

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**State Of Wisconsin
Before The Medical Examining Board**

In The Matter Of Disciplinary Proceedings Against

Stephen R. Schmitz, M.D.,
Respondent.

FINAL DECISION AND ORDER
Case # LS9809244MED

Division of Enforcement Case #95 MED 100

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

Stephen R. Schmitz, M.D.
402 Wisconsin Street
Hudson, Wisconsin 54016

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 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 Stephen R. Schmitz, M.D., personally and by his attorney, Thomas J. Misfeldt, and by Claudia Berry Miran, 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. Stephen R. Schmitz, M.D., was born June 17, 1951. Dr. Schmitz's latest address on file with the Department of Regulation and Licensing is 402 Wisconsin Street, Hudson, Wisconsin 54016.
2. Dr. Schmitz is licensed to practice in the state of Wisconsin as a physician and surgeon pursuant to license #22268. This license was first granted on April 27, 1979. Dr. Schmitz is in family practice.
3. At 7:50 p.m. on March 7, 1991, patient EA gave birth. Dr. Schmitz, the delivering physician, indicated in his notes that the placenta was intact, but there was significant bleeding. He ordered IV fluids and Methergine.

4. Nursing staff notified Dr. Schmitz by telephone at 9:30 p.m. that EA continued to bleed heavily. Dr. Schmitz ordered additional Methergine and a hemoglobin level immediately, plus another hemoglobin level the next morning. He also ordered that 2 units of blood be typed and screened. He further asked nursing staff to consult by telephone with Dr. Andrea Tipple, a consulting obstetrician/gynecologist, regarding the case.
5. Dr. Tipple ordered pitocin added to the IV for EA. She then telephoned Dr. Schmitz, discussed the case with him, and told him that someone should examine and evaluate the patient. Dr. Schmitz indicated to her he would ask Dr. Robert Stoy to do so, since Dr. Stoy was the physician on call.
6. Dr. Stoy examined EA at 10:35 p.m. He performed a bimanual examination, found clots in the cervical os, and removed 610 cc of clots with fundal pressure. At that time EA was pale, and complained of a headache. Her pulse was 110, her blood pressure was 66/36, and her hemoglobin level was 8.
7. Dr. Stoy found no apparent lacerations to explain the continued bleeding. He did not call Dr. Schmitz to discuss his findings or EA's condition, and Dr. Schmitz did not contact Dr. Stoy for the information.
8. The nursing staff called Dr. Schmitz at 11:10 to report that they were checking EA's vital signs and uterine condition every five minutes, and had found that her fundus was boggy each time checked but firmed with massage. They also told Dr. Schmitz that her blood pressure was in the 60's/20's, with a pulse in the 90's; they noted that they could not feel the pulse radially, and that EA was very pale and groggy, but oriented. Total blood loss since delivery was 1640 cc, and EA had not voided since delivery. Dr. Schmitz ordered a hemoglobin test at 11:20, another at 12:20, and cross-matching on the units of blood previously ordered. He did not return to the hospital to examine EA.
9. EA continued to complain of a headache and occasional ringing in her ears. She was sleepy, with pale, warm, dry skin. Her hemoglobin level was 7.0, and the fundus remained boggy when checked, but firm after massage. At 12:45 a.m., nursing staff reported EA's current status to Dr. Schmitz; he ordered transfusion of one unit of packed red blood cells, but did not order the transfusion to proceed at a fast rate. He also ordered a hemoglobin test after the first unit of blood was infused; if the hemoglobin level was below 8, a second unit of red cells was to be infused. He further ordered insertion of a foley catheter. He did not return to the hospital to examine EA.
10. Over the next four hours EA continued to complain of headache, and the foley catheter drained with a low output. Her blood pressure was in the 80-90's/40-50's, and pulse ranged from 110 to 130. The first unit of blood finished infusing at 3:35, and blood was drawn for a hemoglobin level at 4:40. The hemoglobin level of 7.7 was reported to Dr. Schmitz at 5:00; he ordered infusion of the second unit of packed red blood cells and typing and screening of two more units of blood, and asked nursing staff to contact Dr. Tipple again.

11. At 5:20, Dr. Tipple ordered immediate additional blood studies for EA. Dr. Tipple arrived to examine EA at 6:45; she estimated that total blood loss since delivery was 2500 cc. She evacuated another 500 cc of blood clots and removed two pieces of retained placenta. She also ordered transfusion fast of two more units of blood and administration of Hespan to expand intravascular volume.
12. Dr. Schmitz did not arrive at the hospital until after Dr. Tipple had completed her assessment of EA and given orders for treatment.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to § 448.02 (3) (c), Stats.
2. The Medical Examining Board has authority to enter into this stipulated resolution without an evidentiary hearing pursuant to § 227.44 (5), Stats.

