

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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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

Perry Reese III, M.D.,

AFFIDAVIT OF MAILING

Respondent.

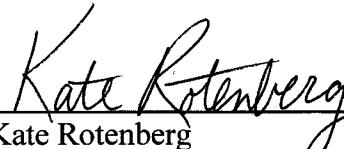
STATE OF WISCONSIN)
)
COUNTY OF DANE)

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 October 21, 1999, I served the Final Decision and Order dated October 20, 1999, LS9812041MED, upon the Respondent Perry Reese'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 233 820 852.

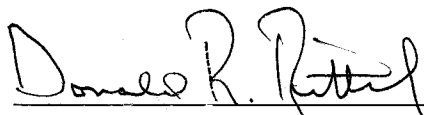
R. Jonathan Charleston, Attorney
P.O. Box 1726
Raleigh NC 27602



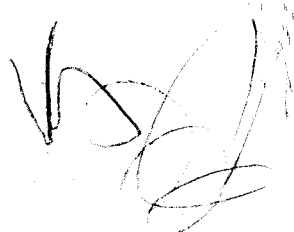
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 21st day of Oct., 1999.



Notary Public, State of Wisconsin
My commission is permanent.



STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

PERRY REESE III, M.D., :
RESPONDENT. :

Case No. LS9812041MED

FINAL DECISION AND ORDER

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

Perry Reese III, M.D.
224 Arbordale Ct.
Cary NC 27511

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. Perry Reese III, M.D., Respondent, date of birth August 17, 1958, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 34268, which was first granted April 28, 1993. During certain relevant periods Respondent was also licensed to practice in North Carolina and Michigan.

2. Respondent's last address reported to the Wisconsin Department of Regulation and Licensing is 9093 N. 75th St., Apt. 2B, Milwaukee, WI 53233, but Respondent is now using an address of 224 Arbordale Ct, Cary NC 27511.

COUNT I

3. From November 1995 through April 1996, the North Carolina Medical Board (NC Board) received information from four women, who saw Respondent for treatment, that Respondent had touched each of them in a sexually inappropriate manner, while Respondent was examining each of them.

4. The NC Board investigated the allegations set out in paragraph 3. On June 7, 1996, based upon that investigation and with Respondent's agreement, the NC Board issued a Consent Order in that matter.

5. The NC Board, in its June 7, 1996 Consent Order, found:

a. Respondent "admits that on at least three occasions he inappropriately touched female patients during examinations."

b. The admitted facts constituted unprofessional conduct under North Carolina statutes.

c. Grounds existed to annul, suspend, revoke, condition, or limit Respondent's license to practice medicine in North Carolina.

d. Respondent had signed a contract with the North Carolina Physician's Health Program (NCPHP) and at the direction of the Medical Director of NCPHP had gone to the Behavioral Medicine Institute in Atlanta, Georgia for assessment and treatment by Gene G. Abel, M.D.

e. The NC Board had received a summary of Dr. Abel's evaluation and treatment of Respondent.

6. The NC Board, by its June 7, 1996 Consent Order, ordered:

a. That Respondent's license be revoked immediately.

b. That sixty days from the date of revocation, the NC Board would issue Respondent a temporary license.

c. As conditions of the temporary license, ordered that, among other things:

i. Respondent maintain a contract with the North Carolina Physicians Health Program and abide by its terms.

ii. Respondent have a chaperone present during all examinations of female patients.

iii. Respondent, in all practice settings, use surveillance forms prepared by Dr. Abel which staff may report on Respondent's conduct to Dr. Abel.

iv. Respondent continue to attend professional sexual misconduct counseling with Chris Norris, Ph.D., and that he have Dr. Norris submit reports of the counseling to the Board every two months beginning September 1, 1996.

COUNT II

7. On February 3, 1997, the Michigan Board of Medicine issued an Order which was based upon the Consent Order entered into by Respondent and the NC Board on June 7, 1996. The Michigan order:

a. Found that Respondent admitted that he inappropriately touched three female patients during medical examinations.

b. Found that the facts constituted unprofessional conduct under Michigan statutes.

c. Found that grounds existed to suspend Respondent's license to practice medicine in Michigan.

d. Ordered that Respondent's license to practice medicine in the state of Michigan be suspended for a minimum period of one (1) day.

e. Ordered that the suspension would remain in effect until Respondent submitted proof of removal of all restrictions and requirements on his license to practice medicine in the state of North Carolina.

COUNT III

8. On Sunday, January 19, 1997, Respondent was employed as an emergency room physician at the Naval Hospital at Camp Lejeune, North Carolina. On Tuesday, January 21, 1997, Ms. A filed a complaint against Respondent with the hospital administration.

9. Ms. A alleged that on the evening of January 19, 1997 that Respondent examined Ms. A without a chaperone being present. Ms. A also alleged that while Respondent was examining Ms. A that Respondent touched Ms. A in a sexually inappropriate manner.

