

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
DANIEL A. CLAYTON, M.D., :
RESPONDENT. :

0006190

Division of Legal Services and Compliance Case Nos. 18 MED 100 and 19 MED 034

The parties to these actions for the purpose of Wis. Stat. § 227.53 are:

Daniel A. Clayton, M.D.
4503 Lincoln Lane NW
Rochester, MN 55901

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 these matters agree to the terms and conditions of the attached Stipulation as the final disposition of these matters, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in these matters adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Daniel A. Clayton, M.D. (DOB August 3, 1974) is licensed in the state of Wisconsin to practice medicine and surgery, having license 54287-20, first issued on April 1, 2010, with registration expired on October 31, 2017. Respondent retains the right to renew his license until October 31, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4503 Lincoln Lane NW, Rochester, Minnesota 55901.

2. Respondent's medical specialty is neurosurgery and he is also licensed to practice medicine in Indiana, Minnesota, and Washington.

Division of Legal Services and Compliance Case No. 18 MED 100

3. On February 23, 2017, the State of Washington Medical Quality Assurance Commission (Washington) issued a Stipulation to Informal Disposition which was based upon Respondent's surgical treatment of two patients (Washington Order).

4. The Washington Order imposed, *inter alia*, 50 hours of continuing medical, two spine conferences, and proctored practice with quarterly reports.

5. On September 23, 2017, Respondent and the Minnesota Board of Medical Practice (Minnesota) entered into a Stipulation and Order requiring Respondent to comply with all terms and conditions imposed upon his Washington medical license, stating Respondent shall not practice in Minnesota until he has met the conditions of the Washington Order, and allowing Respondent to petition for reinstatement of an unconditional Minnesota medical license upon showing he satisfied the Washington Order.

6. On February 1, 2018, Washington summarily suspended Respondent's medical license pending the outcome of Washington's investigation of Respondent's substance abuse and repeated failures to comply with recovery recommendations and monitoring requirements, and for making material misrepresentations to Washington during its earlier investigation of Respondent.

7. On August 8, 2018, Washington indefinitely suspended Respondent's medical license.

8. On September 27, 2018, the Indiana Medical Licensing Board (Indiana) summarily suspended Respondent's medical license pending the outcome of Indiana's investigation.

9. On October 25, 2018, Indiana accepted Respondent's voluntary surrender of his medical license.

10. Respondent did not report any of these disciplinary actions to the Board.

Division of Legal Services and Compliance Case No. 19 MED 034

11. On January 7, 2019, the Department received a National Practitioner DataBank report of a \$500,000 payment made on behalf of Respondent to settle a claim that he failed to timely perform a craniectomy, resulting in left hemiparesis, bilateral cortical blindness and cognitive deficits requiring life-long care.

12. The Department has not investigated and the Board has made no determination regarding the care at issue in 19 MED 034.

13. In resolution of these matters, 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 these matters 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 Daniel A. Clayton, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(c) by having any credentialing 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.

3. By the conduct described in the Findings of Fact, Respondent Daniel A. Clayton, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(a) by failing, within 30 days, to report to the board any final adverse action taken against the licensee's authority to practice medicine and surgery by another licensing jurisdiction concerned with the practice of medicine and surgery.

ORDER

1. The attached Stipulation is accepted.

2. The PERMANENT SURRENDER by Daniel A. Clayton, M.D., of his license to practice medicine and surgery in the state of Wisconsin (license no. 54287-20) and any appurtenant right to renew that license, is hereby accepted, effective the date of this Order.

3. This surrender constitutes Respondent's permanent relinquishment of his right to practice medicine and surgery in the state of Wisconsin. The Board will not, at any time in the future, process or otherwise consider an application or attempt at renewal by Respondent of credentials necessary to practice medicine and surgery in the state of Wisconsin.

4. If Respondent ever seeks any other license under Wis. Stat. chs. 440-480, Daniel A. Clayton, M.D., shall, as a prerequisite to application, pay COSTS of these matters in the amount of \$235.00. If Respondent never again seeks licensure in Wisconsin, the Department waives the above-stated costs.

5. If applicable, payment of costs would be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

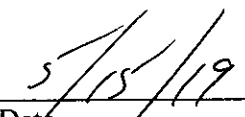
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit payment online via DSPS' Monitoring Case Management System,
here: <https://app.wi.gov/DSPSMonitoring>

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 :
 : STIPULATION
DANIEL A. CLAYTON, M.D., :
RESPONDENT. :
 : 0086190

Division of Legal Services and Compliance Case Nos. 18 MED 100 and 19 MED 034

Respondent Daniel A. Clayton, 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 investigations by the Division of Legal Services and Compliance. Respondent consents to the resolution of these investigations 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.

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 matters 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.

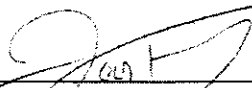
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Daniel A. Clayton, M.D., Respondent
4503 Lincoln Lane NW
Rochester, MN 55901
License no. 54287-20

April 13, 2019

Date



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

4/15/19

Date