

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF	:	
THE LICENSE OF:	:	
	:	<b>FINAL DECISION AND ORDER</b>
	:	<b>FOR REMEDIAL EDUCATION</b>
THOMAS C. CUNNINGHAM, M.D.,	:	LS0703141MED
	:	

Division of Enforcement Case # 05 MED 167

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

Thomas C. Cunningham, MD  
415 Ellis Ave.  
Ashland, WI 54806

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

PROCEDURAL HISTORY

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 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. Thomas Charles Cunningham (dob 11/27/52) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #23010, first granted on 7/11/80. Thomas C. Cunningham, MD is a family practitioner, and is certified by the American Board of Family Medicine; he was recertified by that board in 2000. Respondent has never been disciplined by the Board.
2. On 1/21/04, Dr. Cunningham saw patient J.G., a man born in 1962; he had seen this patient before and treated him for, among other things, hypertension and gout. He was aware that the patient’s wife had been treated for cirrhosis. On this occasion, the patient reported “pain in his right shoulder and down his right arm.” Right arm radiculopathy was diagnosed, and the patient was prescribed a hydrocodone product and a Cox-2 NSAID; the patient did not want to have an MRI unless necessary because he was claustrophobic. The progress note contains no record of these prescriptions other than the following “we gave him some Bextra 20mg daily and some Vicodin.” The chart’s Medication Sheet shows that orders for Vicodin 5/500 were issued on 2/11/04 for #30, take 1-2 q4h PRN, with 6 refills, and again on 7/1/04, with 6 refills. Orders for generic hydrocodone 5/500 with the same dosage instructions were issued on 9/15/04, #30 with 6 refills; 1/24/05, #30 with 2 refills; 3/14/05, #30 with 2 refills. On 4/29/05, there is a notation on the Medication Sheet for this medication “refused refill.”
3. According to clinic records, the patient was next seen on 8/17/05 for a blood pressure check; there is no record of any discussion of his right arm radiculopathy. There is a discussion of left shoulder pain, the patient’s continuing alcoholism, and the theft of his hydrocodone prescription, which Dr. Cunningham refilled early. In view of the medication sheet, it is not at all clear what Dr. Cunningham means by this notation. The patient also revealed that he had an “acetaminophen with codeine” product at home, although nothing is said about the source of this product, which was not previously prescribed to this patient by Dr. Cunningham, according to the chart.
4. Several other patient health care records of Dr. Cunningham have been reviewed, and there are allegations that his

charting does not meet current standards.

5. Dr. Cunningham has, in anticipation of settling this matter, taken and successfully completed the didactic portion of the course: "Intensive Course in Medical Record Keeping with Individual Preceptorships," offered at the Case Western Reserve University, School of Medicine, Continuing Medical Education Program, on November 2-3, 2006.

### CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that: Thomas C. Cunningham shall successfully complete the individual preceptorship portion of the course: "Intensive Course in Medical Record Keeping with Individual Preceptorships," offered at the Case Western Reserve University, School of Medicine, Continuing Medical Education Program. Respondent shall arrange for the course sponsor to transmit information concerning his performance directly to the Department Monitor, and shall authorize the Board or designee to confer with CWRU staff concerning his performance and behavior.

IT IS FURTHER ORDERED, that Thomas C. Cunningham, MD, shall pay the COSTS of investigating and prosecuting this matter of \$950 within 60 days of this Order.

IT IS FURTHER ORDERED, that in the event Thomas C. Cunningham, MD, fails to timely pay costs as ordered or fails to comply with the ordered continuing education, the license of Thomas C. Cunningham, MD (#23010), SHALL BE SUSPENDED, without further notice or hearing, until Thomas C. Cunningham, MD, has complied with the terms of this Order. The Board or its designee will remove the suspension, if provided with sufficient information that Thomas C. Cunningham, MD, is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. The Board in its discretion may impose additional conditions and limitations for a violation of any of the terms of this Order.

Dated this March 14, 2007.

WISCONSIN MEDICAL EXAMINING BOARD

by: Gene Musser MD  
a member of the Board