10. On February 21, 1997, the Commanding Officer of the Naval Hospital at Camp Lejeune, North Carolina suspended Respondent's clinical privileges pending hearing on the allegations relating to Ms. A.

11. On May 12, 1997, the hospital's Peer Review Panel held a hearing on the allegations. It was undisputed that a chaperone was not present throughout Respondent's examination of Ms. A. Ms. A was present for the proceeding, but left prior to the time the panel sought her testimony. For that reason, Ms. A did not testify at the hearing. Respondent denied that he had inappropriate contact with Ms. A during the examination.

12. On May 14, 1997, the Peer Review Panel made its written recommendations to the Commanding Officer of the hospital. The Panel concluded:

- a. Inappropriate sexual misconduct with the patient could not be substantiated.
- b. Respondent examining Ms. A without the presence of a chaperone was in violation of the NC Board order and was unprofessional conduct.
- c. Respondent's clinical privileges should be limited to include a chaperone present during all examinations of female patients and that the command monitor Respondent's conduct by using the surveillance forms prepared by Dr. Abel.

13. On May 19, 1997, the Commanding Officer of the Naval Hospital at Camp Lejeune, North Carolina, who did not participate in the hearing:

- a. Did not concur with the Panel's conclusion that inappropriate sexual misconduct with the patient could not be substantiated.
- b. Concurred with the Panel's conclusion that Respondent's examination of Ms. A without the presence of a chaperone was in violation of the NC Board order and was unprofessional conduct.
- c. Revoked Respondent's clinical privileges for noncompliance with the requirement of the North Carolina Board's order requiring a chaperone present during the examination of any female patient.

14. Respondent appealed the decision of the Commanding Officer of the Naval Hospital at Camp Lejeune, North Carolina. That Commanding Officer's order was upheld on appeal to the Chief of the U.S. Department of the Navy, Bureau of Medicine and Surgery.

COUNT IV

15. The temporary permit which had been issued to Respondent by the NC Board was due to expire on May 31, 1997. Prior to May 31, 1997, the NC Board had become aware of the allegations regarding the January 19, 1997 examination of Ms. A by Respondent at the Naval Hospital at Camp Lejeune, North Carolina. The NC Board declined to renew the temporary permit upon its expiration.

16. On May 29, 1997 and June 25, 1997, the NC Board issued a Notice of Charges and Allegations against Respondent. The charges were based on the January 19, 1997 examination of Ms. A by Respondent at the Naval Hospital at Camp Lejeune, North Carolina.

17. On March 19, 1998, the NC Board, with Respondent's agreement, issued a Consent Order in that matter which:

- a. Found that Respondent "admits that the examination of Ms. A without a chaperone violated the Consent Order."
- b. Found that the facts constituted unprofessional conduct under North Carolina statutes.
- c. Found that grounds existed to annul, suspend, revoke, condition, or limit Respondent's license to practice medicine in North Carolina.
- d. Ordered that effective June 1, 1998, Respondent shall receive a temporary license, which expires at the end of the day on December 31, 1998.
- e. Ordered that, among other things: Respondent's practice of medicine or surgery be limited to male patients.
- f. Ordered that Respondent provide a copy of the consent order to all employers.

18. On November 21, 1998, the NC Board issued Respondent a temporary permit to practice medicine and surgery in that state until May 31, 1999. The permit limited Respondent's practice to male patients.

19. On June 1, 1999, Respondent's temporary permit to practice medicine and surgery in the state of North Carolina expired.

ALL COUNTS

20. At the request of the Division of Enforcement, Respondent was psychologically evaluated by Dr. David Goldfoot, a Madison, Wisconsin psychologist with experience in evaluating and treating individuals who have committed sexual offenses.

21. Dr. Goldfoot's psychological evaluation of Respondent is contained in his 13 page report dated May 30, 1999. The Board has reviewed that report, prior to issuing this order.

22. Respondent has agreed to allow the registration of his license to practice medicine and surgery to expire effective November 1, 1999 and Respondent understands that Respondent may not legally practice medicine and surgery in the state of Wisconsin during the time the registration of his license is not current.

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. [Count I] Respondent, by having his license to practice medicine in North Carolina revoked by the North Carolina Medical Board's Consent Order of June 7, 1996, has engaged in unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(q) for having a license granted by another state to practice medicine and surgery revoked.
4. [Count II] Respondent, by having his license to practice medicine in Michigan suspended by the Michigan Board of Medicine's Order of February 3, 1997, has engaged in unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(q) for having a license granted by another state to practice medicine and surgery suspended.
5. [Count III] Respondent, by having his clinical privileges revoked by the May 19, 1997 Order of the Commanding Officer of the Naval Hospital at Camp Lejeune, North Carolina, has engaged in unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(q). for having been subject to adverse action by an agency of the federal government.
6. [Count IV] Respondent, by having his license to practice medicine in North Carolina limited by the North Carolina Medical Board's Consent Order of March 19, 1998, has engaged in unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(q) for having a license granted by another state to practice medicine and surgery limited.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That Respondent shall allow the registration of his license to practice medicine and surgery to expire effective November 1, 1999.
2. Respondent's right to renew the registration of his license to practice medicine and surgery in the state of Wisconsin is hereby **SUSPENDED** for a period of at least one year, effective November 1, 1999.
3. That Respondent may petition the Medical Examining Board for the renewal of his registration, after October 31, 2000, under the following terms and conditions:
 - a. Respondent shall provide evidence to the Board that he has successfully completed a course of cognitive-behavioral therapy with strong relapse prevention and victim empathy components. Successful completion of the therapy shall be determined

