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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST:

FINAL DECISION AND ORDER

NEVILLE W. DUNCAN, M.D.,
RESPONDENT.

98 MED 265

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

Neville W. Duncan, MD
3401 W. Kilbourne #2
Milwaukee, WI 53208

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. Respondent is Neville W. Duncan, M.D., dob 11/20/1941, who is licensed as a physician and surgeon in Wisconsin pursuant to license #37370, first granted on 1/12/1996. Respondent is an obstetrician and gynecologist.
2. On September 21, 1998, a Milwaukee police officer observed the respondent in a public altercation with his wife, from whom he was separated.
3. Respondent was placed under arrest. The respondent was searched and a glass vial and a small plastic bag were seized. The substances in both containers tested positive for the presence of cocaine base.
4. Respondent was conveyed to St. Mary's Hospital, Milwaukee, WI for a drug screening. Respondent had blood drawn, and a urine sample taken. A urine analysis was positive for cocaine..
5. Respondent had, in fact, earlier smoked cocaine with his wife.
6. On January 14, 1999, respondent was convicted in Milwaukee County Circuit Court upon his plea of no contest to misdemeanor possession of a controlled substance - cocaine growing out of the incident set forth above,

contrary to §961.41(3g)(c), Wis. Stats., and to disorderly conduct , contrary to §63.01, Milwaukee County Ordinances.

7. Respondent was comprehensively evaluated at PRN and was diagnosed with cocaine abuse. Respondent stated that had only used cocaine four or five times over a three week period in September, 1998 . Respondent represents to the Board that he did not use cocaine before September, 1998 and has not used cocaine since September 21, 1998, nor has he used other illicit controlled substances in the past ten years.

8. Respondent has been comprehensively evaluated by a competent practitioner approved by the Board, and has been found not to be impaired or chemically dependent, although respondent has in the past used cocaine recreationally. In the opinion of the examiner, there are no psychological reasons why respondent could not practice with skill and safety to the patient and public at this time.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

B. Possession or use of cocaine outside of legitimate practice constitutes unprofessional conduct pursuant to § Med 10.02(2)(p), Wis. Adm. Code. Being convicted of violating a law regulating the possession of controlled substances constitutes unprofessional conduct pursuant to § Med 10.02(2)(r) Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Neville W. Duncan, M.D., is REPRIMANDED for his unprofessional conduct in possessing and using a controlled substance, and being convicted therefore.

IT IS FURTHER ORDERED, that respondent shall, upon request of any agent of the Board or department, including a law enforcement officer acting at the request of an agent of the Board or department, forthwith provide a sample of his breath, urine, blood or hair for testing, and shall cooperate fully with such sampling process.

IT IS FURTHER ORDERED, that respondent shall pay the costs of investigating and prosecuting this matter in the amount of \$550, before his registration is next renewed.

IT IS FURTHER ORDERED, that pursuant to §448.02(4), Wis. Stats., if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license and registration of respondent be summarily suspended pending investigation of the alleged violation.

Dated this February 24, 1999.

WISCONSIN MEDICAL EXAMINING BOARD

by: s/ Ronald Grossman, MD

a member of the Board