

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
MARK T. SZMANDA, D.O.,	:	
RESPONDENT.	:	ORDER 0000716

[Division of Enforcement Case No. 07 MED 433]

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

Mark T. Szmanda, D.O.
Langlade Memorial Hospital
112 E. 5th Ave.
Antigo, WI 54409

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 Notice of Hearing and Complaint were filed and served on December 28, 2010 and a hearing has not been scheduled. 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 terms of the Stipulation include that Respondent neither admits nor denies the allegations in this matter. 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. Mark T. Szmanda, D.O. (DOB September 11, 1958) is licensed and currently registered to practice medicine and surgery in the state of Wisconsin pursuant to license number 35650, which was first granted on July 22, 1994.
2. Respondent's last address reported to the Department of Regulation and Licensing is Langlade Memorial Hospital, 112 E. 5th Ave., Antigo, WI 54409. From 2003 to the present,

Respondent has been employed as the medical director of the hospital's neurology clinic and sleep lab.

3. Ms. A was diagnosed with multiple sclerosis (MS) in the mid 1990's and treated by Respondent's brother who was also a neurologist. During the 1990's Respondent provided occasional services to Ms. A while working with his brother and providing coverage.

4. In the summer of 2003, Ms. A and Respondent first met socially at a neighborhood event after Respondent and his family relocated to Antigo where Ms. A and her family resided. Their children went to school together, the families became friends and the two couples often socialized together.

5. On September 30, 2003, Ms. A had her first appointment with the Respondent as her neurologist. Respondent saw Ms. A once every one to three months for treatment of her MS symptoms at the Outpatient Neurology Clinic of Langlade Memorial Hospital.

6. After a time, Ms. A and Respondent began meeting away from the clinic and their personal relationship evolved; it became sexual in November of 2004 and they began having consensual intercourse in February, 2005.

7. Ms. A continued as Respondent's patient until her last appointment on January 12, 2006. She then transferred her care to a female neurologist in Rhinelander. Their sexual contacts continued to at least March of 2005 and Ms. A contends their last sexual contact was in October of 2006 but there is a dispute as to when their sexual relationship ended.

8. For seven visits from September 5, 2008 to March 3, 2009, Respondent was in therapy with Gary Yeast, a psychotherapist and marriage and family therapist in Wausau with experience treating health care professionals who have crossed professional boundaries with patients. The focus of therapy involved defining clear boundaries between physician and patient, improving assertiveness skills with patients, becoming more proactive rather than reactive and seeking consultation when there is a serious problem. It is Mr. Yeast's professional opinion that Respondent is clearly aware of and understands the psychodynamics that created this situation and that he will not do so again.

9. Respondent and his wife were in couples counseling with Michael Dix, a marriage and family therapist beginning June 12, 2008. There were 10 joint sessions, 3 three individual sessions with Respondent and one individual session with his wife.

10. At the request of the Division of Enforcement, Respondent had a psychological evaluation performed by Gary R. Schoener, a licensed psychologist in Minneapolis who has extensive experience evaluating health care practitioners who have become involved sexually with patients. Mr. Schoener's report concluded:

- a. Respondent is fit to practice medicine without risk to the public.
- b. Respondent has no compulsive sexual behavior, addictions or personality disorder problems which warrant intervention or practice limitations.

c. Although Respondent viewed Ms. A as more of a friend than a patient, the inappropriate relationship did not occur due to any confusion about whether she was a patient.

d. Respondent has gained insights from his therapy but could benefit from additional sessions with Dr. Yeast, or a similar professional, to touch base, fully process what has been learned and develop a plan for the future in terms of maintaining health and wellness in his personal and family life.

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 with Ms. A while she was Respondent's patient, engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(zd) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

SUSPENSION

1. The license of Mark T. Szmanda, D.O., to practice medicine and surgery in the State of Wisconsin is hereby **SUSPENDED** for a period of twelve (12) months, effective immediately. At the end of the twelve months, the period of suspension shall end without further order of the Board.

STAY OF SUSPENSION

2. The suspension of Dr. Szmanda'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.

RESTRICTIONS AND LIMITATIONS FOR STAY

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

Practice Setting Supervisor

8. Within seven days of the date of this Order, Respondent shall provide a copy of this Final Decision and Order to the Executive Director of Langlade Hospital who is Respondent's practice supervisory authority. 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 include any complaints made against Respondent by staff members, patients or patients' families. It is Respondent's responsibility to ensure that the reports are submitted when due. David Schneider, the present Executive Director of Langlade Hospital has agreed to submit the reports.

Psychotherapist

10. Within 30 days of the date of this Order, Respondent shall provide proof to the Department Monitor that he has begun or continued treatment with Gary Yeast or another psychotherapist approved by the Board or its designee to address the issues identified by Schoener and that the therapist has been provided with a copy of this Final Decision and Order and the report of Mr. Schoener. The frequency of sessions shall be determined by the psychotherapist, but shall be at least monthly. The goal of the therapy is to assist Respondent in keeping his personal and professional life in balance.

11. 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.

12. Therapy shall end when the psychotherapist provides written confirmation that the goals identified by Schoener have been met and the Board or its designee approves termination of therapy.

Professional Boundaries Education

13. Prior to September 30, 2011, Respondent shall successfully complete a program in professional boundaries which has been approved by the Board or its designee and provide proof sufficient to the Board, or its designee, of satisfactory completion. Respondent is prohibited from applying any of these hours of education toward satisfaction of the continuing

education required during the November 1, 2009 through October 31, 2011 registration biennium. The following courses are approved:

a. Intensive Course in Medical Ethics, Boundaries and Professionalism (including the reflective essay and post-reflective essay), a 24.25 credit program being offered by Case Western Reserve University School of Medicine September 1 and 2, 2011.

b. Professional Boundaries Course, a 34 credit program being offered by Physicians Assessment and Clinical Education (PACE) at the University of California – San Diego on May 25-27 and September 21-23, 2011.

c. Maintaining Proper Boundaries a 22.25 credit program being offered by the Vanderbilt University School of Medicine on March 30-April 1, June 15-17, and August 24-26, 2011.

MISCELLANEOUS

14. Pursuant to Wis. Stat. § 440.22(2), within six months 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 \$2,200.00.

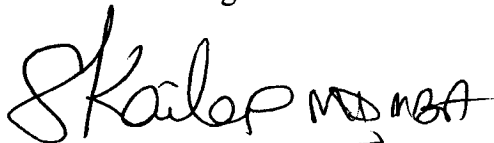
15. All requests, notices, reports and payments required by this Order shall be provided to:

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 submit payment of the costs as ordered, the Respondent's license (#35650) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Wisconsin Medical Examining Board

By: 
A Member of the Board

3/16/11
Date