

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
CARL SUNBY, M.D., :
RESPONDENT. :
 : 0004208

Division of Legal Services and Compliance Case No. 14 MED 041

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

Carl Sunby, M.D.
1404 N. High Point Rd.
Middleton, WI 53562

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 Carl Sunby, M.D (dob February 23, 1955), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 32957-20, first issued on February 19, 1992, 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 1404 N. High Point Rd., Middleton, WI 53562.

2. Respondent is a general surgeon, who at all times pertinent herein, worked for Dean Clinic in Madison, WI.

3. In 2006, Patient A (a female born in 1972) underwent a lap band procedure at a facility in Mexico. Patient A had chronic problems with that lap band then had additional procedures in an effort to

remedy those problems. Those additional procedures were performed in Mexico in June 2007 and May 2008.

4. In June 2009, Patient A began to treat with Respondent, who on August 24, 2009, performed a laparoscopic surgery on Patient A to remove the lap band and tubing. Respondent's operative report indicates that he found a tag cap that had been placed on the end of the tubing during the surgery in Mexico which was causing chronic infection in Patient A. The operative report further indicates that the surgery involved a difficult dissection due to the amount of adhesions.

5. On September 20, 2009, Respondent saw Patient A in clinic, at which time she reported that she was doing well, and had no complaints.

6. In late October, 2009, Patient A presented to Respondent complaining of abdominal pain. A CT scan revealed that a piece of the lap band had come off and had been left inside the patient.

7. On February 10, 2010, Respondent successfully performed laparoscopic surgery to remove the foreign body.

8. By a Dane County Circuit Court Order dated May 31, 2014, Respondent was found to be negligent in his 2009 care and treatment of Patient A.

9. Respondent denies he negligently treated or otherwise failed to meet the standard of care as relates to Patient A. Respondent contends that the lap band buckle had not been properly locked when the band was originally placed in Mexico. Consequently, when Respondent was removing the lap band, the buckle came loose. Respondent could not see the buckle fall into the left lower quadrant of Patient A's abdomen.

10. 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 Carl Sunby, M.D., is guilty of negligence in treatment pursuant to Wis. Stat. § 448.02(3)(b).

3. Respondent, Carl Sunby, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3)(c).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Carl Sunby, M.D., is REPRIMANDED.

3. The license to practice medicine and surgery issued Carl Sunby, M.D., (license number 32957-20) is LIMITED as follows:

- a. Within twelve (12) months of the date of this Order, Respondent shall successfully complete a minimum of ten (10) hours of education on the topic of gastric band removal, gastric band bariatric surgery or related abdominal surgery.
- 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. This limitation shall be removed from Respondent's license, and Respondent will be granted a full, unrestricted license, after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
- f. Respondent is responsible for all costs associated with compliance with this educational requirement.
- g. Upon proof of the successful completion of the above-requirements, the limitations on Respondent's medical license shall be removed.

4. Within 90 days from the date of this Order, Carl Sunby, M.D., shall pay COSTS of this matter in the amount of \$ 550.25.

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:

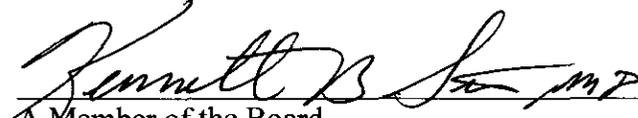
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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, Respondent's license (no. 32957-20) 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

August 19, 2015
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
CARL SUNBY, M.D., :
RESPONDENT. : 0004208

Division of Legal Services and Compliance Case No. 14 MED 041

Respondent Carl Sunby, 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 is represented by Attorney Stephen O. Murray of Coyne, Schultz, Becker & Bauer, S.C.

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

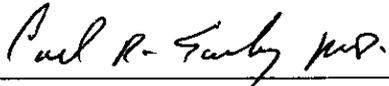
Stipulation
In the matter of disciplinary proceedings against
Carl Sunby, M.D., Case No. 14 MED 041

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.

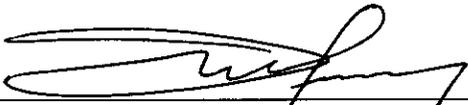
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Carl Sunby, M.D., Respondent
1404 N. High Point Rd.
Middleton, WI 53562
License No. 32957-20

07/15/2015

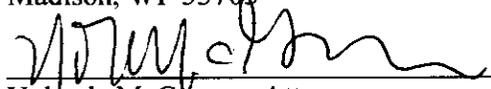
Date



Stephen O. Murray, Attorney for Respondent
Coyne, Schultz, Becker & Bauer, S.C.
150 E. Gilman Street, Suite 1000
Madison, WI 53703

7/17/15

Date



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

7/22/15

Date