

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov



**Before the
State of Wisconsin
Medical Examining Board**

In the Matter of Disciplinary Proceedings Against
Natasha R. Shallow, M.D., Respondent

FINAL DECISION AND ORDER

Order No. **0005403**

Division of Legal Services and Compliance Case No. 17 MED 159

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 20th day of December, 2017.

Member
Medical Examining Board



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of Disciplinary Proceedings Against
Natasha R. Shallow, M.D., Respondent

DHA Case No. SPS-17-0018
DLSC Case No. 17 MED 159

0005403

PROPOSED DECISION AND ORDER

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Natasha R. Shallow, M.D.
517 Tobacco Quay
Alexandria, VA 22314

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and
Compliance, by

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

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Complaint against Respondent Natasha R. Shallow, M.D. (Respondent). The Complaint alleged that Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(a) and (3)(c).

The Division served Respondent on August 22, 2017, by sending a copy of the Notice of Hearing and Complaint to her address of record with the Department by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Division also sent a copy of the Notice of Hearing and Complaint by regular and certified mail to an Alexandria, Virginia

address believed to be Respondent's. Respondent failed to file an Answer to the Complaint within 20 days, as required by Wis. Admin. Code § SPS 2.09(4).

Following the expiration of the 20-day time period to file an Answer, the administrative law judge (ALJ) scheduled a prehearing conference for September 22, 2017. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide to the ALJ a telephone number at which she could be reached for the conference no later than September 20, 2017. The Notice was sent to Respondent at the address provided to the Division of Hearings and Appeals (DHA) by the Division, in Shorewood, Wisconsin. However, the Notice sent to Respondent was returned to DHA by the U.S. Postal Service on September 15, 2017, as not deliverable and unable to forward. At the September 22, 2017 prehearing conference, the Division provided an additional address for Respondent in Alexandria, Virginia, and also provided a telephone number for Respondent on file with the Division. The ALJ attempted to reach Respondent at the telephone number provided but was informed that Respondent was not available and that the caller should try again at a later time.

At the September 22, 2017 prehearing conference, the ALJ scheduled an additional telephone status conference for October 10, 2017, at 10:00 a.m., and sent a Notice of such to Respondent at the Alexandria, Virginia address provided by the Division. The Notice instructed Respondent that if she had a telephone number other than the one previously used by the ALJ, she must contact the ALJ no later than October 9, 2017, to provide the telephone number at which she may be reached for the telephone conference. The Notice further instructed Respondent that her failure to appear at a scheduled conference could result in default judgment being entered against her. Respondent did not contact the ALJ with a new telephone number.

Respondent again failed to appear at the conference and could not be reached. The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to appear at either prehearing conference, the ALJ issued a Notice of Default and Order on October 10, 2017, finding Respondent to be in default and ordering the Division to file a recommended proposed decision and order. On October 25, 2017, the Division was given an extension to November 10, 2017 to file its submission.

FINDINGS OF FACT

Proposed Facts Related to the Alleged Violations

Findings of Fact 1-9 are taken from the Division's Complaint filed against Respondent in this matter, with the exception of Finding of Fact 5, 6, and 7, which include additional facts from the Division's November 10, 2017 submissions.

1. Respondent Natasha R. Shallow, M.D., is licensed by the State of Wisconsin to practice medicine and surgery, having license number 62889-20, first issued on September 2, 2014, with registration current through October 31, 2017.

2. Respondent's most recent address on file with the Department is 4468 N. Oakland Avenue, Unit 15, Shorewood, Wisconsin 53211.

3. Respondent's practice specialty is anesthesiology.

4. On and prior to January 20, 2017, Respondent was licensed to practice, or had the right to renew an expired license to practice medicine in the states of Montana, Washington, and Illinois.

