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STATE OF WISCONSIN
BEFORE THE WISCONSIN MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS F. BABCOCK, D.O.,
APPLICANT.

LS0407216MED

ORDER GRANTING LIMITED LICENSE

Thomas F. Babcock, D.O., appeared before the Wisconsin Medical Examining Board on May 19, 2004, for an oral examination in support of his application for medical licensure in Wisconsin. Based upon all of the information of record, the Board makes the following findings and orders:

FINDINGS OF FACT

1. Thomas F. Babcock, D.O., hereinafter referred to "applicant," date of birth December 12, 1947, is licensed by the Iowa Board of Medical Examiners as a Doctor of Osteopathy, pursuant to license #02357, originally issued on June 30, 1989.
2. The applicant's current address is 504 9th Avenue, S.E., Oelwein, Iowa 50662.
3. On or about February 19, 2004, the applicant filed an application for a license to practice medicine and surgery in Wisconsin.
4. On May 19, 2004, the applicant appeared before the Wisconsin Medical Examining Board for an oral examination on his application for licensure.

PRIOR DISCIPLINARY ACTION BY IOWA MEDICAL BOARD

5. On June 6, 2003, the Iowa Board of Medical Examiners issued a disciplinary order against the applicant, placing his medical license on probation for a period of five (5) years. The terms of the Iowa probationary order included: monitoring and quarterly reports by a work-site physician, participation in a sexual misconduct treatment, use of patient survey polygraph examinations every six months, and permanently prohibited from treating female patients without having a healthcare professional chaperone continually present. A true and correct copy of Iowa Statement of Charges, Settlement Agreement and Final Order is attached and incorporated herein as **Exhibit 1**.

6. The applicant has remained compliant with the terms and conditions of his probationary license in Iowa.

ORDER

IT IS HEREBY ORDERED that a LIMITED license to practice medicine in the state of Wisconsin shall be issued to the applicant. The terms and conditions of the applicant's limited license are set forth more fully in the following paragraphs: IT IS FURTHER ORDERED that the period of limitations shall be indefinite.

CONDITION AND LIMITATIONS

A. Participation in Approved Sexual Misconduct Treatment Program.

1. Prior to commencing the practice of medicine in the state of Wisconsin, the applicant shall have arranged for and entered into an approved program for the treatment of sexual misconduct, with a qualified provider acceptable to the Board, or its designee. The applicant shall participate in, cooperate with and follow all treatment recommended by provider.
2. The applicant shall furnish a copy of this Final Decision and Order and the June 24, 2003, order of Iowa Board of Medical Examiners, to the provider upon commencement of his treatment, so that an appropriate plan of treatment may be developed.
3. The applicant shall be responsible for the payment of his treatment and shall immediately self-report any violation of any of the terms and conditions of this Order or any other order, or any suspected unprofessional conduct, to the Board or its designee
4. The sexual misconduct treatment program shall include individual and/or group therapy sessions at a frequency to be determined by approved provider, but not less than one session per month. The therapy sessions may end only upon a determination by the Board or its designee after receiving a petition for modification, supported and endorsed in writing by the approved provider.
5. The approved provider shall submit written progress reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess the applicant's progress in treatment. The provider shall report any violation of any of the terms and conditions of this Order or any other order, or any suspected unprofessional conduct, to the Board or its designee shall report immediately to the Department Monitor any violation or suspected violation of this Order.
6. If the provider is unable or unwilling to continue as the provider of these services, the applicant shall immediately seek approval of a successor provider by the Board or its designee so that there is no lapse in the treatment.

B. Releases

The applicant shall provide and keep on file with provider and all treatment facilities and personnel current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to obtain all patient health care and treatment records and reports, and to discuss the progress of the applicant's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

C. Practice Limitations

1. The applicant's medical practice shall be limited to serving as a physician or medical advisor for the State of Wisconsin Department of Corrections (DOC). The applicant may accept an offer of employment at any DOC prison or correctional facility which incarcerates only male prisoners. The applicant is specifically restricted from accepting an offer of employment at any DOC prison or facility in Wisconsin which incarcerates female prisoners or juvenile offenders. The applicant is specifically restricted from providing medical services to any female prisoners or juvenile offenders under the terms of his limited license.

