

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT J. SMITH, M.D.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003319

Division of Legal Services and Compliance Case No. 13 MED 227

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

Robert J. Smith, M.D.
1040 Calhoun Drive
Platteville, WI 53818

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Robert J. Smith, M.D., (dob February 11, 1957), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 32768-20, first issued on October 24, 1991, with registration current through October 31, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1040 Calhoun Drive, Platteville, Wisconsin 53818.

2. On October 15, 2011, Patient A, a woman born in 1959, went to the emergency room at Grant Regional Health Center, complaining of migraine that started previous day with photophobia, nausea, and neck discomfort. The patient's BP was 215/107, P 62, R 18, and temperature 97.5. The pain was constant and was 10 of 10 in the forehead radiating to the back

of the head. Patient A also indicated, and staff charted, that she had “been having chest pain across top of chest for last day that just reported. Let MD know. Chest wall pain.” The patient later “requested pain med for home.”

3. Respondent was the ER physician, and noted the patient’s history which included hypertension, depression, and a past cholecystectomy, and that Patient A was taking blood pressure and depression medications.

4. Respondent’s exam noted a “tender upper chest wall” and his clinical impression was a migraine headache. Patient A was treated with Imitrex®, Toradol®, Benadryl®, and Compazine®. Once the patient condition improved, she was discharged and was instructed to go to bed after she got home and was asked to follow-up with her family practitioner. If she didn’t feel better, she could come back to the ER.

5. On October 18, 2011, two days later, Patient A died from a ruptured myocardial infarct with subsequent hemopericardium and tamponade. The autopsy report noted severe atherosclerotic disease; history of clinical hypertension; no evidence of acute physical injury or assault.

6. Respondent fell below the minimum standards of care by not adequately addressing the patient’s chest pain in the ER, when the patient was 52 years old, had an initial BP of 215/107, and complained of chest pain.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

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

Note: All references to Wis. Admin. Code § Med 10.02(2) refer to the Code as it existed before October 1, 2013.

2. By the conduct described in the Findings of Fact, Respondent Robert J. Smith, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(h) by practicing medicine in a manner which tends to constitute a danger to the health, welfare, or safety of patient or public.

3. As a result of the above conduct, Robert J. Smith, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Robert J. Smith, M.D., is REPRIMANDED.

3. Within 90 days from the date of this Order, Robert J. Smith, M.D., shall pay COSTS of this matter in the amount of \$700.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. 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 costs as ordered, Respondent's license (32768-20) 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board

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July 16, 2014

Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT J. SMITH, M.D.,
RESPONDENT.

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STIPULATION

0003319

Division of Legal Services and Compliance Case No. 13 MED 227

Respondent Robert J. Smith, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (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 then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such 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 Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Robert J. Smith, M.D., Respondent
1040 Calhoun Drive
Platteville, WI 53818
License no. 32768-20

6/12/14

Date



Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

6/17/14

Date