

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Marlin Gustav Thomas Schauland, D.O.
Date of Birth: 3/25/1945
License No.: 45,613

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Marlin Gustav Thomas Schauland, D.O. ("Respondent"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Mick Spence and Maxwell Felsheim, The Spence Law Firm, 10 South Fifth Street, Suite 700, Minneapolis, Minnesota 55402, telephone (612) 375-1555. The Committee was represented by Daphne A. Lundstrom, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

a. Respondent was licensed by the Board to practice medicine and surgery in the State of Minnesota on May 3, 2003. Respondent is also licensed in Hawaii, Oklahoma, and

West Virginia. Respondent has inactive medical licenses in Michigan, Ohio, Pennsylvania, and Virginia. Respondent has also practiced at Veterans Affairs ("VA") treatment facilities in Illinois, Iowa, Minnesota, Oregon, and West Virginia.

b. Respondent was first diagnosed with alcohol and chemical dependency in 1973. On December 19, 1980, Respondent entered into a Stipulation and Consent Order with the Michigan Board of Osteopathic Medicine and Surgery ("Michigan Board"), which placed Respondent under probation for a period of two years. In August 1982, the Michigan Board suspended Respondent's Michigan license, due to his relapse to chemical usage, and Respondent subsequently entered chemical dependency treatment. In August 1983, the Michigan Board reinstated Respondent's license, subject to terms and conditions, including probation for a period of five years. In November 1988, Respondent's probationary period expired and the Michigan Board granted an unconditional license.

c. In May 2007, the Board received a complaint alleging that Respondent had purchased large quantities of codeine in 2004, 2005, and 2006, using his personal credit card, and shipped the codeine to his Minnesota residence. In May 2007, the Board initiated an investigation by the Minnesota Attorney General's Office into Respondent's purchase of narcotics and medical practice. The investigation, which included a review of an investigation completed by the U.S. Drug Enforcement Agency ("DEA") and an interview of Respondent, revealed the following:

1) During 2004, Respondent purchased 5,000 dosage units of codeine tablets, using his DEA registration number, from a supplier located in New York. During 2005, Respondent purchased 6,000 dosage units of codeine tablets, as well as promethazine VC syrup, clonazepam tablets, Sonata capsules, and Lunesta tablets, using his DEA registration number,

from a supplier in New York. During 2006, Respondent purchased 8,000 dosage units of codeine tablets, as well as promethazine VC syrup, clonazepam tablets, and Sonata capsules, using his DEA registration number, from a supplier in New York. Respondent charged all of the purchases to his personal credit card and shipped the narcotics to his residences in Minnesota. Respondent failed to maintain records of the order, delivery, inventory, or disposition of the medication.

2) During his interview with the DEA, his interview with the Attorney General's Office, and at his conference with the Committee, Respondent stated that he ordered the codeine and other medications to prepare for the possibility of a world event, which would preclude access to necessary controlled substances, and that he "stockpiled" the drugs at his home in preparation for the natural or manmade disaster.

d. In February 2007, Respondent submitted an application to the DEA for renewal of his DEA registration, number AS2296689, which was scheduled to expire on February 28, 2007. Because of the stockpile purchase of codeine and other medications, and the inadequate recordkeeping, the DEA asked Respondent to voluntarily surrender his DEA registration. Respondent refused. Respondent's registration expired on February 28, 2007.

e. Despite his expired DEA registration, Respondent authorized a prescription, on May 7, 2007, for 60 dosage units of Tylenol #3 for a 36-year-old male patient, who worked at a gasoline station where Respondent was a customer. Respondent issued the prescription at the gasoline station, after the patient reported leg pain.

f. On May 8, 2008, Respondent appeared before the Complaint Review Committee and admitted purchasing large quantities of narcotics, but denied selling or

dispensing the drugs. Respondent stated that the medications were either lost during his multiple moves, or disposed of in the woods of West Virginia.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(f) and (o) (2006), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further Order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an Order conditioning and restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent is **REPRIMANDED**.

b. Respondent shall successfully complete the following courses approved in advance by the Complaint Review Committee:

1) Medical records management.

2) A course on Drug Enforcement Administration (DEA) drug classifications. In the alternative to this course, Respondent may write a paper on DEA schedule drugs and a physician's responsibilities for purchasing, storing, dispensing, and disposing of the schedule drugs. The paper shall be submitted for Committee review and approval.

Successful completion of the required coursework shall be determined by the Board or its designee.

c. Respondent shall pay, within six months of the date of this Order, a civil penalty in the amount of \$3,355.00.

d. This Stipulation and Order shall remain in effect for a minimum of one year. At the end of this period, Respondent may petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states or countries in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, including timely submission of required reports, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a

notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

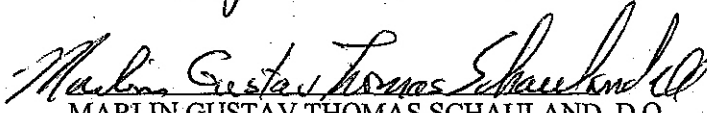
9. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

11. Respondent hereby acknowledges that he has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: August 16, 2009

Dated: 9/12/2009


MARLIN GUSTAV THOMAS SCHAULAND, D.O.


FOR THE COMMITTEE

Respondent

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board this 12th day of September, 2009.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: 

AFFIDAVIT OF SERVICE BY U.S. MAIL

**Re: In the Matter of the Medical License of Marlin Gustav Thomas Schauland, D.O.
License No. 45,613**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

TAMMIE L. REEVES, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on September 14, 2009, s/he caused to be served the STIPULATION AND ORDER, by depositing the same in the United States mail at said city and state, true and correct copy(ies) thereof, properly enveloped with prepaid first-class postage, and addressed to:

MAXWELL FELSHEIM
THE SPENCE LAW FIRM
10 S FIFTH ST STE 700
MINNEAPOLIS MN 55402

Tammie L. Reeves

TAMMIE L. REEVES

Subscribed and sworn to before me on
September 14, 2009.

Daphne A. Lundstrom

NOTARY PUBLIC

AG: #2508062-v1

