

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

DONALD O. YODER D.O.
RESPONDENT

FINAL DECISION AND ORDER

LS9806245MED

(94 MED 277)

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

Donald O. Yoder, D.O.
19475 West North Avenue
Brookfield, Wisconsin 53045

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

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

The parties in this matter, Donald O. Yoder, D.O., Respondent, personally and through his attorney James Doyle, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, agree to the terms and conditions of the attached stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed the Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Donald O. Yoder, D.O., Respondent herein, whose date of birth is June 26, 1943, and is located at 19475 West North Avenue, Brookfield, Wisconsin 53045, is licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license number 19033 which was granted on August 8, 1974.

2. Dr. Yoder specialized in the practice of orthopedics.
3. There is a formal investigation of Dr. Yoder pending before the Wisconsin Medical Examining Board entitled 94 MED 277.
4. The investigation involves allegations of failure to respond to and evaluate in a timely manner a female patient's post myelogram complaint of numbness, weakness in both feet, and incontinence.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. Secs. 448.02
2. The Medical Examining Board has the authority to resolve this matter by stipulated agreement pursuant to Wis. Stats. Sec. 227.44(5).

ORDER

NOW IT IS THEREFORE ORDERED that the Stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED that Donald O. Yoder, D.O., shall, within one year of the effective date of this order, participate in and successfully complete thirty (30) hours of Category I continuing medical education courses in the subject area of post surgical complications of orthopedic spinal procedures, including complications of diagnostic procedures performed to evaluate spinal conditions. It shall be the responsibility of Dr. Yoder to locate courses which meet the requirements of this order and all such courses shall be preapproved by the Medical Examining Board or its designee prior to attendance.

IT IS FURTHER ORDERED that Donald O. Yoder, D.O. shall be responsible for all costs incurred in attending the courses and shall, upon completion, provide the Medical Examining Board or its designee with evidence of successful completion of the courses. Upon acceptance by the Medical Examining Board of the evidence of successful completion of the courses this matter will be considered resolved.

IT IS FURTHER ORDERED that investigative file 94 MED 277 is hereby closed without further proceedings.

IT IS FURTHER ORDERED that pursuant to Wis. Stats. Sec 448.02(4), if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Donald O.

Yoder, D.O. has violated any of the terms of this Final Decision and Order, the Board may order that the license of Dr. Yoder to practice medicine and surgery in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

Dated this 24 day of June, 1998.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

Wanda Raeves
A member of the Board

PMS:ck

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST

STIPULATION

DONALD O. YODER, D.O. :
RESPONDENT. :

(94 MED 277)

It is hereby stipulated between Donald O. Yoder, D.O., Respondent herein, personally and through his attorney, James Doyle, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing as follows:

1. Donald O. Yoder, D.O., of 19475 West North Avenue, Brookfield, Wisconsin 53045, whose date of birth is June 26, 1943, is licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license number 19033 which was granted on August 8, 1974.

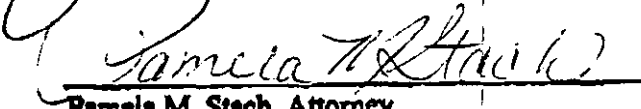
2. A formal investigation entitled 94 Med 277 is pending before the Wisconsin Medical Examining Board.

3. In the interests of resolving the pending investigation and while neither admitting nor denying the allegations which initiated the investigation, Dr. Yoder voluntarily enters into this stipulation and allows the entry of the attached Final Decision and Order by the Medical Examining Board.

4. Dr. Yoder understands that by signing this stipulation, he freely, 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 those allegations by a preponderance of the evidence, the right to confront and cross-examine witnesses against him, the right to call witnesses on his behalf and compel their attendance by subpoena, the right to testify, the right to file objections to any proposed decision and to present briefs and oral argument 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. Dr. Yoder further understands that by signing this Stipulation and the entry of the attached Final Decision and Order by the Medical Examining Board that the formal investigation entitled 94 Med 277, as it applies to Dr. Yoder, will be closed without further proceedings.

5. Dr. Yoder is further aware of his right to seek legal representation prior to signing this stipulation and has done so.

6. The parties waive any costs which may have accrued in this matter.
7. The parties to this stipulation and the Board Advisor may appear before the Wisconsin Medical Examining Board in support of this Stipulation.
8. Violation of the terms and conditions set forth in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Medical Examining Board.
9. The Final Decision and Order, if entered by the Medical Examining Board shall become effective on the date of signing.
10. The parties understand that if the Wisconsin Medical Examining Board accepts this Stipulation and the attached Final Decision and Order in its entirety, case file 94 Med 277 will be closed.
11. If any term of this Stipulation or the attached Final Decision and Order is not accepted by the Wisconsin Medical Examining Board, then no term of the Stipulation or 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: 6/9/98
James Doyle
Attorney for RespondentDated: June 9, 1998
Pamela M. Stach, Attorney
Department of Regulation and Licensing

I, Donald O. Yoder, **D.O.**, having read the above Stipulation and attached Final Decision and Order, do hereby freely, voluntarily and knowingly enter into this Stipulation.

Dated: 6/8/98
Donald O Yoder, **D.O.**

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

In the Matter of the Disciplinary Proceedings Against

Donald O. Yoder, D.O.,

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 June 29, 1998, I served the Final Decision and Order dated June 24, 1998, LS9806245MED, upon the Respondent Donald O. Yoder'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 Z 233 819 530.

James Doyle, Attorney
445 S. Moorland Road, Suite 450
P.O. Box 464
Brookfield WI 53008-0464

Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 29th day of June, 1998.

[Signature]

Notary Public, State of Wisconsin
My commission is permanent

NOTICE OF RIGHTS OF APPEAL

TO: JAMES DOYLE ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 6/29/98. 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