

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

GERALD P. CLARKE, M.D.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0005026

Division of Legal Services and Compliance Case No. 15 MED 128

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

Gerald P. Clarke, M.D.
509 S. Washburn Street
Oshkosh, WI 54904

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 Gerald P. Clarke, M.D. (DOB July 24, 1951), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 21638-20, first issued on July 14, 1978, 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 509 S. Washburn Street, Oshkosh, Wisconsin 54904. Respondent is certified by the American Board of Ophthalmology.

2. At all times relevant to this proceeding, Respondent was employed as a physician at a vision clinic and a surgical center located in Oshkosh, Wisconsin.

3. On January 30, 2012, Patient A, a female born in 1942, had laser cataract surgery performed by another health care provider.
4. On June 4, 2014, Patient A presented to Respondent complaining of difficulty with distance vision at night.
5. Respondent's medical charting from the visit shows Patient A's best corrected visual acuity was 20/20 and that with glare testing her visual acuity dropped to 20/50.
6. Even though Patient A's best corrected visual acuity was 20/20, Respondent recommended cataract surgery to Patient A.
7. Patient A consented to the cataract surgery recommended by Respondent who performed the procedure on July 7, 2014.
8. Respondent's operative report inaccurately identified the indication for surgery as advance cataract in Patient A's right eye, with best corrected visual acuity of 20/50.
9. 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 Gerald P. Clarke, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(e) (Oct. 2013) by failing to establish and maintain timely patient health care records, including records of prescription orders, under s. Med 21.03, or as otherwise required by law.
3. As a result of the above conduct, Gerald Paul Clarke, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Gerald P. Clarke, M.D., is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$939.00.
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

Final Decision and Order
In the matter of disciplinary proceedings against
Gerald Paul Clarke, M.D., 15 MED 128

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

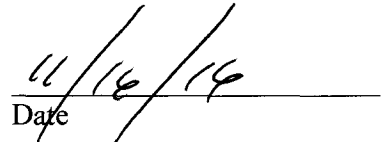
5. In the event Respondent fails to timely submit payment of the costs as ordered, Respondent's license (21638-20), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

6. 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

GERALD PAUL CLARKE, M.D.,
RESPONDENT.

:
:
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:
:

STIPULATION

0005026

Division of Legal Services and Compliance Case No. 15 MED 128

Respondent Gerald Paul Clarke, 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 Mark T. Budzinski.
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.

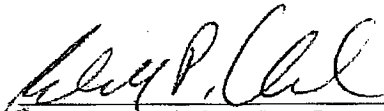
Stipulation
In the Matter of Disciplinary Proceedings Against
Gerald Paul Clarke, M.D., Case No. 15 MED 128

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.



Gerald Paul Clarke, M.D., Respondent
509 South Washburn Street
Oshkosh, WI 54904
License no. 21638-20

10/11/16

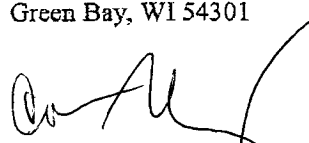
Date



Mark T. Budzinski, Respondent Attorney
Heidi Melzer, Respondent Attorney
Corneille Law Group LLC
615 S. Monroe Avenue
Green Bay, WI 54301

10/12/16

Date



Colleen L. Meloy, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/12/16

Date