

# 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 THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

GREGORY J. MILLER, M.D., :  
RESPONDENT. :

: FINAL DECISION AND ORDER  
: LS0612207MED  
:

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Division of Enforcement Case No. 06MED020

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Gregory J. Miller, M.D.  
1687 East Division Street  
River Falls, WI 54022

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Medical Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin 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. Gregory J. Miller, M.D., Respondent herein, date of birth 1/5/70, is duly licensed to practice medicine and surgery in the state of Wisconsin, license #42670. This license was first granted on 9/8/00.
2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 1687 East Division Street, River Falls, Wisconsin, 54022.
3. At all times relevant to this action, Respondent was practicing as a family practice physician in River Falls, Wisconsin.
4. J.C., the patient herein, date of birth 6/10/98, was taken by her parents to the emergency room at the River Falls Area Hospital at 14:41 on 5/12/02 with a cough and a fever. Respondent was the physician on duty in the emergency room at the time of the patient's arrival and provided the medical care for the patient.
5. The patient's parents reported to Respondent that the patient had had a cold with a runny nose for the preceding 10 days but had developed a cough the day prior to the emergency room visit and a fever of 103 F on the morning of the emergency room visit. Respondent examined the patient and recorded a heart rate of 160, respirations of 24 and a temperature of 102.1 F. Respondent's physical examination of the patient's ears, eyes, neck and abdomen were essentially within normal limits. The patient's lungs were clear to auscultation, bilaterally, her oxygen saturation was normal and she did not appear to have any difficulty breathing. The patient did not appear to be in any acute distress at the time. Respondent made a diagnosis of bronchiolitis/croup and discharged the patient from the emergency room to return home. Respondent recommended to the patient's parents that the patient return to the emergency room if her condition became worse.
6. At 21:10 on 5/12/02, the patient's mother contacted the emergency room by telephone and requested to talk with the emergency room physician. Respondent returned the call and the patient's mother reported that for the preceding hour the patient had been coughing and had been experiencing some trouble breathing. The patient's mother reported that the patient was better when she was sitting in an upright position. Respondent was of the opinion that the patient's symptoms did not warrant another trip to the emergency room at that time. Respondent recommended that the parents keep the patient in a sitting position and call back in 30 minutes if the patient continued to have problems. Respondent did not advise the parents at that time to return the patient to the emergency room for further evaluation and treatment.
7. The patient's parents did not contact the Respondent after 30 minutes following the termination of their telephone conversation with Respondent but later that evening the patient developed extreme respiratory distress followed by respiratory arrest. The patient's parents contacted 911 at 22:47, the patient was administered CPR and was transported to the emergency room at the River Falls Area Hospital. When the patient arrived at the emergency room at 23:08, the patient was in respiratory and cardiac arrest. Respondent attended to the patient in the emergency room but efforts to resuscitate the patient were unsuccessful. The autopsy disclosed the presence of Haemophilus influenzae sepsis.
8. Respondent's conduct in providing medical care for the patient as set forth above fell below the minimum standards of competence accepted in the profession in that he failed to recommend to the patient's parents during the telephone call at 21:10 on 5/12/02 that the patient be returned to the emergency room immediately for further evaluation and treatment.
9. Respondent's conduct created the unacceptable risks that the patient's medical condition, including the patient's respiratory status, would continue to worsen and that appropriate treatment would be delayed or denied.
10. A minimally competent physician, to avoid or minimize the unacceptable risks to the patient, would have recommended at 21:10 on 5/12/02 that the patient's parents immediately transport the patient to the emergency room for further evaluation and treatment.

## CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).
2. The conduct described in paragraphs 4 through 10, above, constitutes a violation of Wis. Stat. § 448.02(3) and Wis. Admin. Code § MED 10.02(2)(h) in that Gregory J. Miller, M.D. engaged in conduct that tended to constitute a danger to the health, safety and welfare of the patient.

3. The Wisconsin Medical Examining Board has the authority pursuant to Wis. Stat. § 440.22 to assess the costs of this proceeding against Gregory J. Miller, M.D.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Gregory J. Miller, M.D. to practice medicine and surgery in the state of Wisconsin is hereby limited as follows:

a. Gregory J. Miller, M.D. will within one year of the date of this Final Decision and Order take and satisfactorily complete a minimum of 12 credit hours of continuing education in pediatric respiratory infections and emergencies. The continuing education courses taken in satisfaction of this requirement will be pre-approved by the Wisconsin Medical Examining Board or its designee. Gregory J. Miller M.D. will attend each course taken in satisfaction of this requirement in its entirety.

b. Gregory J. Miller, M.D. will within 60 days of completion of the required continuing education courses provide evidence satisfactory to the Wisconsin Medical Examining Board that he has attended the approved courses in their entirety. This evidence will include:

i. Certifications of attendance from the sponsoring organizations; and

ii. Affidavit given under oath by Gregory J. Miller, M.D. verifying that he has attended the approved courses in their entirety.

c. Gregory J. Miller, M.D. will pay all costs of attending the approved courses and of verifying attendance at the courses.

d. Gregory J. Miller, M.D. will not apply any of the 12 credit hours earned in compliance with the terms of this Order toward satisfaction of his Wis. Stat. § 448.13 biennial training requirements.

e. All requests for approval of courses, certifications of attendance, affidavits and other documents required to be filed with the Wisconsin Medical Examining Board will be mailed, faxed or delivered to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone no. (608) 267-3817  
Fax (608) 266-2264

f. The limited license will terminate and Gregory J. Miller's license to practice medicine and surgery in the state of Wisconsin will be restored to full and unrestricted active status when all of the terms of this Order have been complied with.

IT IS FURTHER ORDERED that:

2. Gregory J. Miller, M.D. will, within 30 days from the date of this Order, pay costs of this proceeding in the amount of \$1,072.98. Payment will be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor

Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

3. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Gregory J. Miller's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Gregory J. Miller, M.D. fails to pay costs as ordered or fails to comply with the ordered continuing education, Gregory J. Miller's license #42670 SHALL BE SUSPENDED, without further notice or hearing, until Gregory J. Miller, M.D. has complied with the terms of this Order.

4. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: Gene Musser MD  
A Member of the Board

12-20-2006  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
 : STIPULATION  
GREGORY J. MILLER, M.D., : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case No. 06MED020

It is hereby stipulated between Gregory J. Miller, M.D. and Gilbert C. Lubcke, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement, 06MED020. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained the advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Wisconsin Medical Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Gregory J. Miller, M.D.  
1687 East Division Street  
River Falls, WI 54022

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Date

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Cecilie M. Loidolt  
Meagher & Geer, PLLP  
Attorney for Respondent  
33 S. 6<sup>th</sup> St., #4200  
Minneapolis, MN 55402-3722  
State Bar no. 1045690

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Date

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Gilbert C. Lubcke, Attorney  
Division of Enforcement  
Wisconsin Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
State Bar no. 1014414

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Date

Case : 06MED020  
Costs: \$1,072.98  
Forfeiture: \$0.00  
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