

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
	:	
BRADLEY A. BOURKLAND, M.D.,	:	ORDER 0001929
RESPONDENT.	:	

Division of Enforcement Case No. 12MED069

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

Bradley A. Bourkland, M.D.
Respondent
4950 Royalwood Lane
Rhineland, WI 54501

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

Wisconsin Medical Examining Board
Department of Safety and Professional Services
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 Medical Examining 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. Bradley A. Bourkland, M.D., Respondent, date of birth August 21, 1960, is licensed and currently registered by the Medical Examining Board (Board) to practice medicine and surgery in the State of Wisconsin, pursuant to license number 34488-20, which was first granted July 1, 1993.
2. Respondent's last address reported to the Department of Safety and Professional is 4950 Royalwood Lane, Rhineland, Wisconsin 54501.
3. Respondent was formerly employed by Remedy Medical Services in Eau Claire, Wisconsin, until his employment there was terminated in February of 2012. As an employee of

Remedy Medical Services, Respondent worked at various clinics in the area, including the Mayo Clinic Health System in Sparta, Wisconsin. He is presently not employed.

4. On December 13, 2011, Respondent was released from the Professional Assistance Procedure ("PAP"), having successfully completed the five year program which began on December 8, 2006.

5. On December 22, 2011, Respondent was arrested and charged with operating a motor vehicle while intoxicated in Marathon County, Wisconsin, in Marathon County Case Number 2011TR7391. The case is still open and pending disposition.

6. On February 17, 2012, Respondent presented for work in the emergency department at the Mayo Clinic Health System Sparta campus in Sparta, Wisconsin. At that time, Doug Atkins, M.D., was contacted by nursing staff to evaluate and treat Respondent who was not feeling well. After questioning Respondent, Dr. Atkins performed a blood alcohol test on Respondent at approximately 11:00 a.m. At that time, the test results indicated a blood alcohol level of 0.274 GM/DL. Respondent advised Dr. Atkins that he had been drinking alcohol for the past year. Dr. Atkins' impression was general malaise secondary to acute chronic alcohol use. Dr. Atkins arranged for Respondent to be transferred via ambulance to La Crosse Hospital - Franciscan Healthcare for inpatient detox.

7. On that same date, Respondent was presented to La Crosse Hospital - Franciscan Healthcare for voluntary psychiatric hospitalization for alcohol detoxification. Respondent reported that he began drinking at the age of 17 and has been drinking alcohol regularly and progressively heavier since that time. He advised that he drinks one liter of vodka or other hard liquor on a daily basis at the present time. He had been medically hospitalized the week prior for alcohol detoxification and admitted to starting drinking shortly after that discharge. The admitting/attending physician noted that admitting laboratory studies included a blood alcohol level which returned 0.274. Respondent was admitted with a primary diagnosis of alcohol dependence.

8. On February 18, 2012, Respondent advised during a chemical dependency consult that he drank on two occasions while in the impaired professionals program which he just graduated from in December of 2011. He also advised that he sought detox on this particular occasion because he was not able to function at work as an emergency department physician due to his alcohol use. Respondent admitted to drinking the day before he was to report to work until midnight and then drinking again in the morning before he went to work. He had been on Naltrexone, Antabuse and Campral in the past, but stopped taking them if he was going to drink. He had also completed residential treatment at Hazeldon in Oregon in 2007 but resumed drinking on his way home from the program. The chemical dependency counselor recommended that Respondent go into a residential rehabilitation treatment for his alcohol dependence and planned to meet with Respondent again on February 19, 2012 to discuss residential programs.

9. On February 19, 2012, Respondent again met with the chemical dependency counselor at which time Respondent declined referral to inpatient AODA treatment. Respondent stated that he hoped to be discharged on that date and desired to continue in outpatient treatment with his current therapist in Rhineland.

