

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

FRANCIS E. HARRINGTON, M.D.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003345

Division of Legal Services and Compliance Case No. 14 MED 055

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

Francis E. Harrington, M.D.
720 Banyan Boulevard
Naples, FL 34102

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 Francis E. Harrington, M.D., (dob November 14, 1949), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 45670-20, first issued on May 22, 2003, 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 720 Banyan Boulevard, Naples, Florida 34102.

2. On February 14, 2014, the State of Florida Board of Medicine issued a Final Order adopting a Settlement Agreement between Respondent and the State of Florida Department of Health (the "Florida Order").

3. The Florida Order incorporates the following allegations set forth in an Administrative Complaint filed by the Florida Department of Health on October 25, 2013:

a. Respondent operated a website which allowed people accessing it to request a prescription for a variety of medications by filling out a form and paying a fee.

b. On January 30, 2013, a 56 year-old female patient obtained a prescription for azithromycin ("Z-Pak") from Respondent's website, which Respondent called into a pharmacy. Respondent did not perform a patient evaluation or physical exam, he did not consult with the patient regarding her symptoms, treatment options, or the risks and benefits of Z-Pak, and he kept no medical record.

c. On February 12, 2013, the same patient placed another order for Z-Pak through Respondent's website, which Respondent again called into a pharmacy. Respondent again did not perform a patient evaluation or physical exam, did not consult with the patient regarding her symptoms, treatment options, or the risks and benefits of Z-Pak, and he kept no medical record.

4. Respondent agreed to the Florida Order and the following terms and conditions:

a. Respondent is Reprimanded.

b. Respondent shall pay an administrative fine of \$10,000.00;

c. Respondent shall pay costs incurred in the investigation and prosecution in the amount of \$2,623.89; and

d. Within 18 months of the date of the Final Order, Respondent shall complete the course "Legal and Ethical Implications in Medicine: Physician's Survival Guide – Laws and Rules" administered by the Florida Medical Association, or a Board-approved equivalent.

5. 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).

2. By the conduct described in the Findings of Fact, Respondent Francis E. Harrington, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code ch. MED 10.03(3)(c) by having his Florida license become subject to an adverse determination.

3. As a result of the above conduct, Francis E. Harrington, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Francis E. Harrington, M.D., is REPRIMANDED.
3. Respondent shall comply fully with the terms and conditions imposed by the Florida Order.
4. Any conclusion by the Florida Board of Medicine or the Florida Department of Health that Respondent has failed to comply with the terms and conditions imposed by the Florida Order is conclusive evidence of a violation for this Board's purposes.
5. Respondent shall notify the Department of any changes in the status of his Florida license within a week of the change.
6. Within 90 days from the date of this Order, Francis E. Harrington, M.D., shall pay COSTS of this matter in the amount of \$183.41.
7. 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

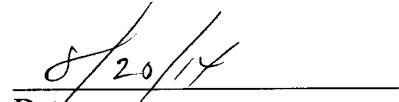
8. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline 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 (45670-20) 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FRANCIS E. HARRINGTON, M.D.,
RESPONDENT.

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:
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STIPULATION

0003345

Division of Legal Services and Compliance Case No. 14 MED 055

Respondent Francis E. Harrington, 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.

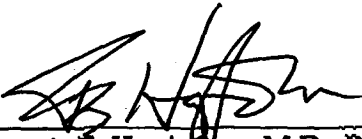
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

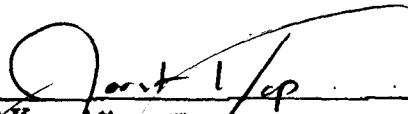
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Francis E. Harrington, M.D., Respondent
720 Banyan Boulevard
Naples, FL 34102
License no. 45670-20

~~6/9/14~~
Date 7/14/14



Joost Kap, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/21/14
Date