

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
DAVID J. SCHWARTZ, M.D., :
RESPONDENT. : **ORDER 0006671**

Division of Legal Services and Compliance Case No. 18 MED 327

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

David J. Schwartz, M.D.
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 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 David J. Schwartz, M.D., (DOB xx-xx-1976), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 48769-20, first issued on November 16, 2005, with registration expired on October 31, 2019. Respondent timely applied for renewal of his registration; however, the Board has not yet acted upon that renewal. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Rochester, Minnesota 55901.

2. On April 16, 2018, Respondent was practicing as a radiation oncologist at a medical clinic in La Crosse, Wisconsin (Clinic). At the end of the workday, Respondent ingested a substance containing alcohol at his office, and then drove to his home in Rochester, Minnesota,

while under the influence. While driving home, Respondent was involved in an accident in which a person in the other vehicle was injured. Respondent left the scene prior to the arrival of law enforcement, knowing another person was injured.

3. On May 4, 2018, Respondent entered into a Participation Agreement with the Minnesota Health Professionals Services Program (Minnesota HPSP), with an anticipated completion date of May 1, 2021.

4. On August 21, 2018, Respondent resigned from his position at the Clinic during the pendency of disciplinary proceedings stemming from the incident on April 16, 2018.

5. On August 23, 2018, Respondent was convicted of Criminal Vehicular Operation – Bodily Harm – Under Influence of Alcohol, a gross misdemeanor, in violation of Minn. Stat. § 609.2113.3(2)(i).

6. On July 18, 2019, Respondent entered into a Stipulation and Order for Stayed Suspension (Minnesota Order) with the Minnesota Board of Medical Practice (Minnesota Board). The Minnesota Order suspended Respondent’s license to practice medicine and surgery in the state of Minnesota, but stayed the suspension of Respondent’s license contingent upon his compliance, *inter alia*, with the following terms and conditions:

- a. Respondent shall participate in the Minnesota HPSP and fully comply with all terms and conditions of his HPSP Participation Agreement. A violation of his HPSP Participation Agreement will constitute a violation of the Minnesota Board Order;
- b. Respondent may petition for reinstatement of an unconditional license no sooner than three years from the date of the Minnesota Board Order.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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 engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(i) by being convicted of any laws or rules of this state, or of any other state, or any federal law or regulation that is substantially related to the practice of medicine and surgery.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(c) by having his Minnesota credential to practice medicine and surgery subject to adverse determination by the Minnesota Board.

4. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. Respondent's license to practice medicine and surgery in Wisconsin (license number 48769-20) is LIMITED as follows:
 - a. Respondent is to maintain full and complete compliance with all terms, limitations, and conditions imposed against his medical license by the Minnesota HPSP Participation Agreement and the Minnesota Order.
 - b. Respondent shall provide the Board with a copy of any document issued by the Minnesota HPSP or the Minnesota Board which alters the conditions of Respondent's continued practice of medicine in the state of Minnesota, including any document advising reinstatement of full licensure, within fifteen (15) days of issuance of document.
 - c. In the event Respondent intends to practice medicine in Wisconsin during the pendency of this Order, Respondent shall provide the Board with notice in writing at least thirty (30) days prior to the commencement of practice in Wisconsin. That notice shall include identity of the employer, work location(s) including addresses and phone numbers, and the type of practice.
 - d. A determination by the Minnesota HPSP or the Minnesota Board, that Respondent has violated any term, limitation, and/or condition imposed on his Minnesota physician license by the Minnesota HPSP Participation Agreement, or the Minnesota Board Order, is a violation of this Order.
 - e. Upon Respondent providing proof sufficient to the Board, or its designee, that he has successfully complied with all terms and conditions of the Minnesota HPSP Participation Agreement, the Minnesota Board's Order, and that his license has been restored to full, unrestricted status, the Board or its designee shall remove the limitation(s) imposed by this Order on Respondent's Wisconsin license.
4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$631.00.

5. Any submissions required under this Order, 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

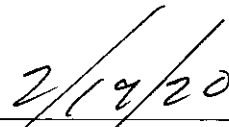
You may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dpsmonitoring.wi.gov/>

6. In the event Respondent violates any term of this Order, Respondent's license (no. 48769-20), 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 the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

7. 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

DAVID J. SCHWARTZ, M.D.,
RESPONDENT.

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STIPULATION

ORDER 0006671

Division of Legal Services and Compliance Case No. 18 MED 327

Respondent David J. Schwartz, M.D. and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

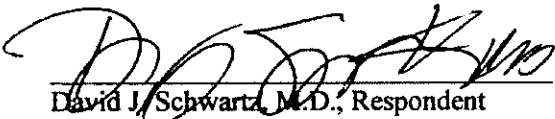
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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.
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

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.



David J. Schwartz, M.D., Respondent
Rochester, MN 55901
License no. 48769-20

01/28/2020
Date



Carley J. Peich Kiesling, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

1/29/2020
Date