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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

THOMAS V. RANKIN, M.D., ORDER DENYING
Respondent PETITION FOR REHEARING

The Medical Examining Board filed its Final Decision and Order in this matter on November 25, 2000. By the terms of the Order, Dr. Rankin's license was revoked based upon findings that he had falsified his application for a license to practice medicine and surgery in Wisconsin. More specifically, Applicant answered "no" to the question, "Have you ever entered a plea of guilty or no contest to a misdemeanor or felony or had a jury verdict of guilty, court finding of guilty or judgment of conviction against you for a misdemeanor or felony? If yes, give details on attached sheet." In fact, Dr. Rankin was, on or about May 5, 1988, convicted of 27 misdemeanors (9 counts of forgery, 9 counts of false sales tax returns, and 9 counts of false reports) in York County, Pennsylvania. These convictions were related to the payment of sales tax on nine motor vehicles purchased by Dr. Rankin. Each of the vehicle purchases involved preparation and submission of forged documents (Vehicle Sales Tax Returns and vehicle sales invoices) by Dr. Rankin. On or about August 4, 1988, Dr. Rankin was sentenced to two years probation and ordered to pay a fine in the amount of eighteen thousand dollars.

On December 18, 2000, respondent, by Attorney William R. Wick, filed his Petition for Rehearing in the matter. The board considered the petition at its meeting of January 17, 2001.

Based upon the petition, and upon all other information of record herein, the board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the Petition for Rehearing of Thomas V. Rankin, M.D., in the above-captioned matter be, and hereby is, denied.

DISCUSSION

Under sec. 227.49(2), Stats., a rehearing may be granted only on the basis of some material error of law, some material error of fact, or the discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence. The petition in this matter contends that the board made both a material error of law and a material error of fact in that its Explanation of Variance setting forth the basis for modifying the discipline sets forth the board's conclusion that the falsification of respondent's application must be deemed to have done intentionally. The basis for respondent's petition is primarily a statement in the Opinion section of the proposed Decision of the Administrative Law Judge (ALJ) that states as follows:

The Administrative Law Judge recommends that Dr. Rankin be reprimanded. The evidence presented establishes that Dr. Rankin caused false information to be submitted to the Board in connection with his application for licensure. He admits that he provided false information in his application and that he failed to verify the information put in the application by Ms. Kaye before he signed and submitted it to the Board. A reprimand is appropriate in this case to deter other licensees from engaging in similar misconduct. Revocation of Dr. Rankin's license is not being recommended because the evidence presented does not establish that he "knowingly" provided false information on his application. For reasons unknown, Ms. Kaye did not testify at the hearing. Perhaps, Ms. Kaye's testimony would have shed some additional light on Dr. Rankin's role in completing the application for licensure.

This statement is somewhat mystifying in that the ALJ recommended, and the board adopted, a Conclusion of Law that respondent violated Med 10.02(2)(c), Code. That section states:

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

* * * *

(c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

The board is not sure just what the ALJ intended by the statement in her Opinion cited above, given that she specifically found in her recommended Conclusions of Law that the falsification was done knowingly. But in any event, her statement is not a finding. To the extent this or any other examining board adopts any part of an ALJ's Proposed Decision, it adopts only the Findings of Fact, Conclusions of Law and Order. The board does not adopt the ALJ's Opinion, and does not adopt the ALJ's reasoning as set forth in that Opinion. The Opinion portion of a Proposed Decision may be helpful to the board in understanding the ALJ's rationale, but that rationale is in no way binding on the board -- whether or not the board modifies the recommended findings, conclusions and/or order.

In the last analysis, the ALJ's Findings of Fact and Conclusions of Law, as adopted in their entirety by the board, establish without more that respondent knowingly filed a false application; and the board's decision not to supplement those findings in no way constitutes a material error of law or of fact. Accordingly, the Petition for rehearing must be denied.

Dated this 29th day of January, 2001

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

Sidney E. Johnson, M.D.
Secretary