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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
PRASAD V. YALAVARTHI, M.D.,	:	LS0902251MED
RESPONDENT.	:	

Division of Enforcement Case No. 06 MED 183

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 19th day of August, 2009.

Gene Musser, MD
Member
Medical Examining Board



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Disciplinary Proceedings Against
PRASAD V. YALAVARTHI, M.D., Respondent

PROPOSED DECISION AND ORDER
Case No. LS0902251MED

Division of Enforcement Case No. 06 MED 183

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

Prasad V. Yalavarthi, M.D.
925 13th Avenue S.E.
Minot, ND 58701

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 Complaint in this matter was filed on February 25, 2009. On the same date, the Complaint and Notice of Hearing were sent to the respondent at his address of record with the Department, 925 13th Avenue, S.E., Minot, ND 58701. The Notice of Hearing stated that a hearing on the Complaint was scheduled for April 27, 2009, and that respondent was required to file an Answer to the Complaint within 20 days, failing which “you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence and the Department may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.”

The initial attempt to serve the respondent by mail resulted in the mailing being returned to the Division of Enforcement as undeliverable. The Division made additional attempts to provide Dr. Yalavarthi with a copy of the Complaint and Notice of Hearing, which are detailed in the March 24, 2009, Affidavit of Attorney Gilbert C. Lubcke. The history of those attempts indicates that they also did not result in Dr. Yalavarthi's receiving the Complaint and Notice of Hearing.

On March 24, 2009, the Division of Enforcement mailed to respondent by regular mail at his address of record with the Department a Notice of Motion and Motion for Default Judgment and supporting documents. These documents were also returned as undeliverable.

On April 8, 2008, the undersigned issued a Notice of Hearing on Complainant's Motion for Default Judgment, which set the hearing on the Division's Motion for Default as the same date and time as the previously scheduled hearing, April 27, 2009. The Notice was mailed to respondent by regular mail at his address of record with the Department. These documents were also returned as undeliverable.

No Answer was filed by Dr. Yalavarthi.

The hearing in this matter was held as scheduled on April 27, 2009. Dr. Yalavarthi did not appear at the hearing or otherwise respond to Complainant's Motion for Default Judgment.

FINDINGS OF FACT

1. Prasad V. Yalavarthi, M.D., respondent herein, 925 13th Avenue, S.E., Minot, North Dakota 58701, was born on April 13, 1955, and is licensed and currently registered to practice medicine and surgery in the state of Wisconsin, license #35259-20, said license having been granted on March 25, 1994.

2. Dr. Yalavarthi, at all times relevant to this complaint, was licensed to practice medicine in the State of North Dakota.

3. By formal Complaint dated November 23, 2005, the North Dakota State Board of Medical Examiners has alleged that respondent has a mental disability materially affecting his ability to perform the duties of a physician in a competent manner, within the meaning of N.D.C.C. § 43-17-31 (5), that respondent has habitually used alcohol, within the meaning of N.D.C.C. § 43-17-31 (4), and that respondent performed unprofessional conduct likely to harm the public. The formal Complaint specifically alleges that respondent suffers from depression and is in need of treatment, has habitually used alcohol and, on two occasions in 2005, has tested positive for excessive use of alcohol while engaged in the practice of medicine at his place of employment.

4. On December 29, 2005, the North Dakota State Board of Medical Examiners, pursuant to the Stipulation of the parties dated December 7, 2005, entered an Order of Revocation finding that the allegations of the formal Complaint were true and revoking respondent's license to practice medicine in the State of North Dakota, effective December 29, 2005.

5. As set out in the procedural summary, the Complaint and Notice of Hearing were mailed to Dr. Yalavarthi at his last known address on February 25, 2009. Additional efforts were made to provide Dr. Yalavarthi with a copy of these documents. On March 24, 2009, the Division of Enforcement mailed a Notice of Motion and Motion for Default Judgment and supporting documents to Dr. Yalavarthi at his last known address. Dr. Yalavarthi did not file an answer to the complaint, did not appear at the hearing scheduled for April 27, 2009, and did not otherwise respond to the Division's Motion for Default Judgment.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3).

2. Wisconsin Administrative Code § RL 2.08(1) provides in relevant part that "[t]he complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent" and that "[s]ervice by mail is complete upon mailing." Because the Complaint, Notice of Hearing, Notice of Motion, Motion for Default Judgment, and supporting documents were mailed to Dr. Yalavarthi at his last known address, respondent was duly served pursuant to Wis. Admin. Code § RL 2.08.

3. Dr. Yalavarthi has defaulted in this proceeding pursuant Wis. Admin. Code § RL 2.14.

4. Wisconsin Administrative Code § MED 10.02(2)(q) defines unprofessional conduct to include:

(q) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine or treat the sick, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

5. Respondent's conduct constituted unprofessional conduct contrary to Wis. Stat. § 448.02(3) and Wis. Admin. Code § MED 10.02(2)(q) in that his license to practice medicine in the State of North Dakota was revoked by the North Dakota State Board of Medical Examiners.

DISCUSSION

As set out in the Conclusions of Law, the revocation of Dr. Yalavarthi's license by the North Dakota Board of Medical Examiners constitutes unprofessional conduct under Wisconsin law.

In terms of disposition, both the conduct stipulated to in the North Dakota proceedings and the decision of North Dakota Board to revoke Dr. Yalavarthi's license underscore the seriousness of the violation and warrant the same discipline. The purpose of this discipline is principally to protect the public from the risk of other instances of unprofessional conduct were Dr. Yalavarthi to continue to practice medicine.

Under Wis. Stat. § 440.22 when discipline is imposed on a credential-holder, the Board has the authority to impose all or

part of the costs of a proceeding on the credential-holder. The Board is directed to exercise discretion in its imposition of costs by considering certain factors, including the number of counts charged, contested, and proven; the nature of the misconduct; the level of discipline; the respondent's cooperation with the disciplinary process; prior discipline; and other relevant circumstances. In this case, the misconduct is very serious, resulting in the imposition of the highest level of discipline available. This decision concurs in the Division of Enforcement's recommendation that respondent be assessed the full amount of recoverable costs. If the Board assesses costs against Dr. Yalavarthi, these will be determined pursuant Wis. Admin. Code § RL 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED that the license of Respondent Prasad M. Yalavarthi, M.D., to practice medicine in the State of Wisconsin be and is hereby **REVOKED**.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter, in an amount to be established pursuant to Wis. Admin. Code § RL 2.18. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to:

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

IT IS FURTHER ORDERED that file 06 MED 183, be and hereby is closed as to Respondent Prasad V. Yalavarthi, M.D.

Dated at Madison, Wisconsin on May 14, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: _____
Peter C. Anderson
Administrative Law Judge