

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

JAY J. SCHINDLER, M.D., :
RESPONDENT. :

FINAL DECISION AND ORDER
LS0708212MED

Division of Enforcement
04MED338

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

Jay J. Schindler, M.D.
P.O. Box 456
Aberdeen, S.D. 57402-0456

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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Wisconsin Medical Examining Board on 8/21/07. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition 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. Jay J. Schindler, M.D., Respondent herein, date of birth 10/17/65, is duly licensed as a physician and surgeon in the state of Wisconsin, license #42986. This license was first granted on 1/23/01.
2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is P.O. Box 456, Aberdeen, South Dakota 57402.
3. Respondent is currently practicing neurosurgery in Aberdeen South Dakota and does not intend to return to the state of Wisconsin to practice medicine and surgery.
4. At all times relevant to this action, Respondent specialized in the practice of neurosurgery and was practicing as a physician and surgeon at the Marshfield Clinic in Marshfield, Wisconsin.
5. The Complaint alleges that on 6/19/03 Respondent performed an anterior discectomy and fusion at the C5-6 and C6-7 levels on the patient without first demonstrating the necessity for the surgery by patient history and physical examination findings which would corroborate the findings made on an MRI performed on 5/30/03.
6. The Respondent has denied the allegations of the formal Complaint and continues to contest these allegations.
7. The evolving state of medical knowledge and technology has made more difficult and uncertain the determination of the minimum standards of competence as applicable to the facts and circumstances of this case.
8. The parties to this disciplinary proceeding have agreed to the entry of this Final Decision and Order as a fair and equitable final resolution of this contested matter.

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).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The pending formal Complaint and disciplinary proceeding shall be and hereby are dismissed.
2. No costs shall be assessed against either party to this disciplinary proceeding.
3. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: Gene Musser MD
A Member of the Board

5/21/08
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: :
JAY J. SCHINDLER, M.D., :
RESPONDENT. :

STIPULATION
LS# 0708212MED

Division of Enforcement Case # 04MED338

It is hereby stipulated between Jay J. Schindler, M.D., and by his attorney, Heather L. Fields; 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 formal disciplinary proceeding involving Respondent's licensure by the Wisconsin Medical Examining Board, case 04MED338. Respondent consents to the resolution of this formal disciplinary proceeding by stipulation.

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 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. The Respondent understands that the attorney or other agent for the Division of Enforcement or the case advisor, in responding to questions asked by the Board, may be required to provide information to the Board which may be construed by the Board as not weighing in favor of accepting this proposed Stipulation and Final Decision and Order. The Respondent shall not contend that any responses made by the attorney or other agent for the Division of Enforcement or by the case advisor in response to questions posed by the Board constitute a failure by the attorney or other agent for the Division of Enforcement or by the case advisor to speak in support of this agreement. 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.

Jay J. Schindler, M.D.
P.O. Box 456
Aberdeen, South Dakota 57402

Date

Heather L. Fields
Attorney for Jay J. Schindler, M.D.
Reinhart, Boerner, Van Deuren S.C.
1000 North Water St., Suite 2100
P.O. Box 2965
Milwaukee, WI 53201-2965

Date

Gilbert C. Lubcke, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date