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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST: : **FINAL DECISION AND ORDER**
:
ROBERT J. WETZLER, M.D., : LS-0705161-MED
RESPONDENT. :

Division of Enforcement Cases #06 Med 7, 07 Med 47/63/136

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

Robert J. Wetzler, M.D.
6766 Lancelot Dr.
Oconomowoc, WI 53066

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Medical Examining Board on 5/16/07, and an Answer has been filed. Before a hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the 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

1. Respondent Robert Joseph Wetzler (dob 3/23/33) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #16857, first granted on 7/9/69. Respondent is not licensed in any other jurisdiction, is not board certified by any ABMS board, and is listed in the Board's records as an obstetrician-gynecologist.
2. Respondent was previously disciplined in 85 Med 154/88 Med 37 (1991) for inappropriately prescribing controlled substances including Quaalude® for non-medical purposes to a female patient, outside the course of legitimate practice. His license was limited to obstetrics and gynecology, he was ordered to refrain from practicing for a period of time of not less than 60 days, to take an intensive course in prescribing controlled substances, to not provide medical services to his spouse, to use only an approved recordkeeping system, to take specified steps to improve certain of his surgical abilities, and to not prescribe Schedule II controlled substances outside a hospital setting. Respondent's license was restored to unlimited status in 1998.
3. On and between 1998 and 2005, Respondent provided medical care and treatment to the late D.C., a man born in 1970. Respondent's patient health care records for the patient were alleged not to meet the current standard of care. In resolution of that matter, Respondent agreed to take an in-depth course in medical recordkeeping, and that agreement was memorialized by Order of the Board in file 05 Med 292 (2007).

4. On and before April 15, 2007, Respondent prescribed a number of medications for his wife and sons, without keeping an adequate patient health care record. These medications included mood altering substances. Respondent's wife was also regularly prescribed opioids for a number of years, including methadone, by other physicians, for chronic pain; Respondent was aware of this. On April 15, 2007, Respondent administered medication (injectable depo-naltrexone) to her, at their home and at her request, which was intended as an initial treatment for her perceived overuse of alcohol. However, she became nauseous, developed diarrhea, and experienced significant changes in her mental status. He then called 911, and she was transported to the hospital; while in the emergency department she experienced cardiac arrest and seizures, and was sedated and admitted to the ICU. Testing showed that her blood-alcohol concentration was 0.04% by weight some 100 minutes after the reported administration, her blood oxycodone level was 72 ng/ml (therapeutic range 10-120), and her serum methadone was 5170 ng/ml by GC/MS.

5. Respondent stated to Board staff that at the time of administering the depo-naltrexone, he believed that his wife had not consumed alcohol for at least 24 hours, and that he further believed that she had taken herself off all of her opioids several days before. The Board finds that a reasonable physician would have detected the presence of such a significant amount of alcohol in a patient if he had sought to do so, and would have known that a patient on the levels of prescribed opioids as Respondent's wife could not have "taken herself off" of opioids for several days without exhibiting symptoms of opioid withdrawal. The Board finds that Respondent failed to consider that naltrexone would cause a patient who had been regularly taking prescribed opioids to experience withdrawal, and that given his wife's normal physical dependence upon her prescribed opioids, the administration of this medication could have the effects which she, in fact, experienced.

6. The Board has received multiple complaints regarding Respondent's prescriptive practice. An examination of a sampling of his charts reveals that Respondent's histories and physicals are inadequate, his diagnoses and subsequent prescribing of opioids and benzodiazepines are not justified by the content of chart, significant portions of his charts are not sufficiently legible to allow interpretation by other practitioners, and he fails to take reasonable and standard precautions to prevent diversion of prescribed controlled substances in patients clearly at risk of doing so. Further, he has prescribed Schedule II amphetamine products for "excessive daytime drowsiness" which is not a condition listed in Wis. Adm. Code § Med 10.02(2)(s). Respondent's charted care and treatment of patients with hypertension and other common medical conditions also does not meet the current standard of care.

