

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
JERRY N. YEE, D.O.,	:	LS0808271MED
RESPONDENT.	:	

Division of Enforcement Case #05 MED 320

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

Jerry N. Yee, D.O.
11803 W. North Ave.
Wauwatosa, WI 53226

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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board on 8/27/08. 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. Respondent Jerry Ning Yee, D.O. (dob 10/10/32) is and was at all times relevant to the facts set forth herein an osteopathic physician and surgeon licensed and registered in the State of Wisconsin pursuant to license #18823, first granted on 7/10/74. Respondent is a general practitioner and is not certified by any AOA or ABMS specialty board; he is not currently registered or eligible for registration in any other jurisdiction (his licenses in California, Michigan, and West Virginia having lapsed).

2. On 1/24/90, Respondent entered into the following agreement with the Board, without any finding of unprofessional conduct or negligence in treatment:

NOW, THEREFORE, IT IS ORDERED that the license of Jerry N. Yee, D.O., to practice medicine and surgery in the State of Wisconsin be, and hereby is, suspended for a period of one year. The suspension shall be stayed upon the following terms and conditions:

a. Within one year from the date hereof, Dr. Yee must attend and complete that portion of a course offered by the Medical College of Wisconsin entitled Introduction to Clinical Medicine pertaining to record keeping.

b. Within one year from the date hereof, Dr. Yee must successfully complete a home study course in pharmacology offered by the Medical College of Wisconsin.

c. Within one year from the date hereof, Dr. Yee must complete a twelve week preceptorship, consisting of one session per week, with Dr. Herbert Swick of the Medical College of Wisconsin.

IT IS FURTHER ORDERED that for the period of the stayed suspension, Dr. Yee shall in prescribing for patients utilize only consecutively numbered three part prescription blanks, and shall on a quarterly basis submit one copy of each such prescription to the Medical Examining Board for its review and evaluation.

The Medical College of Wisconsin was unable to provide the courses called for in paragraphs (a) and (b), but Respondent successfully completed the requirements of paragraph (c) of the Order, and he submitted the copies of the prescriptions. His unlimited license was restored on 1/31/91.

3. In 2005, Respondent was approached by another physician, Robin Ferron, MD, a specialist in pain medicine. Dr. Ferron's license was in suspended status in December, 2004, for failing to meet certain requirements of a disciplinary order, and Dr. Ferron sought Respondent's help in assuring care for her patients while she resolved her issues with the Board. At the time, both Dr. Ferron and Respondent expected that she would be able to resolve these issues and resume active practice within a reasonable time. For a period of time in 2005, Respondent permitted Dr. Ferron to see patients at Respondent's medical office, as his delegee; he reviewed her chart notes and signed prescriptions for patients who appeared to have legitimate medical needs for them.

4. In December, 2005, Respondent wished to terminate his arrangement with Dr. Ferron. As part of the process of relocating her practice, Dr. Ferron asked Respondent to sign prescription orders in blank. Dr. Ferron stated to Respondent that she would fill these out only for existing patients, and only for a one-month supply to enable the patients to continue with the same regimen so that they would have time to either obtain another physician, or to return to Dr. Ferron's care after she had resolved her licensing issues. Respondent understood that these prescription orders would be for controlled substances. Respondent agreed to this plan, and, on or about 12/7/05, signed between 25 and 50 blank prescription orders, and furnished them to Dr. Ferron.

5. A number of charts kept by Respondent on his patients were reviewed, during the course of this investigation. The review showed that the charting for Respondent's use of opioids for patients with persistent pain did not meet current standards in several respects.

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).

B. The conduct described in ¶4, above, violated Wis. Adm. Code § Med 10.02(2)(p) and (t), and 21 USC § 1306.05(a). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, that Jerry N. Yee, D.O., is REPRIMANDED for his unprofessional conduct in this matter

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Respondent is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and as follows: until Respondent has demonstrated that he has successfully completed a continuing medical education course in appropriate prescribing of controlled substances, which has been pre-approved by the Board or its designee, Respondent shall not order, prescribe, or administer any opioid or opiate, which is a controlled substance, for more than 30 days in any 12 month period, for any patient.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Respondent is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and as follows: Respondent shall practice only under the supervision of a designated Professional

Mentor approved by the Board or in a work setting pre-approved by the Board or its designated agent.

1. Respondent shall obtain a Professional Mentor acceptable to the Board.
2. The Professional Mentor shall be the individual responsible for reviewing Respondent's practice of medicine and surgery during the time this Order is in effect. A Professional Mentor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Department (including but not limited to any bartering relationship, mutual referral of patients, etc.). A Professional Mentor shall be actively practicing in Respondent's field of practice, hold a valid Wisconsin license, shall be board certified by an ABMS-recognized board in a specialty relevant to Respondent's field of practice, and shall have read this Final Decision & Order and agree to be Respondent's Professional Mentor.
3. Supervision shall include weekly meetings, review of charts selected by the Professional Mentor, and any other actions deemed appropriate by the Professional Mentor to determine that Respondent is practicing in a professional and competent manner. The Professional Mentor may designate another qualified physician or other health care provider acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's professional mentor, the Board may in its sole discretion select a successor Professional Mentor.
4. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.
5. Respondent shall arrange for his Professional Mentor to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.
6. Respondent's Professional Mentor shall immediately report to the Department Monitor and the Respondent's Supervising Health Care Provider any conduct or condition of the Respondent which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or patient.
7. The period of the professional mentorship shall be within the discretion of the Board, but shall be not less than one year following Respondent's successful completion of the prescribing course described, above.

IT IS FURTHER ORDERED, that respondent shall pay the COSTS of investigating and prosecuting this matter of \$2,400, no later than September 5, 2009.

IT IS FURTHER ORDERED, that pursuant to Wis. Stats. §§ 227.51(3) and 448.02(4), 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 Respondent'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 Respondent fails to timely submit full payment of the costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Dated this March 18, 2009.

WISCONSIN MEDICAL EXAMINING BOARD

by: Gene Musser, MD
a member of the Board