5. Respondent's Montana medical license was summarily suspended by the Montana Board of Medical Examiners by an amended order dated April 7, 2017, which immediately and indefinitely suspended Respondent's license to practice medicine. The April Order was followed by an August 1, 2017 Post-Hearing Order and Entry of Default resulting from Respondent's failure to appear and participate at a hearing in the Montana matter. (Foster Affidavit, Exs. C and F)

6. Respondent's Washington medical license was indefinitely suspended by the Washington Medical Quality Assurance Commission by a Final Order dated May 25, 2017.¹ (Foster Affidavit, Ex. D)

7. Respondent's Illinois medical license was summarily suspended by the Illinois Department of Financial and Professional Regulation on June 7, 2017, and on August 21, 2017, that same Department indefinitely suspended Respondent's license. (Complaint; Foster Affidavit, Ex. E)

8. Respondent suffers from one or more acute, untreated, ongoing, mental, and/or physical health conditions.

9. Respondent engaged in the practice of medicine while unable to do so with reasonable skill and safety.

Facts Related to Licensure Status

10. Respondent's Wisconsin license to practice medicine and surgery was summarily suspended by the Wisconsin Medical Examining Board (Board) on August 16, 2017. Respondent failed to appear at her summary suspension hearing. (Foster Affidavit, Ex. G)

11. The suspension of Respondent's license remains in effect. (Foster Affidavit, Ex. H)

12. Respondent's license expired on October 31, 2017. (*Id.*)

13. As of the date of the Division's November 10, 2017 submissions in this proceeding, Respondent has failed to renew her Wisconsin license to practice medicine and surgery. (*Id.*)

¹ The Complaint incorrectly identified this act of the Washington Commission as a Summary Suspension. The act was a Final Order of the Board.

14. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew her license upon payment of a fee until October 31, 2022.

Facts Related to Default

15. The Complaint and Notice of Hearing in this matter were served on Respondent on August 22, 2017, by both certified and regular mail consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing advised Respondent: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Medical Examining Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

16. Respondent failed to file an Answer to the Complaint within 20 days of the filing of the Notice of Hearing and Complaint as required by Wis. Admin. Code § SPS 2.09(4).

17. Following the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for September 22, 2017. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide to the ALJ a telephone number at which she could be reached for the conference no later than September 20, 2017. The Notice was sent to Respondent at the address provided to DHA by the Division, in Shorewood, Wisconsin. However, the Notice sent to Respondent was returned to DHA by the U.S. Postal Service on September 15, 2017, as not deliverable and unable to forward.

18. At the September 22, 2017 prehearing conference, the Division provided an additional address for Respondent in Alexandria, Virginia, and also provided a telephone number for Respondent on file with the Division. The ALJ attempted to reach Respondent at the telephone number provided but was informed that Respondent was not available and that the caller should try again at a later time. The ALJ scheduled an additional telephone status conference for October 10, 2017, at 10:00 a.m., and sent a Notice of such to Respondent at the Alexandria, Virginia address provided by the Division.

19. Respondent failed to provide a telephone number as required by Wis. Admin. Code § HA 1.07(3)(c).

20. At the time scheduled for the prehearing conference on October 10, 2017, the ALJ again tried to contact Respondent at the telephone number provided by the Division but received the same message as that received at the September 22, 2017 conference, *i.e.*, that Respondent was unavailable and that the caller should try at a later time.

21. The Division moved for, and was granted, default judgment pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

22. On October 10, 2017, the ALJ issued a Notice of Default and Order, requiring the Division to file and serve a recommended proposed decision and order in this matter no later than October 27, 2017.

23. On October 25, 2017, the Division was given until November 10, 2017 to file and serve a recommended proposed decision and order in this matter.

24. The Division timely filed its recommended proposed decision and order.

25. On November 3, 2017, the Notice of Default and Order sent to Respondent's Alexandria, Virginia address was returned by the U.S. Postal Service as not deliverable and unable to forward.

DISCUSSION AND CONCLUSIONS OF LAW

Default

As stated in the October 10, 2017 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the prehearing conferences held on September 22 and October 10, 2017. *See* Wis. Admin. Code §§ SPS § 2.09(4) and 2.14; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3).

Violations of Wisconsin Statute and Administrative Code

Following an investigation and disciplinary hearing, if the Board determines that a physician is guilty of unprofessional conduct, it may "warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person...." Wis. Stat. § 448.02(3)(c).