7. Following inspection of Respondent's clinic, several violations of recordkeeping requirements were noted by the Drug Enforcement Administration. Further, Respondent had received controlled substances from patients without keeping any record of such receipt.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining 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).

B. The conduct described in the Findings of Fact, above, constitute unprofessional conduct under Wis. Adm. Code Med § 10.02(2)(h).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery in Wisconsin, of Robert J. Wetzler, M.D., is LIMITED as set forth in Wis. Stat. §448.(3)(e), and as follows: Respondent shall not prescribe, order, obtain, dispense, or administer any controlled substance listed in Schedule II, and shall not possess any controlled substance listed in Schedule II which is not prescribed to him as a patient by an authorized prescriber for a legitimate medical purpose. Respondent shall not supervise any physician assistant's prescribing, ordering, or administration of controlled substances listed in Schedule II, nor shall he advise or consult with other prescribers (other than by referral) on the prescribing, ordering, or administration of controlled substances in Schedule II to any patient, including through having a collaborative agreement with an Advanced Practice Nurse Prescriber.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Respondent is LIMITED as provided in Wis. Stat. § 448.02(3)(e), and as follows: Respondent shall not order, prescribe, or administer any opioid or opiate, including any product containing tramadol, for any patient for more than 30 days in any 12 month period.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery in Wisconsin, of Robert J. Wetzler, M.D., is LIMITED as set forth in Wis. Stat. §448.(3)(e), and as follows: except in a bona fide emergency, Respondent shall not treat any member of his immediate family, defined as any member of his household, his spouse, and his children (including adopted children) and members of their households.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery in Wisconsin, of Robert J. Wetzler, M.D., is LIMITED as set forth in Wis. Stat. §448.(3)(e), and as follows:

1. Respondent shall undergo an assessment to evaluate respondent's current abilities to practice medicine at his current practice, given his current patient population and the facts of this case. The assessment shall be performed under the direction of the University of Wisconsin Continuing Medical Education Program (UW-CME), and may include a cognitive screening assessment, peer interview, and/or physical examination. Respondent shall initiate the assessment process within fifteen (15) days of the date of this order and shall timely complete all portions of the process for which he is responsible (including payment of all required fees), as requested by UW-CME.
2. If the results of this assessment process show a deficiency in respondent's abilities, respondent shall participate in and successfully complete an educational program established through the UW-CME and based upon on the result of the assessment. The educational program shall include a post-intervention assessment which may be 6-18 months following the completion of the didactic portion of the program. Respondent shall complete this program within the time parameters established by the UW-CME, but no later than two years from the date of the report to the Board of the results of the assessment process. The Board may consider extension on request of UW-CME.
3. In the event that UW-CME states that it is unable to develop an educational program which adequately addresses the issues identified in the assessment, the program shall notify the Board of this fact, and the matter shall be returned to the Division of Enforcement for further action. The results of the assessment shall be admissible as evidence in any subsequent proceedings in this action.
4. Respondent shall be responsible for all costs incurred for the assessment and training under the terms of this Order, and shall timely pay all fees when due.
5. The UW-CME shall certify to the Board the results of the assessment and educational program upon their completion, and may certify separately the didactic portion of the program and the post-intervention assessment. Upon receipt of certification of completion of the terms and conditions set forth above, the Medical Examining Board shall inform respondent that his obligations under this portion of this order have been satisfied, and that his license is no longer limited in this respect.
6. If respondent does not successfully complete the program or does not successfully achieve the objectives of the program, this matter shall be referred to the Board to determine any other appropriate discipline for the conduct set out in the Findings of Fact. Respondent and the Division will have the opportunity to present argument to the Board on that issue. The Board and respondent will receive the results of the assessment and respondent's performance in the program, including the post-intervention assessment, as evidence in determining appropriate discipline.

