

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 :
 : **FINAL DECISION AND ORDER**
STEPHEN P. MCAVOY, M.D., :
 :
RESPONDENT. : **0003561**

Division of Legal Services and Compliance Case No. 13 MED 259

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

Stephen P. McAvoy, M.D.
5315 Fox Glen Court
New Berlin, WI 53146

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 Stephen P. McAvoy, M.D., (dob August 21, 1976), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 46580-20, first issued on March 4, 2004, 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 5315 Fox Glen Court, New Berlin, Wisconsin 53146. Respondent is certified by the American Board of Obstetrics and Gynecology.

2. From approximately July 2008 through June 2010, Respondent provided medical care and treatment to Patient A.

3. In late 2010, following the close of their professional relationship, Respondent and Patient A began volunteering together at fundraising events, at Patient A's invitation. This resulted in time alone and personal conversations. Respondent and Patient A would spend time together at her apartment and went to dinners.

4. Beginning in September, 2011, Respondent and Patient A had a sexual relationship.

5. In January 2012, Respondent ended his relationship with Patient A.

6. Respondent states that at the time of his relationship with Patient A he was not aware of Wis. Admin. Code § 10.02(2)(zd) which defines unprofessional conduct as:

“Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for 2 years after the termination of professional services. . . .”

Respondent was, however, aware from ethics courses that there was a two year “guideline.”

7. On July 3 through July 5, 2014, Respondent, in response to the aforementioned conduct and this investigation, completed 25.25 AMA PRA Category 1 Credits in the ProBE Program, an ethics and boundaries course offered by the Center for Personalized Education for Physicians (CPEP).

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 Stephen P. McAvoy, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(zd) by engaging in a sexual relationship with a former patient.

3. As a result of the above conduct, Stephen P. McAvoy, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Stephen P. McAvoy, M.D., is REPRIMANDED.

3. The Board recognizes the aforementioned continuing education course as the equivalent of the education the Board would have otherwise required. The course attended may not be used in satisfaction of the statutory continuing education requirements for licensure.

4. Within 120 days from the date of this Order, Stephen P. McAvoy, M.D., shall pay COSTS of this matter in the amount of \$1,650.

5. 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

6. 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 (no. 46580-20) 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board

akt

November 1⁹, 2014
Date
KS

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

STEPHEN P. MCAVOY, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0003561

Division of Legal Services and Compliance Case No. 13 MED 259

Respondent Stephen P. McAvoy, 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. Respondent is represented by Otjen, Gendelman, Zitzer, Johnson & Weir SC.


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.



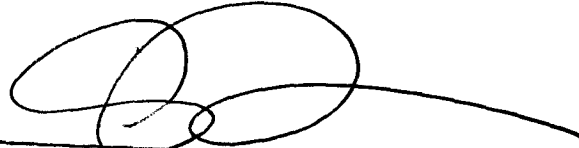
Stephen P. McAvoy, M.D., Respondent
5315 Fox Glen Court
New Berlin, WI 53146
License no. 46580-20

9/30/14
Date



Lori Gendelman, Attorney for Respondent
Otjen, Gendelman, Zitzer, Johnson & Weir SC
20935 Swenson Dr Ste 310
Waukesha WI 53186-2057

9/30/14
Date



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

10/6/14
Date