The phrase "unprofessional conduct" as used in Wis. Stat. § 448.02(3)(c) includes "[t]hose acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08(5)(b)." Wis. Stat. § 448.015(4)(am)l. The Board has defined unprofessional conduct in Wis. Admin. Code § Med 10.03. The Division asserts that Respondent's actions constitute unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(a) and (3)(c), which state:

(2) DIRECT PATIENT CARE VIOLATIONS.

(a) Practicing or attempting to practice under any license when unable or unwilling to do so with reasonable skill and safety. A certified copy of an order issued by a court of competent jurisdiction finding that a person is mentally incompetent is conclusive evidence that the physician was, for any period covered by the order, unable to practice medicine and surgery with reasonable skill and safety.

...

(3) LAW VIOLATIONS, ADVERSE ACTION, AND REQUIRED REPORTS TO THE BOARD.

(c) Having any credential pertaining to the practice of medicine and surgery or any act constituting the practice of medicine and surgery become subject to adverse determination by any agency of this or another state, or by any federal agency or authority.

The Division alleged in its Complaint, paragraphs 8 and 9, that Respondent suffers from one or more acute, untreated, ongoing, mental and/or physical health conditions, and further, that she engaged in, or attempted to engage in the practice of medicine while unable to do so with reasonable skill and safety. In light of Respondent's default in this proceeding, it is appropriate to take these allegations as true as provided in Wis. Admin. Code § HA 1.07(3)(b). Accordingly, Respondent violated Wis. Admin. Code § Med 10.03(2)(a).

Moreover, by having her credential to practice medicine and surgery in the states of Illinois, Montana, and Washington become subject to adverse determinations, Respondent also violated Wis. Admin. Code § Med 10.03(3)(c). By Order dated August 21, 2017, the Illinois Department of Financial and Professional Regulation indefinitely suspended Respondent's license to practice medicine. Respondent's ability to practice medicine in the State of Montana was also subject to adverse determination when Respondent's Montana license was summarily suspended by that state's licensing authority. The Montana Board of Medical Examiners issued an Order effective April 7, 2017, immediately and indefinitely suspending Respondent's license to practice medicine in that state. The April Order was followed by an August 1, 2017 Post-Hearing Order and Entry of Default resulting from Respondent's failure to appear and participate at a hearing in the Montana matter. Similarly, the licensing authority for the State of Washington, Department of Health Medical Quality Assurance Commission, by Order dated May 25, 2017, indefinitely suspended Respondent's license to practice as a physician and surgeon in the State of Washington. The actions taken by each of these licensing authorities negatively affected Respondent's ability to practice medicine and therefore constitute adverse determinations under Wis. Admin. Code § Med 10.03(3)(c).

Based on the foregoing, Respondent engaged in unprofessional conduct under Wis. Admin. Code § Med 10.03(2)(a) and (3)(c) and is therefore subject to discipline.

Appropriate Discipline

At the time the Division filed its Complaint, Respondent's license registration was current through October 31, 2017. As of the date of filing of the Division's Recommended Proposed Decision and Order, Respondent's registration had not been renewed, and is therefore expired. Although expired, because Respondent retains the right to renew her license upon payment of a fee according to Wis. Stat. § 440.08(3). Thus, the Board retains jurisdiction in this matter and can impose discipline.

The three purposes of discipline are (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209, 237 N.W.2d 689 (1976).

The Division requests that Respondent's license to practice medicine and surgery, and any appurtenant right to renew that license, be suspended indefinitely until such time that she demonstrates in a manner satisfactory to the Board that the need for indefinite suspension no longer exists. Specifically, the Division requests that renewal or reinstatement of her credential be suspended until Respondent submits to one or more physical, mental, or professional competency evaluations to demonstrate her ability to practice medicine and surgery with reasonable skill and safety, or otherwise submits evidence satisfactory to the Board that she has no physical or mental health conditions which impair her ability to practice medicine and surgery with reasonable skill and safety.² This recommended discipline is consistent with the purposes articulated in *Aldrich*, and is warranted in these circumstances.

"Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, the State of Wisconsin is assuring the public that the licensed individual is competent in the profession. *Stringez v. Department of Regulation and Licensing Dentistry Examining Board*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981).