IT IS FURTHER ORDERED, that effective immediately and continuing until (A) two years from the date of the certification by UW-CME of the successful completion of the educational program outlined above (this does not mean the post intervention assessment), or the certification to the Board that respondent does not need any educational program, and (B) such time as Respondent has successfully passed with a score of 75 or more the SPEX (Respondent may not attempt the exam more than twice without Board permission) or has passed a board specialty examination for certification or recertification for a board recognized by the American Board of Medical Specialties, the license to practice medicine and surgery of Respondent is LIMITED as provided in §448.(3)(e), Wis. Stats., and as follows:

1. Respondent shall practice only under the supervision of a designated Professional Mentor approved by the Board. Respondent shall have 30 days from the date of the order to submit the name(s) and resume(s) of the proposed Professional Mentor(s).
2. Respondent shall obtain a Professional Mentor acceptable to the Board. The Professional Mentor shall be the individual responsible for reviewing Respondent's practice of medicine and surgery during the time this Order is in effect. A Professional Mentor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Department (including but not limited to any bartering relationship, mutual referral of patients, etc.). A Professional Mentor shall be actively practicing in Respondent's field of practice, hold a valid Wisconsin license, shall be board certified by an ABMS-recognized board in a specialty relevant to Respondent's field of practice, and shall have read this Final Decision & Order and agree to be Respondent's Professional Mentor. The review of the Professional Mentor shall include weekly meetings, review of charts selected by the Professional Mentor (which shall include charts of any nursing home patients), and any other actions deemed appropriate by the Professional Mentor to determine that respondent is practicing in a professional and competent manner. The Professional Mentor may designate another qualified physician or other health care provider acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's professional mentor, Respondent shall have 30 days from the date of the notice of the inability or unwillingness to serve to submit the name(s) and resume(s) of the proposed Professional Mentor(s); the Board may in its sole discretion select a successor Professional Mentor. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.
3. Respondent shall arrange for his Professional Mentor to provide written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance.
4. Respondent's Professional Mentor shall immediately report to the Department Monitor any conduct or condition of the Respondent which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or patient.
5. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of the Professional Mentor to conform to the terms and conditions of this Order.
6. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change. Respondent shall notify the Board of all his practice locations, and the schedule of his practice at each, forthwith; he shall notify the Board of any changes in location or schedule within 5 days of such change, together with information on whether he is an employee, independent contractor, partner, principal, or has some other status at that location. He shall include in the notice, the full name of the employer or principal at the practice site, and a brief description of the nature of the association, including the general terms of the compensation arrangement; this does not mean the dollar amounts, but the method by which the compensation is computed or determined (salary or per-diem, specified percentage of collections, capitation, etc.).

IT IS FURTHER ORDERED, that the license to practice medicine and surgery in Wisconsin, of Robert J. Wetzler, M.D., is LIMITED as set forth in Wis. Stat. §448.(3)(e), and as follows: no later than 12/31/08, Respondent shall take and satisfactorily complete one of the following courses listed below. Respondent shall cause the program sponsors to communicate directly with the Department Monitor or other designee of the Board, and shall permit the Board, its designee, and Department staff to confer with the course instructors and program sponsors regarding Respondent's performance in the program.

1. Medical Ethics and Professionalism, Case Western Reserve University, Office of Continuing Medical Education.
2. Professional Renewal in Medicine through Ethics (PRiME), University of Medicine and Dentistry of New Jersey.
3. Professional/Problem Based Ethics (ProBE), Competency Assessment & Educational Intervention, Denver, Colorado.

IT IS FURTHER ORDERED, that pursuant to Wis. Stat. § 448.02(4), if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license and registration of respondent be summarily suspended pending investigation of the alleged violation.

IT IS FURTHER ORDERED, that respondent shall pay the costs of investigating and prosecuting this matter in the amount of \$14,000, no later than 9/8/09. In the event Respondent fails to timely submit full payment of costs, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid the Costs, in full, including any accrued interest.

IT IS FURTHER ORDERED, that in addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.02(3).

Dated this December 12, 2007.

WISCONSIN MEDICAL EXAMINING BOARD

By: Gene Musser MD
a member of the Board