during her delivery.

9 Respondent had never met Ms. B prior to her admittance to the hospital on February 18, 1994. Following delivery of Ms. B's baby and the placenta, Respondent stood up, moved toward the head of Ms. B's bed, removed his mask and kissed Ms. B.

10. While Respondent was kissing Ms. B, his hand made contact with Ms. B's breast. Respondent contends that such contact was unintentional. Ms. B contends that the nature of the contact was such that it had to be intentional.

11. Nurse X, who was in the delivery room throughout Ms. B's delivery, noticed immediately that Ms. B was upset and had a "terrified" look on her face after Respondent's contact. Nurse X asked Ms. B what had upset her, and Ms. B reported the contact by Respondent. Nurse X immediately reported the incident to her supervisors, who in turn notified the hospital administration.

12. On February 19, 1994, after a meeting among Ms. B, her husband, and the hospital's administration about the incident described in Findings of Fact 6-9, Respondent was dismissed from the hospital immediately and his privileges were revoked.

13. Respondent is also licensed to practice medicine in Arizona, Arkansas, California, Colorado, Indiana, Iowa, Kentucky, Maine, Massachusetts, New Mexico, North Carolina, Vermont, Washington, and Wyoming.

14. Respondent has agreed to surrender his license to practice medicine and surgery in the state of Wisconsin.

CONCLUSIONS OF LAW

1. The 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. The Respondent's conduct, as described above, constitutes unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(h) and subjects Respondent to discipline pursuant to § 448.02(3), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. The surrender of the license to practice medicine and surgery in the state of Wisconsin of Respondent, Philip A. McCreedy, M.D., is hereby accepted, effective immediately.

2. That following two years from the date of this order, Respondent may apply to the Wisconsin Medical Examining Board for a license to practice medicine and surgery, under the following terms and conditions:

a. Respondent shall provide proof sufficient to the Board of his satisfactory completion of a course(s) or seminar(s) which is(are) dedicated to patient privacy and physician/patient boundaries and which is(are) first approved by the Medical Examining Board or its designee.

b. Respondent shall, at his own expense, have undergone a psychological assessment focusing on causes of the behavior set out in the findings of fact, above.

c. The practitioner performing the assessment must have been approved by the Board or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed.

d. Respondent must provide proof sufficient to the Board that Respondent can practice with reasonable skill and safety of clients and public.

e. If the Board determines to license Respondent, Respondent's license shall be limited in a manner to address any recommendations resulting from the assessment, including, but not limited to:

i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with periodic reports to the Board by the therapist.

ii. Additional professional education in any identified areas of deficiency.

iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board or its designee, with periodic reports to the Board by the supervisor.

f. If licensed, Respondent shall appear before the Board on an annual basis, if requested by the Board, to review the progress of any treatment and rehabilitation.

3. If Respondent believes that the Board's refusal to license Respondent under paragraph 2 is inappropriate or that any limitation imposed or maintained by the Board under paragraph 2 is inappropriate, Respondent may seek a class 1 hearing pursuant to sec. 227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The decision not to license Respondent or to impose limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. If Respondent is licensed by the Board under paragraph 2, violation of any term or condition of this Order, or of any limitation imposed under paragraph 2 above, may constitute grounds for revocation of Respondent's license. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 2 above, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

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 21 day of May, 1998.

Wanda Roever

Wanda Roever
Secretary
Medical Examining Board

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STATE OF WISCONSIN
BEFORE THE WISCONSIN MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PHILIP A. MCCREEDY, M.D.
RESPONDENT.

Case No.

STIPULATION

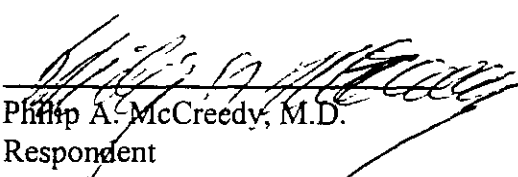
It is hereby stipulated and agreed, by and between Philip A. McCreedy, M.D., Respondent; and John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigation of Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Medical Examining Board (file 94 MED 085).
2. 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.
3. Respondent is aware of his right to seek legal representation prior to signing this stipulation.
4. Respondent neither admits nor denies the allegations in this matter, but 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.
5. 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.

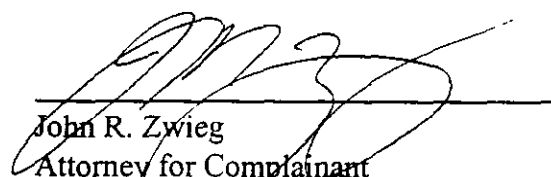
6. The parties to this stipulation agree that the Respondent, Respondent's attorney, an attorney for the Division of Enforcement, and the member of the Board who has been appointed as the investigative advisor may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The parties agree to waive the costs of this proceeding.

Dated this 20 day of April, 1998.


Philip A. McCreedy, M.D.
Respondent

Dated this 17th day of April, 1998.


John R. Zwieg
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

Philip A. McCreedy, 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 May 26, 1998, I served the Final Decision and Order dated May 21, 1998, LS9805213MED, upon the Respondent Philip A. McCreedy, M.D. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent 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 221 158 928.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

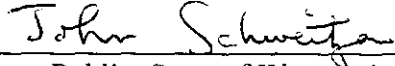
Philip A. McCreedy, M.D.
430 Aspen Place
Golden CO 80403



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 26th day of may, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: PHILIP A MCCREEDY 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 5/26/98. 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