by the therapist. If the therapy was for less than six to nine months at weekly intervals, the therapist shall explain why that course of therapy was sufficient.

b. The therapist shall have had specific training in the treatment of sexual misconduct and shall have been approved by the Board or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the completion of therapy. Such approval shall not unreasonably be withheld.

c. Respondent shall execute releases which allow the therapist to submit reports and records regarding the Respondent and allow the therapist to discuss Respondent and his treatment with the Board or its designee.

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

4. If the Board determines to end the suspension, Respondent's license to practice medicine in the state of Wisconsin shall be limited, as follows:

a. Respondent shall continue with maintenance contacts with the therapist, as determined by the therapist, to insure that Respondent is doing well with his program.

b. Respondent shall ensure that his therapist provides semi-annual reports to the Board or its designee regarding Respondent's continued maintenance contacts with the therapist.

c. At all times that Respondent is examining or providing treatment to a female patient, there shall be another health care provider physically present in the room with Respondent and the patient.

d. The health care provider who was physically present in the room with Respondent and the patient shall legibly note in the patient's medical chart that the provider was present in the room during the examination or treatment and sign the note.

e. Respondent's practice pursuant to his Wisconsin license shall be supervised by a physician, with a minimum of five years clinical experience, who has been approved by the Board or its designee.

i. Respondent shall provide the supervisor with a copy of this final decision and order, prior to seeking approval of the supervisor from the Board or its designee.

ii. Respondent shall ensure that the supervisor shall submit reports to the Board or its designee every three months, beginning 3 months from the date the supervisor begins providing supervision to Respondent. The reports shall address the manner in which the limitations set out in subparagraphs c and d are being enforced and shall address the nature of Respondent's practice and conduct.

iii. If the supervisor has reasonable suspicion to believe that Respondent has violated any term of this order or has had inappropriate physical contact with any patient, the supervisor shall report that suspicion to the Board or its designee immediately.


f. Respondent shall refrain from engaging in unprofessional conduct; shall appear before the Board or its officers or agents at such times and places as may be designated by the Board from time to time; shall fully disclose to the Board or its officers or agents the nature of Respondent's practice and conduct; shall fully comply with the limits placed on Respondent's practice and conduct by the Board; shall obtain additional training, education or supervision required by the Board; and shall cooperate with the Board. [§ 448.02(3)(e), Stats.]

5. If Respondent believes that the Board's refusal to renew the registration of Respondent's license is inappropriate or that any limitation imposed or maintained by the Board under paragraph 4 is inappropriate, Respondent may seek a class 1 hearing pursuant to §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 nonrenewal or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

6. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 4 above, may constitute grounds for revocation of Respondent's license to practice medicine and surgery in Wisconsin. 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 4 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 20th day of October, 1999.



Ronald Grossman, M.D.
Secretary
Medical Examining Board

STATE OF WISCONSIN
BEFORE THE WISCONSIN MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PERRY REESE, III, M.D.
RESPONDENT.

Case No.

STIPULATION

It is hereby stipulated and agreed, by and between Perry Reese, III, M.D., Respondent; R. Jonathan Charleston of the Banks Law Firm, 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 pending investigation (file 97 MED 281) and disciplinary proceeding (LS9812041MED) regarding Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Medical Examining Board.
2. The parties agree that this proposed stipulated resolution may be presented directly to the Board, and need not be presented to the administrative law judge assigned to the disciplinary proceeding.
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 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.

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NO. 216 1003/011

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 referred 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. Attached to this stipulation are the current wall and wallet registration certificates of Respondent. If the Board accepts the stipulation, Respondent's license shall be renewed at the time the stipulation is terminated in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this stipulation, Respondent's certificates shall be returned to the Respondent with a notice of the Board's decision not to accept the stipulation.

8. The parties to this stipulation agree that the Respondent, Respondent's attorney, if any, 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.

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

Dated this 12 day of October, 1999.

Perry Reese, III, M.D.
Respondent

Dated this 12 day of October, 1999.

R. Jonathan Charleston
The Banks Law Firm
Attorneys for Respondent

Dated this 14 day of October, 1999.

John A. Zyga
Attorney for Respondent
Department of Regulation & Licensing
Division of Enforcement

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NOTICE OF RIGHTS OF APPEAL

TO: R JONATHAN CHARLESTON ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 10/21/99. 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