

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST:

MAHMOUD MUSA,

FINAL DECISION AND ORDER

RESPONDENT

LS0201231MED

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The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 20<sup>th</sup> day of March, 2002.

Darold Treffert, Chairperson

Medical Examining Board

STATE OF WISCONSIN

BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

MAHMOUD N. MUSA, M.D.,

PROPOSED DECISION AND ORDER

RESPONDENT

LS0201231MED

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

Dr. Mahmoud N. Musa

P.O. Box 458

Maumee, OH 43537

Medical Examining Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation & Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

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### **PROCEDURAL HISTORY**

A hearing in the above-captioned matter was held on February 19, 2002, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by attorney Steven M. Gloe. Dr. Musa did not appear.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Medical Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

### **FINDINGS OF FACT**

1. Mahmoud N. Musa, M.D. (dob 3/22/43) is duly licensed to practice medicine and surgery in Wisconsin (License #26689). His license was first granted on April 19, 1985.
2. Dr. Musa's most recent address on file with the Wisconsin Medical Examining Board is P. O. Box 458, Maumee, Ohio.
3. On or about December 16, 1998, the Illinois Department of Professional Regulation imposed disciplinary action against Dr. Musa's medical license by revoking his certificate of registration to practice as a physician and surgeon in Illinois. The factual basis for the discipline was an overcharge by Dr. Musa to the Illinois Department of Public Aid of \$98,044.56 while he was a participant in the Illinois Medical Assistance Program.
4. On or about June 3, 1999, the Iowa Board of Medical Examiners denied Dr. Musa's application for a permanent license to practice medicine and surgery. The factual basis for the denial was the revocation of Dr. Musa's certificate of registration to practice as a physician and surgeon in Illinois.
5. On or about November 29, 1999, the Illinois Department of Professional Regulation imposed additional disciplinary action against the registration of Dr. Musa. The disciplinary action indefinitely suspended Dr. Musa's certificate of registration to practice as a physician and surgeon in Illinois. The factual basis for the discipline was Dr. Musa's non-payment of his Illinois individual taxes for the years 1994, 1995, 1996 and 1997, and his failure to file federal individual income tax returns for the years 1994, 1995, 1996 and 1997.
6. On or about February 9, 2000, the State Medical Board of Ohio imposed disciplinary action against the certificate of Dr. Musa. The disciplinary action revoked Dr. Musa's certificate to practice medicine and surgery in Ohio. The factual basis for the discipline was the revocation of his certificate of registration as a physician and surgeon in Illinois.
7. On or about June 1, 2000, the Michigan Board of Medicine Disciplinary Subcommittee imposed disciplinary action against Dr. Musa's license by revoking his license to practice medicine in Michigan. The factual basis for the imposition of discipline against Dr. Musa was his revocation and indefinite suspension of registration to practice as a physician and surgeon in Illinois, the denial of permanent licensure to practice medicine and surgery in Iowa, and his failure to notify the Michigan Board of the above actions within 30 days from the dates of those actions.

### **CONCLUSIONS OF LAW**

1. The Medical Examining Board has jurisdiction in this matter pursuant to §448.02, Wis. Stats.

2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Dr. Musa is in default under § RL 2.14, Wis. Admin. Code, and the Medical Examining Board may make Findings and enter an Order on the basis of the Complaint and evidence presented at the hearing.

3. Dr. Musa, by having had his license to practice medicine revoked in Illinois, Ohio, and Michigan, engaged in unprofessional conduct contrary § Med 10.02 (2) (q), Wis. Admin. Code.

### **ORDER**

**NOW THEREFORE IT IS HEREBY ORDERED** that the license of Mahmoud N. Musa to practice medicine and surgery in the State of Wisconsin shall be **REVOKED**.

**IT IS FURTHER ORDERED** that the assessable costs of this proceeding be imposed upon Mahmoud N. Musa, pursuant to sec. 440.22, Wis. Stats.

### **OPINION**

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint or fails to appear at a hearing, he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

A Notice of Hearing and Complaint were sent to Dr. Musa both by certified mail and by regular U.S. mail at his last known address on file with the Wisconsin Department of Regulation and Licensing. However, Dr. Musa did not file an answer to the above-captioned complaint, nor did he appear at the scheduled hearing. As a result, Dr. Musa is in default and has effectively admitted all of the allegations contained in the complaint.

Prior to July of 1997, Dr. Musa was a participant in the Illinois Medical Assistance Program. His eligibility to participate in that program was terminated on July 9, 1997, after it was discovered that he had overcharged the Illinois Department of Public Aid in the amount of \$98,044.56. In response, the Illinois Department of Professional Regulation filed a Complaint against Dr. Musa on August 10, 1998. Dr. Musa failed to appear either in person or by counsel for a preliminary hearing on September 14, 1998. He also failed to appear at another scheduled hearing on October 19, 1998, nor did he file an Answer to the Complaint. His Illinois medical license was subsequently revoked in December of 1998.

On or about November 29, 1999, the Illinois Department of Regulation imposed additional disciplinary action against Dr. Musa. The disciplinary action indefinitely suspended Dr. Musa's certificate of registration to practice as a physician and surgeon in Illinois. The Department took that action after learning that Dr. Musa had failed to pay his Illinois, individual taxes for the years 1994, 1995, 1996, and 1997, and that he had also failed to file federal, individual income tax returns for the years 1994, 1995, 1996, and 1997.

In response to the disciplinary action taken against Dr. Musa in Illinois, both Ohio and Michigan also took disciplinary action against Dr. Musa's medical license in 2000. He is no longer eligible to practice medicine in either of those states. Additionally, the Iowa Board of Medical Examiners denied Dr. Musa's application for a permanent license to practice medicine and surgery upon discovering what had occurred in Illinois.

The question therefore remains as to what the appropriate form of discipline is for Dr. Musa. Revocation of his license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Dr. Musa or that he even has an interest in being rehabilitated at this time. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Accordingly, revocation remains the only appropriate way in which to safeguard the public.

Dated at Madison, Wisconsin, this 19<sup>th</sup> day of February, 2002.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

Jacquelynn B. Rothstein