Respondent's practice specialty is anesthesiology. The undisputed facts show that she engaged in the practice of medicine while suffering from one or more mental or physical conditions which impair her ability to practice medicine with reasonable skill and safety. Respondent failed to participate in the summary suspension proceedings against her, and in this proceeding as well. This lack of participation significantly impedes the Board's ability to thoroughly investigate the allegations and to determine Respondent's capacity to practice medicine with reasonable skill and safety. Allowing Respondent to practice medicine under such circumstances creates a significant risk of harm to public safety and welfare. One or more physical, mental or professional competency exams will help the Board determine the exact nature of Respondent's condition(s), and whether those conditions may be treated such that Respondent can practice medicine with reasonable skill and safety. The Board may then determine whether and under what terms and conditions licensure may be reinstated, thereby ensuring Respondent's rehabilitation and alleviating or significantly minimizing any unreasonable risks of harm to public safety and protection.

It would be extremely detrimental to public health, safety, and welfare to allow Respondent to practice without an assessment first confirming she is safe to do so, and/or without giving the Board the opportunity to examine what may be needed for Respondent's rehabilitation and for the protection of the public. The suspension of her license as requested by the Division will give the Board the information necessary to make such a determination.

Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as

² The Division also requests that Respondent pay costs as part the discipline imposed here. Costs are addressed separately in next section of this decision.

preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. Professional Boards have also, in previous orders, considered many factors when determining if all or part of the costs should be assessed against a Respondent. Factors have included: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the cooperation of the respondent; (5) any prior discipline; and (6) the fact that the Department is a program revenue agency, funded by other licensees. See e.g., *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz*, LS 0802183 CHI (Aug. 14, 2008). It is within the Board's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

The Division requests that Respondent be required to pay the full costs of this proceeding. This request is warranted. The Division has proven all counts alleged. The factual allegations were deemed admitted and there is no argument to indicate any factual findings or litigation were unnecessary. Respondent's conduct is of a serious nature. Accordingly, the Division sought, and was granted, an indefinite suspension of Respondent's license, which is significant discipline. Respondent has failed to cooperate with the disciplinary process. By nature of being in default, Respondent has made no argument concerning whether costs should be assessed against her. Furthermore, it would be unfair to impose the costs of pursuing discipline in this matter on those licensees who have not engaged in misconduct. Therefore, it is appropriate for Respondent to pay the full costs of the investigation and of these proceedings.

ORDER

For the reasons set forth above, IT IS HEREBY ORDERED:

1. The license and registration of Natasha R. Shallow, M.D. (license number 62889-20), to practice medicine and surgery in the State of Wisconsin, and any appurtenant right to renew that registration is indefinitely suspended.
2. Respondent's registration may not be renewed or reinstated until Respondent petitions the Board for renewal or reinstatement, and the Board, in its discretion, grants Respondent's request.
3. Renewal or reinstatement of Respondent's registration will not be granted until Respondent, at her own expense, undergoes one or more physical, mental, or professional competency evaluations as may be required by the Board or its designee at the time of her petition for renewal or reinstatement, and Respondent presents sufficient proof of her compliance with all recommended evaluations and successful participation in, or completion of, all recommended treatment.
4. If the Board grants Respondent's petition for renewal or reinstatement, Respondent's license may be limited as determined necessary by the Board to address any recommendations resulting from the required assessment(s), or to otherwise ensure Respondent is able to practice medicine with reasonable skill and safety.

5. Payment of costs and any requests, petitions, reports and other information required by this Order shall be mailed, emailed, faxed or delivered to:

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

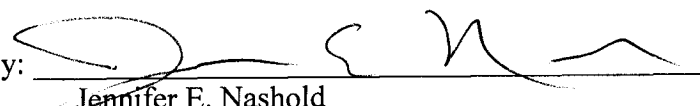
IT IS FURTHER ORDERED that Respondent Natasha R. Shallow, M.D., shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address above.

IT IS FURTHER ORDERED that the terms of this Order become effective the date the Final Decision and Order in this matter is signed by the Board.

Dated at Madison, Wisconsin on November 15, 2017.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Tel. (608) 266-7709
Fax (608) 264-9885

By: _____


Jennifer E. Nashold
Administrative Law Judge