

# 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 :  
 : FINAL DECISION AND ORDER  
PATRICK J. MURPHY, M.D., : LS 0809181 MED  
RESPONDENT. :

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[Division of Enforcement Case No. 05 MED 332]

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

Patrick J. Murphy, M.D.  
1425 N. 6<sup>th</sup> Street  
Sheboygan, WI 53081

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 and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

This disciplinary proceeding was commenced by the filing and service of a Complaint and Notice of Hearing on September 18, 2008. 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 Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Patrick J. Murphy, M.D., Respondent, date of birth December 24, 1958, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 28564, which was first granted July 1, 1987.

2. Respondent's last address reported to the Department of Regulation and Licensing is 1425 N. 6<sup>th</sup> Street, Sheboygan, WI 53081.

3. Respondent's practice specialty is family practice. Until April 8, 2006, Respondent was employed as a physician by Aurora Medical Group and practiced at the Aurora Sheboygan Clinic in Sheboygan, Wisconsin. Respondent has been employed by the Wisconsin Department of Corrections at Oshkosh Correctional Institution since March 2007.

4. Beginning December 1, 2002, Wis. Adm. Code § Med 10.02(2)(zd) has prohibited physicians from having sexual contact or engaging in other sexual behavior with a patient or with a former patient for 2 years after the termination of professional services.

5. Respondent had sexual contact with the following women with whom he also had other relationships. None of the women has complained to the Board or the Division of Enforcement. Respondent disclosed his behavior to two partners

who recommended that he report himself or they would do so. Respondent then self reported himself to his employer and to the Board.

a. Respondent met Ms. A in 1994 through community contacts. Ms. A became Respondent's patient in 1997 and they began a physical relationship the same day. From 1997 to 2001 their relationship included sexual contact.

b. Respondent met Ms. B socially in 1994 and knew her from the hospital where she worked. From 2002 to 2004, they had sexual contact. Ms. B was not a regular patient of Respondent but in 2003, Respondent did see her one time in consultation.

c. Respondent met Ms. C in 1994 through community contacts. Ms. C was Respondent's patient in the 1990s and Respondent provided medical care to her children. From 2003 to 2005, Respondent and Ms. D's relationship included kissing and on one occasion sexual touching.

d. Respondent met Ms. D in 1998 when he began providing medical care to her. She remained his patient until 2005. In 2003, Ms. D became employed in health care and their relationship changed. From 2003 to 2005, their relationship included kissing and on one occasion sexual contact.

6. From May 2006 to October 2006, Respondent was evaluated and treated by Dr. Herzl Spiro, a psychiatrist. Following 15 hours of evaluation, Dr. Spiro provided 8 sessions of psychotherapy and teaching of boundaries. Then, Respondent had 10 sessions with Dr. Ed Rubin, a psychologist, addressing his conduct and professional boundary issues. Those sessions concluded in February 2007. Both Dr. Spiro and Dr. Rubin concluded that Respondent could safely practice medicine.

7. In January 2009, at the request of the Division of Enforcement, Respondent had a psychological evaluation performed by Gary R. Schoener, a licensed psychologist in Minneapolis, Minnesota. Mr. Schoener's report dated March 11, 2009 concluded:

a. Respondent's behavior was not predatory and he is fit to practice medicine.

b. Respondent engaged in intimate emotional and sexual relationships with women who were at times his patients, due to his lack of knowledge and awareness and some psychological defenses.

c. Respondent now has a good understanding of professional boundaries issues and the reasons a patient, whether a friend or not, can be harmed by an intimate relationship with her physician.

d. Respondent should commence psychotherapy with a therapist who has reviewed Dr. Spiro's and Schoener's reports to address the issues identified by them. The goal of the therapy would be to find resolution and integration of the challenging emotions Respondent has struggled with over the years.

8. The Board had never investigated any other complaint about Respondent that has been opened for investigation.

### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3), and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in sexual contact or other sexual behavior with each of the patients after December 1, 2002 has engaged in unprofessional conduct as defined by Wis. Adm. Code § Med 10.02(2)(zd) and subjects Respondent to discipline pursuant to Wis. Stat. § 448.02(3).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

### SUSPENSION

1. The license of Patrick J. Murphy, M.D., to practice medicine and surgery in the State of Wisconsin is hereby SUSPENDED for a period of eighteen (18) months, effective immediately. At the end of the eighteen months, the period of suspension shall end without further order of the Board.

## STAY OF SUSPENSION

2. The suspension of Dr. Murphy's license is hereby STAYED immediately and shall remain stayed during the period of suspension as long as he is in compliance with the Terms and Conditions, below.

3. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any term or condition below. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision.

4. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:

- a. Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
- b. Actual notice to Respondent or Respondent's attorney.

5. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

6. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code § RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

### CONDITIONS AND LIMITATIONS

7. Within seven days of the date of this Order, Respondent shall provide a copy of this Final Decision and Order to his supervisory authority at Oshkosh Correctional Institution.

8. If Respondent changes his practice setting, he shall immediately provide a copy of this Final Decision and Order to his supervisory authority at the new location.

9. Respondent's practice supervisory authority shall submit written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance and shall include any complaints made against Respondent by patients or their family. It is Respondent's responsibility to ensure that the reports are submitted when due.

10. Respondent shall report any change of employment status, residence, address or telephone number to the Department Monitor within five (5) days of the date of a change.

11. Within 45 days of the date of this Order, Respondent shall provide proof to the Department Monitor that he has begun or continued treatment with a psychotherapist who has been provided with a copy of this Final Decision and Order and copies of the reports of Dr. Spiro and Schoener to address the issues identified by them. The frequency of sessions shall be determined by the therapist and the goal of the therapy will be to resolve and integrate the challenging emotions Respondent has struggled with over the years.

12. The psychotherapist shall provide quarterly reports to the Department Monitor, which shall state how many sessions have been held that quarter and whether Respondent has been cooperative with treatment.

13. The therapy shall continue until the psychotherapist recommends in writing to the Department Monitor that the therapy end and the Board approves that recommendation. The recommendation shall include the psychotherapist's opinion of what the therapy has accomplished.

### MISCELLANEOUS

14. Pursuant to Wis. Stat. § 440.22(2), within one year of the date of this Order, Respondent shall pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$2,500.00.

15. All requests, notices, reports and payments required by this Order shall be provided to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

16. 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 pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Medical Examining Board

By: Gene Musser MD  
A Member of the Board

9/16/09  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
PATRICK J. MURPHY, M.D., : STIPULATION  
RESPONDENT. : LS 0809181 MED

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[Division of Enforcement Case No. 05 MED 332]

It is hereby stipulated and agreed, by and between Patrick J. Murphy, M.D., Respondent; Randal N. Arnold of Hinshaw & Culbertson LLP, attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this matter by stipulation and without a hearing.

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 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. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. If the Board accepts the Stipulation, Respondent's license to practice medicine and surgery shall be reissued at the time the suspension is terminated in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, Respondent's certificates shall be returned to Respondent with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case 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 case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

8. 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.

9. 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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Patrick J. Murphy, M.D.  
Respondent  
1425 N. 6<sup>th</sup> Street  
Sheboygan, WI 53081

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Date

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Randal N. Arnold  
Hinshaw & Culbertson LLP  
Attorneys for Respondent  
100 East Wisconsin Avenue, Suite 2600  
Milwaukee, WI 53202-4115

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Date

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John R. Zwiig  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date