D. Supervised Work Reports

1. The applicant shall provide quarterly work reports to the Department Monitor from his immediate supervisor. The reports shall include information as to the applicant's work performance and compliance with the terms of his limited license.
2. The applicant shall provide a copy of this Final Decision and Order immediately to the Department of Corrections and to the warden of any prison facility where the applicant is permitted to practice.
3. The applicant shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

E. Department Monitor

Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor, Department of Regulation and Licensing
1400 East Washington Ave., P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264, Telephone: (608) 267-3817
department.monitor@drl.state.wi.us

F. Change of Provider or Approved Program by Board

If the Board or its designee determines the provider or approved program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that the provider continue treatment and rehabilitation under the direction of another provider or approved program.

G. Petitions for Modification

The applicant may not petition the Board for modification of the terms of this Order until the third year of the order. Any such petition shall be accompanied by a written recommendation from the applicant's provider expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of §227.01(3)(a), Stats., and the applicant shall not have a right to any further hearings or proceedings on the denial.

H. Annual Appearance

The applicant shall make an annual personal appearance before the Board to answer any questions that the Board may have concerning the applicant's compliance with the order. The Board, in its discretion, may modify the terms of the order, based on any information received at the annual appearance from the applicant, the Department Monitor or any other credible source.

I. Summary Suspension

1. The applicant's limited license shall be subject to summary suspension for violation of the terms of the order, in the interests of public health and safety, pursuant to the terms of this order. If the Board determines that there is good cause for summarily suspending the applicant's license, the summary suspension shall become effective upon:

- (a) Mailing to the applicant's last-known address provided to the Department of Regulation and Licensing pursuant to § 440.11, Stats., or
- (b) Actual notice to the applicant or his attorney.

2. The applicant may request a hearing on the imposition of the summary suspension, and such hearing shall be held using the procedures set forth in ch. RL 2, Wis. Adm. Code. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within sixty (60) days of receipt of the applicant's request, unless otherwise waived by the applicant. The request of a hearing does not stay the suspension during the pendency of the hearing process.

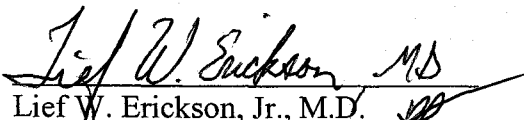
3. After a hearing, or in lieu of a hearing, the Board or its designee, may reinstate the limited license, if provided with sufficient information that the applicant is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. The decision whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

4. The sufficiency of the proof of compliance shall be determined by the Board or its designee in its discretion. The suspension will be tolled during any period that the applicant is not working as a physician.

J. Additional Discipline

1. In addition to a basis for summary suspension, violation of any term of this Order may be the basis for a separate disciplinary action under § 441.07, Stats. The rights of a party aggrieved by this Decision to petition the Section for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 21st day of July, 2004.


Lief W. Erickson, Jr., M.D.
Secretary of the Board

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

THOMAS F. BABCOCK, D.O., RESPONDENT

No. 03-02-600

STATEMENT OF CHARGES,
SETTLEMENT AGREEMENT AND FINAL ORDER
(Combined)

COMES NOW the Iowa Board of Medical Examiners (the Board), and
Thomas F. Babcock, D.O., (Respondent), on June 6, 2003, and
pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), file this combined Statement of
Charges, Settlement Agreement and Final Order.

STATEMENT OF CHARGES

1. Respondent was issued license number 02357 to practice osteopathic medicine and surgery in Iowa on June 30, 1989.
2. Respondent's Iowa medical license is valid and will next expire on December 1, 2003.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged under Iowa Code section 147.55(3) (2003) and 653 IAC section 12.4(3) with engaging in unethical or unprofessional conduct.

