

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**
 :
JAMES D. HANNA, M.D. :
RESPONDENT. : **ORDER 0001486**

Division of Enforcement Case #12 MED 136

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

James David Hanna, M.D.
W5245 Boma Road
La Crosse, WI 54601

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

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

PROCEDURAL HISTORY

Respondent's license was summarily suspended on April 18, 2012, and a disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board on April 18, 2012. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition 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 is James David Hanna, M.D., dob 5/31/1958, who is licensed as a physician and surgeon in Wisconsin pursuant to license #25941, first granted on 7/1/1984. Respondent's address of record is W5245 Boma Road, La Crosse, WI 54601. Respondent is a pediatrician, and is certified by the American Board of Pediatrics, with a subspecialty certificate in Pediatric Nephrology. He is also licensed in Minnesota and was formerly licensed in Kansas and Ohio. Respondent has not registered to practice in the current biennium, but may register as of

right at any time before October 31, 2014, by paying the late fees and completing required documentation.

2. Respondent has long struggled with alcoholism. In 1996, he was arrested for operating a motor vehicle while influenced by an intoxicant. In 2002, Respondent entered the Ohio Physician Effectiveness Program. Upon his relocation to Wisconsin, respondent entered the Wisconsin Medical Society's Statewide Physician Health Program. Respondent participated successfully in both programs, and was discharged from each in full compliance. In May, 2008, Respondent reported to work in La Crosse, Wisconsin, intending to practice as a physician, while his breath alcohol content was approximately 0.03% by weight.

3. Respondent completed inpatient treatment for AODA issues in 2008. Respondent's diagnosis was Alcohol Dependence.

4. On December 22, 2008, Respondent applied for licensure in Kansas. On April 20, 2009, the Kansas State Board of Healing Arts issued a conditional license to practice medicine and surgery and required Dr. Hanna to submit to monitoring for a period of at least 5 years; after moving to Minnesota, Respondent permitted his Kansas license to lapse in June 2011.

5. Respondent voluntarily consented to revocation of his license to practice medicine and surgery in Ohio, effective September 9, 2009.

6. On February 15, 2011, and following the investigation in 10 MED 288, Respondent entered the Wisconsin Professional Assistance Procedure, and was permitted to retain his license, without public restriction or limitation, provided that he, among other things, did not consume alcoholic beverages.

7. On March 25, 2012, Respondent reported to work at the Avera Marshall Regional Medical Center, Marshall, MN, while influenced by beverage alcohol. Respondent submitted to a blood test; his blood alcohol level was 0.212% by weight, some 4 hours after he reported for work. Respondent admitted to the Minnesota Health Professionals Services Program that he had consumed a half-pint of beverage alcohol.

8. Since March 25, 2012, Respondent has been comprehensively reevaluated at Hazelden, Center City, Minnesota, and has cooperated with his treating professionals, and with this investigation. In addition to recommendations for treatment of alcohol dependence, the evaluators made other recommendations for Respondent's mental health. Respondent represents to the Board that he has not consumed beverage alcohol after March 25, 2012, and is in full compliance with all recommendations of his treating professionals.

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 above violated Wis. Adm. Code § Med 10.02(2)(h), (i), and (q). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

IT IS ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

SUSPENSION

- A.1. The license of James D. Hanna, M.D., including the right to renew the registration of the license, to practice as a physician in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2 Respondent shall mail or physically deliver all indicia of Wisconsin licensure to practice as a physician to the Department Monitor within 14 days of the effective date of this order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://drl.wi.gov/>.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active practice for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time. At the Board's discretion, the 5-year period may be started anew for every substantial or repeated violation of any provision of Sections C or D of this Order.

STAY OF SUSPENSION

- B.1. The suspension of Respondent's Wisconsin license may be stayed, and renewal of the registration shall be permitted, upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order, that Respondent's Treater is of the opinion that Respondent is able to safely practice medicine and surgery under the restrictions of this Order, and that Respondent has paid the appropriate renewal fees and otherwise satisfactorily completed the renewal process.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of sections C or D of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or

(b) Actual notice to Respondent or Respondent's attorney.

- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and shall continue, drug and alcohol, and mental health, treatment with a treater acceptable to the Board or its designee ("Treater"). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of the comprehensive evaluation performed in May 2012 (including both the chemical use assessment/evaluation, and the mental health assessment/evaluation), this Final Decision and Order, and all other subsequent orders. If the Treater requests any additional patient health care records, Respondent shall promptly authorize the release of such records.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Safety and Professional Services, Division of Enforcement to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater and

treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported quarterly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation. It is Respondent's responsibility to educate himself or herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- C.12. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11.

Drug and Alcohol Screens

- C.13. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department ("Approved Program").
- C.14. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply

with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:

- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.15. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The board may adjust the frequency of testing on its own initiative at any time.
- C.16. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

PRACTICE LIMITATIONS

Controlled substance orders; DEA registration

- C.20. [omitted]
- C.21. [omitted]
- C.22. Respondent may work as a physician or other health care provider in a setting in which Respondent has access to controlled substances. If Treater subsequently recommends restrictions on such access, the Board or its designee may impose such restrictions.
- C.23. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- C.24-30. [Professional Mentor requirement omitted]
- C.31. 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.

MISCELLANEOUS

Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

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

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Board for termination of this Order anytime after five years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.

Costs of Compliance

D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, mentoring and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

D.8. Respondent shall pay costs of \$1,350, to the Department of Safety and Professional Services, within 90 days of this Order. Payment should be directed to the attention of the Department Monitor at the address in paragraph D.1., above. In the event Respondent fails to timely submit any payment of costs, the Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has paid them in full, including any accrued interest.

Additional Discipline

D.9. 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. § 441.07.

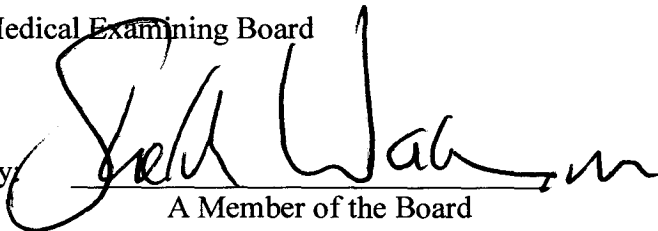
Coordination of Monitoring

D.10. The Department Monitor may coordinate the monitoring of Respondent's treatment and sobriety with the Minnesota Board of Medical Practice and/or the Minnesota Health Professionals Services Program, including by accepting compliance with the requirements of any Minnesota order or program as meeting the requirements of this order, for such period of time as Respondent is practicing exclusively in Minnesota.

Dated at Madison, Wisconsin this July 18, 2012.

Medical Examining Board

By:



A Member of the Board

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