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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : LS0004281MED
:
ALAN S. GLICKLICH, M.D., : LS0110172MED
RESPONDENT. :

FINAL DECISION AND ORDER

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

Alan S. Glicklich, M.D.
116 Ramapoo Road
Ridgefield, CT 06877

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 Medical Examining 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. Alan S. Glicklich, M.D., Respondent, date of birth April 25, 1961, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 36254, which was first granted January 13, 1995.

2. Respondent's specialty area of practice is internal medicine.

3. Respondent's last address reported to the Department of Regulation and Licensing was 116 Ramapoo Road, Ridgefield, CT 06877.

4. On April 12, 2000, the Division of Enforcement filed a complaint in Case No. LS 0004281 MED alleging that from July, 1996 through March, 1997, Respondent had a sexual relationship with Ms. A, a medical assistant employed in his office who was also his patient, in violation of Wis. Adm. Code § MED 10.02(2) (h), which prohibits a physician from engaging in "conduct which tends to constitute a danger to the health, welfare, or safety of patient or public." Respondent admitted that he had a consensual romantic and sexual relationship with Ms. A. Respondent further acknowledged that it was inappropriate for him to enter into such a relationship, but asserted as an affirmative defense that in 1996 and 1997 the Medical Examining Board had not adopted a rule prohibiting physician-patient sexual contact, and, therefore, that his consensual relationship with Ms. A did not violate the "danger to patient" rule.

5. A hearing was held on the complaint, and on November 15, 2000 the Board issued a final decision and order, finding that Respondent had engaged in unprofessional conduct and directing that his license to practice medicine be suspended for a period of at least one year. The Board further ordered that the suspension would end only upon Respondent having a psychological evaluation, by a person approved by the Board, which concluded that Respondent could safely practice medicine.

6. Respondent appealed the Board's decision (Ozaukee County Circuit Court case number 00-CV-448-B1), and obtained a stay of the discipline. In its decision on appeal, dated May 18, 2001, the circuit court noted that "the Medical Examining Board does not have a 'brightline rule' prohibiting sexual relationships between a physician and his or her patient." The court reversed the Board's decision, and remanded the case to the Medical Examining Board "for either further evidentiary proceedings or for particularly specific findings as to how the 'danger to patient' rule was violated . . . by improper medical treatment." The court also recommended that the Board "reconsider its sanctions in this case." In compliance with the court's order, the Board remanded the case to the Division of Enforcement, which filed a new complaint commencing Case No. LS-0110172-MED.

7. Respondent voluntarily underwent a psychological evaluation in December 2000 by Dr. John Gonsiorek, a Minneapolis psychologist who had previously been selected by the Division of Enforcement and approved by the Board to do evaluations in other cases with similar issues. The results of Dr. Gonsiorek's psychological testing of Respondent were within normal limits and did not show any psychopathology. Dr. Gonsiorek concluded that Respondent could practice medicine without a substantial likelihood of risk to patients, and stated that there was nothing to support a conclusion that Respondent was predatory or posed a risk to patients.

8. On April 1, 2002, prior to the completion of the remanded disciplinary case, Respondent accepted a non-clinical research position at a pharmaceutical company. Respondent has not engaged in the clinical practice of medicine since April 1, 2002. Respondent has no current plans to return to the practice of medicine in Wisconsin.

9. The patient with whom Respondent had the sexual relationship has told the Division of Enforcement that she does not want to testify or participate in any manner in the remanded disciplinary action.

10. It remains the Division of Enforcement's position and the Board's position that a consensual sexual relationship between a physician and a current patient in 1996 and 1997 was in violation of Wis. Adm. Code §

MED 10.02(2)(h). It remains Respondent's position that his relationship with Ms. A was not in violation of Wis. Adm. Code § MED 10.02(2)(h).

11. Effective December 1, 2002, the Board created Wis. Adm. Code § MED 10.02(2)(zd), which specifically prohibits sexual conduct since that date with a current patient or a former patient for two years following the termination of professional services. That rule says:

Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for 2 years after termination of services, or for 2 years after the patient reaches the age of majority, whichever is longer.

12. Respondent has not practiced medicine in Wisconsin for more than one year, which was the minimum period of suspension which had been ordered by the Board in its original decision. Respondent has also had a psychological evaluation with results which would have met the requirements of the original decision for ending the suspension.

13. The Division of Enforcement, the Board and Respondent agree to resolve these matters with this Final Decision and Order, rather than spend further resources litigating the contested issues.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to § 448.02(3), Stats.

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent's consensual sexual relationship with a patient during 1996 and 1997 constituted unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(h).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT Alan S. Glicklich, M.D., is hereby REPRIMANDED.

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

Dated at Madison, Wisconsin this 23rd day of April, 2003.

Alfred L. Franger, M.D.

Secretary