ORDER

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

IT IS FURTHER ORDERED that:

1. Dr. Stephen R. Schmitz shall, within nine (9) months of the date of this order, submit documentation acceptable to the Board showing successful completion of 12 hours of continuing medical education in managing postpartum complications, including postpartum hemorrhaging.
2. Dr. Schmitz shall obtain pre-approval of one or more courses from the Board or its designated agent before he takes the course(s) in fulfillment of this requirement.
3. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including pre-approval of continuing education and receipt of all reports. The Department Monitor may be reached as follows:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P. O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-7139

4. The pending investigation, 95 MED 100, shall be, and hereby is, closed without further proceedings.
5. Pursuant to § 448.02 (4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Schmitz has violated the terms of this Final Decision and Order, the Board may order that the license of Dr. Schmitz to practice medicine and surgery in the State of Wisconsin be summarily suspended 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."

This Order shall become effective on the date of its signing.

By: Wanda Roever
Wanda Roever, Secretary

September 24, 1998
Date

cbm

**State Of Wisconsin
Before The Medical Examining Board**

In The Matter Of Disciplinary Proceedings Against

Stephen R. Schmitz, M.D.
Respondent

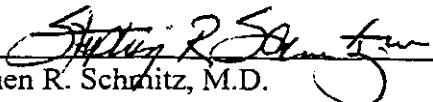
STIPULATION
Case LS9809244MED

Division of Enforcement Case #95 MED 100

It is hereby stipulated between Stephen R. Schmitz, M.D., personally and by his attorney, Thomas J. Misfeldt, and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Stephen R. Schmitz, M.D., was born June 17, 1951. Dr. Schmitz's latest address on file with the Department of Regulation and Licensing is 402 Wisconsin Street, Hudson, Wisconsin 54016.
2. Dr. Schmitz is licensed to practice in the state of Wisconsin as a physician and surgeon pursuant to license #22268. This license was first granted on April 27, 1979. Dr. Schmitz is in family practice.
3. This Stipulation is entered into as a result of a pending investigation, 95 MED 100, by the Division of Enforcement into Dr. Schmitz's license.
4. Dr. Schmitz 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, without the issuance of a formal complaint.
5. Dr. Schmitz is aware of and understands each of 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 the witnesses against him;
 - The right to call witnesses on his behalf and to compel their attendance by subpoena;
 - The right to testify himself;
 - 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

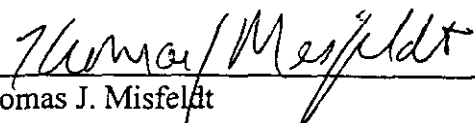
6. The parties waive all costs of this proceeding.
7. Dr. Schmitz understands that by signing this stipulation he voluntarily and knowingly waives the rights enumerated in paragraph 5 above.
8. The parties to the Stipulation and the Case Advisor, W. R. Schwartz, M.D., may appear before the Wisconsin Medical Examining Board for the purpose of speaking in favor of this agreement and answering questions that the members of the Board may have in connection with their deliberation on the Stipulation. Any appearance by any party pursuant to this paragraph shall be preceded by proper and timely notice to all parties to this proceeding.
9. This Stipulation is subject to approval by the Case Advisor and by the Attorney Supervisor 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 Attorney Supervisor, and accepted by the 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 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.



Stephen R. Schmitz, M.D.

9/14/98

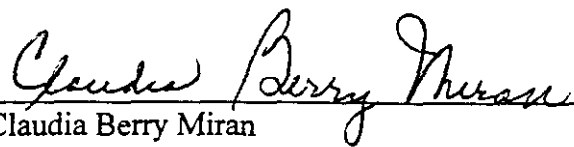
Date



Thomas J. Misfeldt
Attorney for Respondent
State Bar #

9/17/98

Date



Claudia Berry Miran
Attorney
Division of Enforcement
State Bar #1015184

9/22/98

Date

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

In the Matter of Disciplinary Proceedings Against

Stephen R. Schmitz, 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 September 25, 1998, I served the Final Decision and Order dated September 24, 1998, LS9809244MED, upon the Respondent Stephen R. Schmitz'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 233 819 828.

Thomas J. Misfeldt, Attorney
21 S. Barstow Street, 3rd Floor
P.O. Box 390
Eau Claire WI 54702-0390



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 28th day of September, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: THOMAS J MISFELDT ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 9/25/98. 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 Order 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 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 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 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 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