

# 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  
 :  
 RODOLFO S. BEER, M.D., : LS0902183MED  
 :  
 RESPONDENT. :

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[Division of Enforcement Case # 08 MED 359]

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

Rodolfo S. Beer, M.D.  
P.O. Box 4668  
Maryville, TN 37802

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

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 in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Rodolfo S. Beer, M.D., Respondent, date of birth November 27, 1965, 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 42216, which was first granted June 23, 2000.
2. Respondent's address of record with the Department of Regulation and Licensing is P.O. Box 4668, Maryville, TN 37802.
3. Respondent's practice specialty listed with the Department is obstetrics and gynecology.

Tennessee Medical Foundation

4. On April 23, 2008, Respondent was admitted to the Medical Detox Program at Cornerstone of Recovery in Louisville, Tennessee.
  - a. Respondent was diagnosed with Cocaine Dependence (304.20) and Depressive Disorder NOS (311.0).
  - b. Respondent was discharged on July 22, 2008 after successfully completing all program levels of care: Adult Residential (4/28/08-5/23/08); Intensive Outpatient and Support Living (5/23/08-7/22/08).

Respondent's prognosis was fair provided he follows all recommendations.

c. Respondent was referred to call-in Aftercare. A written aftercare plan included active participation in 12-Step program (AA/NA) by attending 90 meetings in 90 days, followed by 4-5 meetings weekly for the first year; and get a same sex sponsor.

5. Respondent reports that, since his discharge from Cornerstone of Recovery, Respondent:

a. Has been enrolled in the Tennessee Medical Foundation (TMF), a monitoring and advocacy agency for impaired physicians in Tennessee.

b. Has been performing random drug testing, attending 12-Step meetings and going to individual psychotherapy.

c. He has been granted a 5-year probationary license to practice medicine in Tennessee.

### Minnesota Disciplinary Action

6. On January 7, 2006, Respondent was licensed by the Minnesota Board of Medical Practice (Minnesota Board) to practice medicine and surgery in the state of Minnesota pursuant to license number 48,244. Respondent is board-certified in obstetrics and gynecology.

7. On September 13, 2008, the Minnesota Board issued a Stipulation and Order taking disciplinary action against Respondent, which included the following facts stipulated to by the Minnesota Board and Respondent:

a. In August 2007, Respondent performed a surgical procedure on a female patient, but failed to adequately document the surgical procedure in a timely matter, failed to inform the patient of the surgical results, and failed to provide post-operative care. Respondent was subsequently placed on an indefinite medical leave of absence by his employer.

b. On or about August 20, 2007, Respondent self-reported to the Health Professionals Services Program (HPSP) for evaluation of a depressive disorder, which was reportedly diagnosed in 1999. Respondent acknowledged treatment with antidepressant medication, as prescribed by his treating psychiatrist in 1999, but admitted subsequently authorizing antidepressant medications for his own use.

c. On October 1, 2007 and on October 30, 2007, Respondent underwent a psychiatric evaluation and admitted an arrest for Driving Under the Influence (DUI) in May 2006, with an alcohol level of .09, and reported receiving a reduced sentence of one year of probation and payment of a fee.

d. On October 17, 2007, Respondent entered into a Participation Agreement and Monitoring Plan with HPSP which required, in part, that he abstain from alcohol and all mood-altering chemicals, meet with a therapist at least twice a month, obtain a work site monitor to submit quarterly reports, obtain a treating psychiatrist to submit quarterly reports, and submit to periodic biological fluid screens as requested by HPSP.

e. On February 27, 2008, HPSP received notification from Respondent's therapist that Respondent had been terminated from treatment on February 11, 2008, based upon his history of missed appointments. Respondent reportedly failed to contact his therapist to cancel his appointments and frequently failed to timely return her telephone calls.

f. On March 6, 2008, HPSP notified the Board of Respondent's discharge from the program based upon his failure to comply with the terms and conditions of his monitoring plan.

g. On April 1, 2008, Respondent's employer sent a letter to Respondent terminating his employment, effective June 29, 2008, "based upon your failure to comply with the requirements of your return to work plan."

h. On April 2, 2008, at about 11:40 p.m., Respondent was arrested for DUI following a traffic stop by local law enforcement for erratic driving. Respondent failed a field sobriety test, recording a preliminary blood alcohol level of .04, and a search of Respondent's vehicle found a controlled substance.

i. On or about April 15, 2008, Respondent entered a 30-day inpatient chemical dependency program.

j. On June 12, 2008, Respondent appeared before the Complaint Review Committee and admitted that his depression, and his alcohol and drug use, impacted his compliance with his HPSP monitoring plan.

8. The Minnesota Board ordered Respondent to successfully complete an inpatient chemical dependency treatment program, including all aftercare activities and compliance with all discharge recommendations, and stipulated that Respondent must report to the Board according to specified conditions if Respondent intends to practice in Minnesota.
9. Respondent notified the Wisconsin Medical Examining Board of the Minnesota action on October 28, 2008.
10. This action is undertaken based on facts known to the Minnesota and Tennessee Boards.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3) and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).
2. Respondent, by practicing or attempting to practice when unable to do so with reasonable skill and safety to patients, has committed unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(i), and is subject to discipline pursuant to Wis. Stat. § 448.02(3).
3. Respondent, by having had disciplinary action taken against his Minnesota license to practice medicine by the Minnesota Board of Medical Practice, has committed unprofessional conduct as defined by Wis. Adm. Code § Med 10.02(2)(q) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).
4. Respondent, by having obtained controlled substances as defined in Wis. Stat. § 961.01(4), other than in the course of legitimate professional practice, or as otherwise prohibited by law, has committed unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(p) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Rodolfo S. Beer, M.D., Respondent, of his license to practice medicine and surgery in the state of Wisconsin is hereby ACCEPTED.
2. Respondent shall not reapply for a license to practice medicine and surgery in the state of Wisconsin unless and until such time that he has complied with all conditions issued by the Tennessee State Board of Medical Examiners in accordance with his application for a license to practice medicine and surgery in Tennessee, including completion of a 5-year probationary period.
3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$430.00 pursuant to Wis. Stat. § 440.22(2).
4. Payment shall be mailed or delivered to:  
  
Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817
5. This Order is effective on the date of its signing.

By: Gene Musser MD  
A Member of the Board

2/18/09  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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|                                   |   |              |
|-----------------------------------|---|--------------|
| IN THE MATTER OF THE DISCIPLINARY | : |              |
| PROCEEDINGS AGAINST               | : |              |
|                                   | : | STIPULATION  |
| RODOLFO S. BEER, M.D.,            | : | LS _____ MED |
| RESPONDENT.                       | : |              |

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[Division of Enforcement Case # 08 MED 359]

It is hereby stipulated and agreed, by and between Rodolfo S. Beer, M.D., Respondent; and Sandra L. Nowack, 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 investigation of Respondent's licensure by the Division of Enforcement (file 08 MED 359). 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 been provided an opportunity to obtain 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 administrative law judge 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 Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or his attorney, if any, 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.

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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Rodolfo S. Beer, M.D.  
Respondent  
P.O. Box 4668  
Maryville, TN 37802

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Date

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Sandra L. Nowack  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date