

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

EILEEN S. GAVIN, M.D.,  
RESPONDENT.

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FINAL DECISION AND ORDER

0004072

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Division of Legal Services and Compliance Case No. 13 MED 510

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

Eileen S. Gavin, M.D.  
10150 N. 66th Avenue  
Merrill, WI 54452

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 Eileen S. Gavin, M.D., (dob October 20, 1968), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 36931-20, first issued on September 8, 1995, 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 10150 N. 66th Avenue, Merrill, Wisconsin 54452.

2. In 2013, Respondent was the acting medical director for a hospice program in Wausau, WI. Starting in April, Respondent prescribed anxiety and pain medication to a close friend of twenty years who lived out-of-state. Respondent knew the friend was without medical insurance, had chronic pain complaints, and was in an abusive relationship.

3. Respondent initially prescribed the friend a one-month supply of anxiety and pain medication. In June 2013, the friend was badly beaten by her significant other. Respondent requested and reviewed the police report to confirm her friend's story, and then agreed to refill the medications.

4. Respondent did not create medical records to document her prescriptions and the friend did not pay for Respondent's services. Respondent intended to provide emergency care until the friend could find medical insurance in another state, or move to Wisconsin where Respondent could refer her to another provider. The friend subsequently left the abusive relationship and found a primary care physician in another state.

5. Respondent also self-reported that she failed to properly waste medication on at least two occasions. As a hospice physician, Respondent made house calls which involved the end of life, and she collected the deceased patient's remaining medication rather than leave it with family or other caregivers. When that occurred on evenings or weekends, Respondent took the medications back to her office and placed them in a locked desk drawer until they could be properly wasted with a witness, per facility protocol. On at least two such occasions, Respondent forgot and left the medications in her desk drawer.

6. Respondent's employer investigated the undocumented prescribing and failure to properly waste medications, and Respondent agreed to resign her position and self-report to the Department.

7. Respondent acknowledges she should not have prescribed without charting and to someone she could not examine or monitor, and that she should have timely and properly wasted medication.

#### 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 Eileen S. Gavin, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(za) (Nov. 2002) by failing to maintain patient health care records consistent with the requirements of ch. Med 21.

3. As a result of the above conduct, Eileen S. Gavin, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent Eileen S. Gavin, M.D., is REPRIMANDED.

3. The medicine and surgery license issued to Eileen S. Gavin, M.D., (license number 36931-20) is LIMITED as follows:

a. Within nine (9) months of the date of this Order, Respondent shall successfully complete a minimum of eight (8) hours in medical recordkeeping.

b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the course(s) from the Wisconsin Medical Examining Board, or its designee, prior to commencement of the course(s).

c. The Board or its designee may reject any course(s) and may accept a course(s) for less than the number of hours for which Respondent seeks approval.

d. Within thirty (30) days of completion of each educational component, Respondent shall file an affidavit with the Department Monitor stating under oath that he has attended, in its entirety, the course(s) approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations.

e. Respondent is responsible for all costs associated with compliance with this educational requirement.

f. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

g. The Department shall remove this limitation from Respondent's license when Respondent has satisfied the Board's designee that Respondent has successfully completed the preapproved education and paid costs as directed below.

4. Within 90 days from the date of this Order, Eileen S. Gavin, M.D., shall pay COSTS of this matter in the amount of \$740.

5. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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

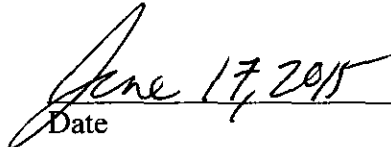
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 36931-20) 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 and completion of the education.

7. 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

EILEEN S. GAVIN, M.D.,  
RESPONDENT.

STIPULATION

0004072

Division of Legal Services and Compliance Case No. 13 MED 510

Respondent Eileen S. Gavin, 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 Attorney Sarah Platt.
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.

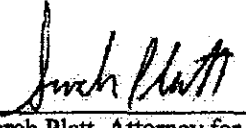
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, 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.

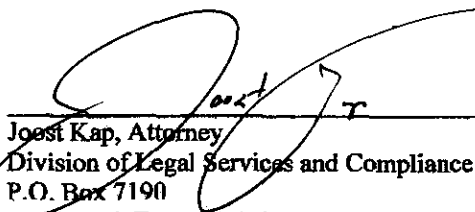
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Eileen S. Gavin, M.D., Respondent  
10150 N. 66th Avenue  
Merrill, WI 54452  
License no. 36931-20

June 3, 2015  
Date

  
Sarah Platt, Attorney for Respondent  
Von Briesen & Roper, S.C.  
411 E. Wisconsin Avenue, Suite 1000  
Milwaukee, WI 53202

6/3/2015  
Date

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

6/3/15  
Date