CIRCUMSTANCES

5. Respondent engaged in inappropriate sexual misconduct in the practice of medicine on more than one occasion.

6. In February 2003, Respondent completed a comprehensive professional sexual misconduct evaluation under the direction of Gene G. Abel, M.D. at the Behavioral Medicine Institute of Atlanta (BMI). On May 9, 2003, Respondent completed residential treatment at BMI.

SETTLEMENT AGREEMENT

7. Respondent is hereby CITED for engaging in sexual misconduct in the practice of medicine. Respondent is hereby WARNED that engaging in sexual misconduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

8. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent shall be assessed a civil penalty in the amount of \$5,000. The civil penalty shall be paid within 30 days of the date of this Order and shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

9. Respondent is permanently prohibited from treating female patients without having a healthcare professional chaperone continually present. The healthcare

professional chaperone shall be continually present when the Respondent is providing healthcare services, including but not limited to, patient evaluation, treatment and post-evaluation treatment directions. The chaperone shall document his/her continued presence in each patient's chart. Respondent shall provide the Board with the names of all persons providing chaperone services for him at all facilities where Respondent practices medicine under his Iowa medical license within 48 hours of their joining the staff. The Board will provide all chaperones with a copy of all Board Orders and the Board's Summary of the Restrictions on the Respondent's license [See Attachment A]. All chaperones shall provide a written statement to the Board indicating that they have read the Board Orders and Summary of Restrictions and agree to inform the Board immediately if there is any evidence of inappropriate sexual behavior or professional misconduct.

10. Upon the Board's approval of this combined Statement of Charges, Settlement Agreement and Final Order, Respondent's Iowa medical license shall be placed on probation for a period of five (5) years under the following terms and conditions:

- a) Prior to the Board's approval of this Order, Respondent shall contact Deb Anglin, Coordinator, Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph. #515-281-6491, to establish a monitoring program.

- b) Respondent shall fully comply with all future recommendations provided to Respondent by BMI as part of his continuing sexual misconduct treatment.
- c) Respondent shall utilize the Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys in his practice.
 - (1) Principles of Medical Ethics: Respondent shall ensure that a copy of this form is posted prominently in his examination room(s) and a copy is provided to each patient seen by Respondent.
 - (2) Staff Surveillance Forms: Respondent shall ensure that all staff who work closely with Respondent, complete the Staff Surveillance Form and submit it in a sealed envelope to the administrative director to be forwarded directly to Respondent's therapist at the end of each month.
 - (3) Respondent shall ensure that for a one-week period each quarter, all patients seen by the Respondent are provided and asked to complete a Patient Satisfaction Survey. The form is to be distributed to and collected from patients by staff, not Respondent, and submitted to the office administrator who will mail the forms to his Board-approved therapist by the fifth day of the following month. The Board-approved therapist shall share any concerns raised as the result of the Patient Satisfaction Surveys with Respondent; Deb Anglin; the worksite monitor; and the administrative director and nursing director as discussed below.

statement indicating he/she has read all Board Orders in this matter. The worksite monitor shall inform the Board immediately if there is any evidence of inappropriate sexual behavior, professional misconduct or a violation of the terms of this Settlement Agreement and Final Order. The worksite monitor shall agree to submit written quarterly reports to the Board concerning Respondent's compliance with this Order. The reports shall be filed with the Board not later than January 20, April 20, July 20 and October 20 of each year of Respondent's probation.

- g) Respondent shall provide the Board with the name, address and telephone number of the administrative director and the director of nursing at all current and future hospitals, clinics and other healthcare facilities where Respondent practices medicine under his Iowa medical license. The Board will provide the administrative director and the nursing director with all Board Orders relating to the Respondent's discipline. The Board will also provide a one-page document summarizing the restrictions placed on the Respondent's medical license. [See Attachment A]. The administrative director and nursing director shall provide a written statement indicating that they have read the Board Orders and agree to inform the Board immediately if there is any evidence of inappropriate sexual behavior or professional misconduct.

