

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
EDDIE N. POWELL II, M.D., :
RESPONDENT. : **ORDER 000858 1**

Division of Legal Services and Compliance Case No. 21 MED 349

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

Eddie N. Powell II, M.D.
Neenah, WI 54956

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 Eddie N. Powell II, M.D., (Year of Birth 1975) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 74376-20, first issued on November 11, 2020, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Neenah, Wisconsin 54956.¹

¹ Department records indicate Respondent's address as Neenah, FL, 54956. However, 54956 is the zip code for Neenah, WI.

2. At all times relevant to this proceeding, Respondent practiced as an orthopedic surgeon at a medical center located in Neenah, Wisconsin (Facility).

3. On August 20, 2021, the Department received a complaint from the Facility alleging that Respondent provided substandard surgical care to several Facility patients. Case number 21 MED 349 was opened to investigate.

Patient A.G.

4. On June 5, 2021, Respondent saw Patient A.G., a 14-year-old female athlete, who presented with a closed midshaft right femur fracture. Respondent performed a submuscular plating of the fracture.

5. On June 23, 2021, a post-op x-ray was taken that showed significant malposition of the fracture on the lateral view with both translation and angulation of the fracture, reflecting that Respondent did not sufficiently line up or reduce the fracture during surgery.

6. On June 28, 2021, Patient A.G. required revision surgery with hardware removal and placement of an intramedullary rod after imaging showed there was a nonunion/malunion of her fracture.

7. The standard of minimally competent medical practice required Respondent to reduce Patient A.G.'s fracture before internal fixation and if malpositioned, change the fixation method to an intramedullary rod. A 14-year-old patient's growth plates are typically closed, like an adult, and any fixation method without reduction does not meet the minimal competency standard in this circumstance.

Patient D.B.

8. On February 27, 2021, Respondent saw Patient D.B., an 82-year-old male patient, who presented with a right hip fracture after a fall. Respondent diagnosed Patient D.B. with an intertrochanteric right femur fracture and recommended operative stabilization of the right femur with a cephalomedullary nail.

9. On March 2, 2021, Respondent reduced the fracture with an intermediate nail length of 235 mm and Traumacem cement.

10. The reduction of the femur failed and on April 19, 2021, Patient D.B. reported groin pain, mild lateral thigh pain, and inability to walk or even get out of his wheelchair.

11. The standard of minimally competent medical practice required Respondent to reduce the fracture to an acceptable tip apex distance (TAD) with a longer length of lag screw and better positioning in the femoral head. The TAD intraoperatively was too great and predictive of ultimate failure. The standard of minimally competent medical practice also required Respondent to recognize this deficiency and correct it during surgery. Instead, Respondent added cement to try and offset the distance which does not meet the standard of minimally competent medical practice.

Patient J.P.

12. On April 6, 2021, Respondent saw Patient J.P., an 81-year-old male patient, who presented with a left fibula fracture when he fell off his riding lawn mower after suffering a stroke. Respondent diagnosed Patient J.P. with a nondisplaced lateral malleolus fracture of the left ankle and sprain of deltoid ligament of the left ankle. Respondent recommended operative stabilization of the left ankle.

13. On April 8, 2021, Respondent percutaneously stabilized the fracture of Patient J.P.'s left ankle. The nail was placed with two distal locking screws. Placement of the nail displaced the non-displaced fracture. Respondent opted to retain the nail rather than performing formal ORIF after removal of the nail, so that he could avoid increased surgical time, anesthesia, blood loss, and pain in a patient that had recently suffered a stroke.

14. On April 23, 2021, a radiograph of Patient J.P.'s left ankle showed "stable operative changes, including hardware with increased displacement of fracture."

15. The standard of minimally competent medical practice required Respondent to have treated Patient J.P. with a walking boot as opposed to surgically reducing the fracture under these circumstances when the fracture was in anatomic alignment. The standard of minimally competent medical practice would be to recognize that the nail displaced the fracture and change to a different fixation method or to have never recommended surgery in the first place.

Patient N.B.

16. On April 20, 2021, Respondent saw Patient N.B., a 43-year-old male patient, who presented with a crushed right foot injury with several fractures of the right foot. Respondent recommended open stabilization of the 3rd and 5th metatarsals.

17. On April 30, 2021, Respondent performed fixation without reduction and pinning of Patient N.B.'s 3rd and 5th metatarsals. With regard to the 5th metatarsal, Respondent performed stabilization of the base without reduction with a headless compression screw. He noted that the fracture of the 5th metatarsal neck would be treated closed.

18. The standard of minimally competent medical practice required Respondent to reduce the 5th metatarsal fracture before stabilization, proximally. Respondent's use of the screw further displaced the fracture in the base of the bone. The standard of minimally competent medical practice further required Respondent to identify the malposition of the construct, remove the screw, reduce the fracture of the 5th metatarsal base, and then provide fixation and to reduce and pin the 5th distal metatarsal head fracture and provide fixation. The standard of minimally competent medical practice also required the identification of the severity of the soft tissue injury and delay of surgical treatment until the soft tissues would be amenable for surgical dissection and fracture treatment.

19. Respondent currently resides and practices medicine and surgery in the state of Georgia.

20. 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. Based on the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(b) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

3. 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 and registration to practice medicine and surgery in the state of Wisconsin (license no. 74376-20) is LIMITED as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall, at his own expense, successfully complete ten (10) hours of education on the topic of orthopedic trauma, offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s).
 - b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
 - d. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.
4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$2,118.00.

5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted 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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 74376-20), or Respondent's right to renew his license and registration, 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: Shelton A. Wasserman, MD
A Member of the Board

6/21/23
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EDDIE N. POWELL II, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0008581

Division of Legal Services and Compliance Case No. 21 MED 349

Respondent Eddie N. Powell II, 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

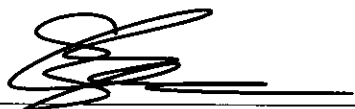
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.

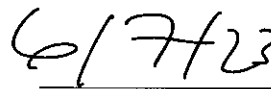
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

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



Eddie N. Powell II, M.D., Respondent
Neenah, WI 54956
License No. 74376-20



Date



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

6/7/2023

Date