

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
:
JOHN E. DOWNS, M.D., : ORDER 0000209
RESPONDENT :
:

Division of Enforcement Case No. 08 MED 389

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

John E. Downs, M.D.
1420 London Road, Suite 102B
Duluth, MN 55802

Medical Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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 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. John E. Downs, M.D. (DOB 04/13/1957) is duly licensed to practice medicine and surgery in the state of Wisconsin (license #35082-20). This license was first granted on January 20, 1994. Dr. Downs's specialty is occupational medicine.

2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 1420 London Road, Suite 102B, Duluth, Minnesota 55802.

3. On November 8, 2008, the Minnesota Board of Medical Practice issued an order that conditioned and restricted the license of Respondent to practice medicine in the State of Minnesota. This action was based on complaints made by several female patients that Respondent engaged in improper conduct by inappropriately touching them during physical examinations and treatment sessions. A true and correct copy of the Minnesota Board's Stipulation and Order is attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

4. Respondent successfully completed the terms of the Minnesota Order and his license to practice medicine in the State of Minnesota was unconditionally reinstated on July 11, 2009.

5. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order as a reasonable accommodation, based upon the facts and circumstances of this case.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to sec. 448.02(3), Stats. and is authorized to enter into the attached Stipulation and Order, pursuant to sec. 227.44(5), Stats.

2. The conduct described in paragraph 3, above, constitutes a violation of Wis. Admin. Code § Med 10.02(q).

ORDER

IT IS HEREBY ORDERED that John E. Downs, M.D. (license #35082-20) is REPRIMANDED.

IT IS FURTHER ORDERED that based on Respondent's successful completion of the terms of the Minnesota Order and his unconditional reinstatement to practice medicine in the State of Minnesota no further discipline is required.

1. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of TWO HUNDRED (\$200.00) dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Tel. (608) 267-3817

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Jed John E. Downs, M.D.
Date of Birth: 4/13/1957
License No.: 30,428

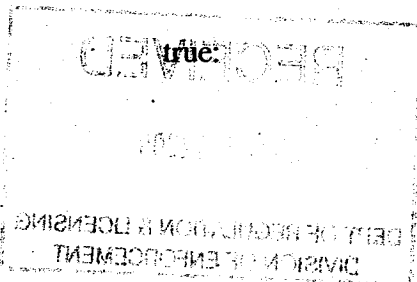
STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Jed John E. Downs, M.D., and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.
2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Tracy A. Schramm, 332 West Superior Street, Suite 700, Duluth, Minnesota 55802, telephone (218) 727-6833. The Committee was represented by Steven M. Gunn, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as



a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on September 13, 1986. Respondent is also licensed in the State of Wisconsin. Respondent is board-certified in internal medicine and occupational medicine.

b. In August 2007, the Board received complaints alleging that, between 2002 and 2005, Respondent engaged in improper conduct with twenty-one female patients. The female patients alleged that Respondent inappropriately touched them during physical examinations and treatment sessions. In September 2007, the Board initiated an investigation by the Attorney General's Office into Respondent's care and treatment of his female patients.

c. Respondent practiced occupational medicine, which included conducting pre-employment physicals, fitness-for-duty evaluations, independent medical examinations, and providing chronic pain management and treatment for workers' compensation injuries.

d. On multiple occasions, Respondent examined female patients with neck, back, shoulder, hand, and foot complaints, but failed to explain his practices or procedures to his patients prior to initiating his physical examinations and treatment sessions. Respondent also failed to consistently provide his female patients with a gown or drape. Respondent often conducted his physical examinations or treatment procedures in unconventional positions, including sitting directly behind the patients on the examination table, and reportedly made unusual sounds or facial expressions, perspired excessively, and closed his eyes. When patients complained of pain, expressed discomfort, or asked to terminate the procedure, Respondent failed to modify or suspend his examination or treatment.

e. On May 22, 2008, Respondent was interviewed by an investigator with the Attorney General's Office and acknowledged providing care and treatment for the twenty-one

female patients involved in the investigation, but denied inappropriate behavior with any of the patients.

f. On September 23, 2008, Respondent appeared before the Complaint Review Committee and admitted his failure to adequately explain his practices and procedures to his patients prior to initiating a physical examination or treatment procedure. Respondent also acknowledged that, without adequate communications, his female patients may have perceived his examinations or treatments as invasive and inappropriate.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(g) and (k) (2008), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further Order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an Order conditioning and restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

- a. Respondent is REPRIMANDED.
- b. Respondent shall successfully complete the following courses, approved in advance by the Committee or its designee, within six months of the date of this Order:
 - 1) Communications.
 - 2) Professional boundaries.

Successful completion shall be determined by the Board or its designee.

c. Respondent shall be accompanied by a female chaperone when examining new female patients on their first visit to his place of practice.

d. Respondent shall meet on a quarterly basis with a designated Board member. Such meetings shall take place at a time mutually convenient to Respondent and the designated Board member. It shall be Respondent's obligation to contact the designated Board member to arrange each of the quarterly meetings. The purpose of such meetings is to review Respondent's progress under the terms of this Stipulation and Order.

e. Respondent shall pay a civil penalty of \$5,000.00 within six months of the date of this Order.

f. This Stipulation and Order shall remain in effect for a minimum of two years. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.