

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF : **FINAL DECISION & ORDER**
 : **FOR REMEDIAL EDUCATION**
DALE E. BAUWENS, M.D., : **ORDER 0001361**

Division of Enforcement Case No. 09 MED 108

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

Dale E. Bauwens, M.D.
2500 N. Mayfair Road Suite 500
Wauwatosa, WI 53226

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

Wisconsin Department of Safety and Professional Services
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree 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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dale Edward Bauwens, M.D. (DOB January 14, 1953) is duly licensed and currently registered to practice medicine and surgery in the state of Wisconsin under license number 22964. This license was first granted on July 11, 1980.

2. Dr. Bauwens' specialty is orthopedic surgery and his address on record with the Wisconsin Medical Examining Board is 2500 N. Mayfair Road, Suite 500, Wauwatosa, Wisconsin 53226.

3. Patient A is a competitive weight lifter. Patient A has been treated by Dr. Bauwens over the past 20 years. Dr. Bauwens first treated Patient A when he saw him in 1991 with a fractured ankle. In 1996 Dr. Bauwens treated Patient A for pain in his elbows. On June 3, 1997, Patient A was seen by Dr. Bauwens with the complaint of low back pain. He treated Patient A during 1997 and 1998 for continued elbow pain.

4. During that period, Patient A was diagnosed with pain secondary to a degenerative condition. Dr. Bauwens has consistently prescribed a Schedule III hydrocodone product, Vicoden ES®, and chlorzoxazone, a muscle relaxant. During the time those medications have been prescribed, there is no evidence that Patient A abused the medications. It is undisputed that the medications were medically appropriate for the patient's condition.

5. Between August 22, 2002 and December, 2004 there are notes of Patient A's telephone calls requesting prescriptions and refills for chlorzoxazone and hydrocodone, respectively and Dr. Bauwens authorizing the prescriptions and refills of 60 units of each medication each month. These prescriptions continued to at least December 2004. There was one office visit during that time on October 31, 2003, when Patient A was seen for left shoulder pain and Dr. Bauwens injected bupivacaine and methylprednisolone and prescribed physical therapy.

6. On October 12, 2005 Patient A saw Dr. Bauwens with complaints of worsening right shoulder pain and lower back pain. The note says that the patient had used muscle relaxants, anti-inflammatories and hydrocodone for the last 3 months to make it through the night but now he was waking up 2-3 times per night with severe pain. Dr. Bauwens' impression was tendonitis of the shoulder and symptoms consistent with an S1 radiculitis. Patient A was referred to a pain clinic for epidural steroid injections, which he received in October and November 8, 2005

7. From October 13, 2005 through July 21, 2009:

a. Patient A was not examined by Dr. Bauwens in the office although Dr. Bauwens repeatedly saw the patient outside the office in non-medical settings, and was aware of the patient's condition throughout;

b. Beginning December 5, 2005, every three months, Patient A called Dr. Bauwens' office and asked for and received a prescription authorized by Dr. Bauwens for 60 units of hydrocodone/APAP, 7.5 mg/75 mg. Each prescription was authorized to be refilled three times.

c. During that same time frame, every three months Patient A also requested and received a prescription authorized by Dr. Bauwens for 60 units of chlorzoxazone 500 mg. Each of those prescriptions was also authorized to be refilled three times.

d. The only entries in Patient A's patient health care records at Dr. Bauwens' clinic were notes of Patient A's telephone calls requesting the prescriptions, Dr. Bauwens authorizing the prescriptions and calls to the pharmacies authorizing them.

8. On July 22, 2009, Dr. Bauwens saw and examined Patient A. Either shortly before that date or during the office visit, Dr. Bauwens told Patient A that the Medical

Examining Board was investigating his care. Dr. Bauwens' note of that date in Patient A's patient health care record says, in its entirety:

"[Patient A] has been having relative increases in lower back pain over the past month. He has been maintaining with oral pain medications. He estimates he takes anywhere from 0 to 3 per day. He has been doing some competitive bench pressing on a national basis and most of the time is comfortable, but after heavy workouts his lower back pain will increase.

CLINICAL EXAM today is consistent with diminished lumbar mobility. He has intact motor, sensory, and reflex to the lumbar spine. Straight leg raising in a seated position is negative.

IMPRESSION: As above.

RECOMMENDATIONS: I have refilled his Vicodin ES and his Parafon DSC. I have recommended repeat epidural, and we will set this up." (Emphasis added)

9. The Board has made no determination with regard to this matter, and the following Order does not constitute a disciplinary action against Dr. Bauwens nor does it constitute a limitation of any sort against Dr. Bauwens' medical license.

10. Dr. Bauwens has demonstrated satisfactory completion of the following Category I continuing medical education:

Course Title	Sponsor	Date	Hrs
Prescribing Opioids for Chronic Pain	University of Arizona College of Medicine	October 21, 2011	1
Recognizing and Managing Opioid Abuse	University of Arizona College of Medicine	October 21, 2011	1
Collaborative Opioid Prescribing Education	University of Washington School of Medicine	October 21, 2011	3
Maintenance of Professional Boundaries and Effective Management of Challenging Patient Encounters	Texas Medical Association	October 31, 2011	2
Patient Safety and Peer Assistance	Texas Medical Association	October 31, 2011	1
Ethical and Regulatory Aspects of Managing Patients with Pain	Texas Medical Association	October 31, 2011	1
Communication Skills: Why Bother?	Texas Medical Association	October 31, 2011	1

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stat. § 448.02.

B. The Wisconsin Medical Examining Board has authority to resolve this proceeding by stipulation without an evidentiary hearing pursuant to Wis. Stat. § 227.44(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Dale E. Bauwens, M.D., shall successfully complete one or more courses of Category I continuing medical education which include information on prescribing controlled substances (including prescribing opioids) and one or more courses of continuing medical education which include information on physician-patient boundary and ethics issues. All courses must be approved by the Board or its designee. Dr. Bauwens is prohibited from applying any of the hours of education completed to satisfy the terms of this Order toward satisfaction of the continuing education required for any biennial registration renewal. The above-listed courses are approved, and the requirement is fully satisfied.

2. Pursuant to Wis. Stat. § 440.22(2), within six months of the date of this Order, Dr. Bauwens shall pay to the Department of Safety and Professional Services the costs of this proceeding in the amount of \$2,600.

3. All requests, notices, reports and payments required by this Order shall be provided to:

Department Monitor
Department of Safety and Professional Services
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Dr. Bauwens' license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Dr. Bauwens fails to timely submit payment of the costs as ordered, Dr. Bauwens' license (#22964-20) may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Dr. Bauwens has paid them in full, together with any accrued interest.

5. This Order is effective on the date of its signing.

Wisconsin Medical Examining Board

By: _____

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A Member of the Board

February 15, 2012

Date