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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE

SUMMARY SUSPENSION OF THE LICENSE OF

MARK A. HUFFMAN, M.D.,

ORDER SUSPENDING THE LICENSE

Respondent

On May 14, 2001, the Division of Enforcement, by Attorney John R. Zwieg, filed its Notice of Presentation of Petition for Summary Suspension, and Petition for Summary Suspension. On May 15, 2001, Dr. Huffman, by Attorney Hal Harlowe filed his Request for Summary Suspension Hearing in Accordance with Wis. Stats. sec. 227.42; his Motion for Discovery, and his Request for a Show Cause Hearing. Also filed were copies of letters from patients and coworkers in support of Dr. Huffman.

Oral arguments on the Petition and Motions were conducted before the board on May 16, 2001. Dr. Huffman appeared by Attorney Hal Harlow; the Division of Enforcement appeared by Mr. Zwieg. Dr. Huffman did not appear. The board considered the matter on that date.

FINDINGS

1. Addressing the request that the suspension of the license be preceded by a sec. 227.42 hearing, the board deems the specific provisions of the summary suspension provision at sec. 448.02, Stats., to take precedence over the general right to a fact-finding hearing found in the Wisconsin Administrative Procedure Act. *Town of Nasewaupee v. City of Sturgeon Bay*, 146 Wis.2d 492, 495, 431 N.W.2d 699, 700 (Ct. App. 1988). The request for a sec. 227.42 type hearing to litigate the summary suspension petition must therefore be denied.

2. Were this the first allegation of this kind of misconduct directed at Dr. Huffman, summary suspension would not be appropriate. These allegations, however, evince conduct strikingly similar to proven misconduct in previous disciplinary and criminal matters. The board therefore concludes that there is evidence establishing probable cause to believe that Dr. Huffman has violated the board's rules of conduct and that it is necessary to suspend the license immediately to protect the public health, safety or welfare.

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

ORDER

NOW, THEREFORE, IT IS ORDERED respondent's Request for Summary Suspension Hearing in Accordance with Wis. Stats. sec. 227.42 be, and hereby is, denied. Accordingly, respondent's Motion for Discovery is moot, and is therefore also denied.

IT IS FURTHER ORDERED that complainant's Petition for Summary Suspension is granted.

IT IS FURTHER ORDERED that respondent's Request for a Show Cause Hearing is granted.

IT IS FURTHER ORDERED that, pursuant to sec. RL 6.11, Code the administrative law judge appointed to conduct the disciplinary hearing in this matter shall preside over and rule on the show cause hearing, and shall preside over and rule on any interim motions, including any request for a 30 day extension of the suspension, and shall preside over and rule on any petition to extend the suspension until the matter is decided following the hearing.

Dated this 16th day of May, 2001.

STATE OF WISCONSIN

MEDICAL EXAMINING BOARD

Sidney E. Johnson, M.D.

Secretary