- h) Respondent shall ensure that all physicians, nursing supervisors, nurses and

chaperone nurses with whom he works at any medical facility provide the Board a written statement indicating that they have read and understand all Board Orders and the Summary of Restrictions in this matter. Each such staff person must indicate that they will inform the Board immediately if there is any evidence of inappropriate sexual behavior, professional misconduct or a violation of the terms of this Settlement Agreement and Final Order.

- i) Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Settlement Agreement, including attendance at meetings with his therapist. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of probation.
- j) Respondent shall make appearances before the Board or a Board committee annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 12.6(6)(d).

11. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

12. In the event Respondent violates or fails to comply with any of the terms or conditions of this Statement of Charges, Settlement Agreement and Final Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 12.2.

13. In the event Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside the state of Iowa will not apply to the duration of the combined Statement of Charges, Settlement Agreement and Final Order.

14. Upon full compliance with the terms of this Order, and upon expiration of the period of probation, Respondent's Iowa medical license shall be restored to its full privileges free and clear of the terms of probation.

15. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

16. By entering into this combined Statement of Charges, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

17. This combined Statement of Charges, Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for consideration.

18. This combined Statement of Charges, Settlement Agreement and Final Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

19. The Board's approval of this Settlement Agreement and Final Order shall constitute a Final Order of the Board.

Thomas Babcock, M.D.
Thomas Babcock, M.D., Respondent

Subscribed and sworn to before me on June 6, 2003.

Notary Public, State of Iowa

Roxanne L. Furman



ROXANNE L. FURMAN
COMMISSION NO. 158420
MY COMMISSION EXPIRES
11-8-05

This Settlement Agreement and Final Order is approved by the Board on

June 24, 2003.

Dale R. Holdiman MD

Dale R. Holdiman, M.D., Chair
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

ATTACHMENT A

SUMMARY OF RESTRICTIONS

1. Dr. Babcock is permanently prohibited from treating any female patient unless a Board-approved healthcare professional chaperone is present. The chaperone must be continually present when Dr. Babcock is interacting in a healthcare setting with any patient, the patient's family members, or any other patient representative. The chaperone must document his/her continued presence in each patient's chart.

2. Dr. Babcock's Iowa medical license is on probation for a period of five (5) years, subject to certain terms and conditions. You should be familiar with the following conditions of his probation:

- a) Dr. Babcock is required to use three survey forms in his practice: Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys. The Principles of Medical Practice must be handed out to every patient and clearly displayed above Dr. Babcock's desk and in each exam room where he examines patients. All staff members, with whom Dr. Babcock works closely in the practice of medicine, must complete the Staff Surveillance Forms once a month. For a one-week period each month, all of Dr. Babcock's patients must complete a Patient Satisfaction Survey. Staff (not Dr. Babcock) must distribute the forms to patients and collect the completed forms and submit them in a sealed envelope to the office manager or administrator who must promptly mail the completed forms to Dr. Babcock's Board-approved therapist.
- b) The administrative director, director of nursing, all persons serving as chaperones, and all administration and nursing staff who work closely with Dr. Babcock at all hospitals, clinics, or other health care facilities in Iowa where Dr. Babcock practices medicine must be given copies of all Board Orders in this matter and this Summary of Restrictions. They must verify to the Board, in writing, that they have read the Board Orders and agree to inform the Board immediately if there is any evidence of inappropriate sexual behavior, professional misconduct, a violation of the terms of the Board's Final Order, or a violation of any of the laws and rules governing the practice of medicine in Iowa by Dr. Babcock.
- c) Dr. Babcock is also required to have a Board-approved worksite monitor who is a physician. The worksite monitor must be provided a copy of all Board Orders and this Summary of Restrictions and is subject to the same reporting requirements described in the above paragraph.

NOTICE OF RIGHTS OF APPEAL

TO: Thomas Babcock

You have been issued an Order. For purposes of service the date of mailing of this Order is July 22, 2004. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison WI 53708-8935