

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 :
 :
SCOTT C. HICKS, M.D., : FINAL DECISION AND ORDER
RESPONDENT. :
 : **00047 26**

Division of Legal Services and Compliance Case No. 15 MED 273

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

Scott C. Hicks, M.D.
W126 N7338 Flint Dr., Ste. 300
Menomonee Falls, WI 53051

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 Scott C. Hicks, M.D. (DOB June 21, 1975), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 49679-20, first issued on August 28, 2006, with registration current through October 31, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W126 N7338 Flint Drive, Suite 300, Menomonee Falls, Wisconsin 53051. Respondent is certified by the American Board of Orthopaedic Surgery.

2. At all times relevant to this proceeding, Respondent was employed as a physician at an orthopaedic surgery center (the Center) located in Menomonee Falls, Wisconsin.

3. On August 21, 2014, Patient A (a female born in 1963) presented to Respondent with a chief complaint of continued right knee pain following injury sustained on August 16, 2014. On examination, Respondent assessed right knee contusion and sprain, and instructed Patient A to continue using crutches and follow up if she experienced increased pain.

4. In September and October 2014, Patient A presented to Respondent for follow up care at which time she demonstrated little improvement.

5. October 21, 2014, Respondent ordered an MRI of Patient A's right knee. Relying upon the MRI report, Respondent diagnosed Patient A with medial and lateral meniscus tears.

6. On November 3, 2014, surgical intervention on the right knee was discussed with Patient A as documented in the patient chart.

7. On November 6, 2014, Center staff charted Respondent's planned right knee arthroscopy, partial medial meniscectomy, and partial lateral meniscectomy to be performed on Patient A and scheduled for December 8, 2014. The surgery was subsequently rescheduled for December 15, 2014.

8. Prior to the start of the December 15, 2014 surgery, Respondent met with Patient A, obtained written consent from Patient A for the surgical procedures to be performed on the right knee and marked the correct extremity for the planned surgery.

9. Prior to the start of surgery, a "time-out procedure" was conducted by operating room nursing staff; the surgical procedures to be performed and the surgical site, the right knee, was read from the written consent form.

10. Operating room staff prepped and draped Patient A's left knee for surgery, and arranged the operating room for a left-knee surgical procedure.

11. Respondent performed the planned surgical procedures on Patient A's left knee.

12. Respondent admits performing surgery on the wrong site. He reports that the error occurred when Center staff transferred the surgical information from Respondent's scheduling paperwork to the surgical schedule sheet – the incorrect knee, the left knee, was placed on the operative orders.

13. Respondent failed to recognize that the incorrect site was prepped and draped for surgery, even though a "time-out procedure" was conducted.

14. 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 Scott C. Hicks, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(d) (Oct. 2013) by performing surgery procedures on a patient at the wrong anatomical site.

3. As a result of the above conduct, Scott C. Hicks, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Scott C. Hicks, M.D., is REPRIMANDED.

3. Within 90 days from the date of this Order, Scott C. Hicks, M.D., shall pay COSTS of this matter in the amount of \$358.00.

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 (49679-20) 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.

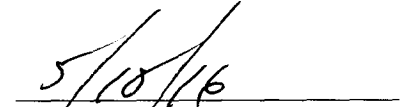
Final Decision and Order
In the matter of disciplinary proceedings against
Scott C. Hicks, M.D., 15 MED 273

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board


Date

500602

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SCOTT C. HICKS, M.D.,
RESPONDENT.

STIPULATION

0004726

Division of Legal Services and Compliance Case No. 15 MED 273

Respondent Scott C. Hicks, 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 Melita M. Mullen.
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

MAY 05 2016

Stipulation
In the Matter of Disciplinary Proceedings Against
Scott C. Hicks, M.D., Case No. 15 MED 273

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.



Scott C. Hicks, M.D., Respondent
W126 N7338 Flint Dr., Ste. 300
Menomonee Falls, WI 53051
License no. 49679-20

5-3-16

Date



Melita M. Muller, Attorney for Respondent
Cornelle Law Group, LLC
7618 Westward Way, Suite 100
Madison, WI 53717

5-5-16

Date



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

5-5-16

Date