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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
MARC L. SMITH, D.O.,	:	LS0207251MED
RESPONDENT.	:	

Division of Enforcement
02 MED 175

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

Marc L. Smith, D.O.
5276 Lovers Lane Rd.
Milwaukee, WI 53225

Wisconsin Medical Examining Board
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was entered into between Marc L. Smith, D.O., Joseph W. Weigel, Dr. Smith’s attorney, and James E. Polewski, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. Marc L. Smith, D.O., 5276 N. Lovers Lane Rd., Milwaukee, Wisconsin 53225, was born on May 23 1958 and has been licensed to practice medicine and surgery in the State of Wisconsin pursuant to license #27806, first granted on July 1, 1986.

2. On October 18, 2000, the Medical Examining Board issued a Board Order that required Respondent to complete not less than 120 hours of community medical service approved in advance by the Board within 120 days, or by February 18, 2001.

3. Respondent was subsequently granted a six month extension for completing the 120 hours of community medical service, extending the deadline to August 18, 2001.

4. On October 17, 2001, Respondent had failed to perform 120 hours of community medical service approved in advance by the Board within the extended deadline and appeared before the Medical Examining Board to request another 120 day extension.

5. On October 23, 2001, the Medical Examining Board granted the Respondent a 120 day extension to complete the 120 hours of community medical service approved in advance by the Board. In addition to granting the extension, the Board granted a one month delay in beginning the count of the 120 day extension, making the new deadline March 18, 2002.

6. As of March 23, 2002, the Respondent had not submitted any documents to the Department Monitor in the Division of Enforcement that he had completed the 120 hours of community medical service.

7. On April 5, 2002, the Department Monitor sent the Respondent a letter stating that the Respondent had to submit proof of having completed the 120 hours of community medical service by April 18, 2002.

8. On April 15, 2002, Respondent faxed a letter to the Department Monitor stating that the Respondent had completed only 63 hours of community medical service, hoped that he would complete the rest over the next six weeks, and that he would report his progress on a monthly basis or whenever he was asked to do so.

9. On April 17, 2002, Respondent contacted the Department Monitor by telephone and said that he had not completed the 120 hours of community medical service.

10. The Respondent did not send the Department Monitor any further updates on the Respondent's progress in completing the 120 hours of community medical service.

11. On May 22, 2002, the Medical Examining Board reviewed the information that the Department Monitor had not received any further information from the Respondent that he had completed the 120 hours of community service. The Board ordered that a case be opened against Respondent for violation of his Board Order.

12. On July 25, 2002 a complaint was filed against the Respondent with the Medical Examining Board for violating the October 18, 2000 Board Order.

13. On August 9, 2002, Respondent's attorney sent a letter to the Medical Examining Board stating that Respondent had completed the 120 hours of community medical service at the end of June of 2002. Letters from the three organizations Respondent has volunteered at since November of 2001 verify that Respondent completed a total of 120 hours.

14. Respondent had completed a total of 120 hours of community service by the end of June of 2002, but he did not send any information to the Department Monitor, including progress reports, until August 9, 2002.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 448.02.

2. The Wisconsin Medical Examining Board has the authority to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to Wis. Stats. sec. 227.44(5).

3. Dr. Smith's failure to timely comply with his agreements to perform community medical service or to comply with any of the extensions of the order constitutes unprofessional conduct contrary to Wis. Stats. sec. 448.02(3) and Wis. Admin. Code sec. MED 10.02(2)(b).

ORDER

IT IS FURTHER ORDERED that the stipulation of the parties is approved.

IT IS FURTHER ORDERED that Marc L. Smith is REPRIMANDED.

IT IS FURTHER ORDERED that Marc L. Smith pay COSTS in the amount of \$400.00. Payment shall be submitted within sixty (60) days from the date of this order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to: Department Monitor, Division of Enforcement, Dept. of Regulation & Licensing, P. O. Box 8935, Madison, WI 53708-8935.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 25th day of September, 2002.

MEDICAL EXAMINING BOARD

Virginia S. Heinemann,
Secretary