10. Prior to discharge on February 19, 2012, Respondent's physician at La Crosse Hospital recommended that he go into residential rehabilitation treatment, however Respondent provided a number of excuses for why he could not do that immediately. Respondent advised that he would see a counselor who he is already scheduled to meet with and will try to utilize AA in the community. He also requested a trial of Campral which he has used in the past. The physician warned Respondent about his very high risk of relapse without aggressive intervention and that his chance of relapse and drinking is quite high if he is discharged to the community. However, Respondent chose to be discharged on that date which was done per his request.

11. On February 20, 2012, Respondent was charged with several moving violations in Wood County, Wisconsin, including operating vehicle left of center, drinking open intoxicants in a motor vehicle, failure to wear a seatbelt and failure to keep vehicle under control in Wood County Case Number 2012TR578. He entered a plea of no contest to all of the charges and was ordered to pay a monetary fine. On this same date, he admitted himself to St. Joseph's Hospital for treatment.

12. On February 24, 2012, Respondent was transferred to an inpatient alcohol and drug recovery program at St. Joseph's Hospital. He completed the inpatient program and was discharged on March 8, 2012. The plan was for Respondent to continue to take naltrexone; see an AODA counselor on an outpatient basis; attend AA meetings and see a psychiatrist for psychiatric follow-up.

13. On March 13, 2012, Respondent presented to Richard Martin, L.C.S.W., S.A.C., at Transitions Center, L.L.C., in Rhinelander, Wisconsin, upon referral from his AODA counselor. Respondent reported abusing alcohol for a number of years, starting at age 17, and having been in outpatient and inpatient treatment programs on several occasions in the last five years. He advised that he had over three years of sobriety prior to his most recent relapse which lasted eleven months. Mr. Martin noted that Respondent did not have a lot of insight into his problems but was motivated to make improvements in his life. His initial diagnostic impression included probable alcohol dependence.

14. On April 19, 2012, Respondent presented to Mr. Martin at which time he reported "binge drinking considerably" and an emergency detox at St. Mary's Hospital in Rhinelander since his last appointment. Mr. Martin recommended inpatient treatment and did not feel that Respondent would be able to do an outpatient recovery.

15. On May 4, 2012, Respondent presented to Mr. Martin, reporting that he has stayed sober for the last weeks with some difficulty. Mr. Martin's assessment on that date was that Respondent was in a vulnerable situation financially and emotionally. The plan was to continue with weekly sessions and to continue in the self-help AA groups.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3), and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. §§ 227.44(5) and 448.02(5).

2. Respondent, by engaging in the conduct set out in Count I, has engaged in conduct which tends to constitute a danger to patients, which is unprofessional conduct, as defined by Wis. Adm. Code § MED 10.02 (2)(h) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

3. Respondent, by practicing or attempting to practice while his ability to perform services was impaired by alcohol, as set out in Count I, has committed unprofessional conduct, as defined by Wis. Adm. Code § MED 10.02 (2)(i) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

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 Bradley A. Bourkland, M.D., to practice medicine and surgery in the State of Wisconsin is **SUSPENDED** for an indefinite period.
- A.2. Respondent shall not engage in the practice of medicine and surgery in any capacity unless his suspension is stayed and he is in full compliance with this Order. Respondent shall mail or physically deliver all indicia of registration to the Department Monitor within 14 days of the effective date of this Order.
- 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, 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.

STAY OF SUSPENSION

- B.1. The suspension will be stayed after **90 days** upon Respondent providing information to the Board or its designee that Respondent is in full continuous, compliance with this Order, and shall continue to be stayed so long as Respondent remains in compliance with the provisions of Sections C and D of this Order.
- 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. 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.

LIMITATIONS

The license to practice medicine and surgery of Respondent is LIMITED as set forth in Wis. Stat. § 448.02(3)(e), and as follows:

Treatment Required

- C.1. Respondent shall enter into and continue, in a drug and alcohol treatment program with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program 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 Treater, 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 upon a determination by 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 the drug and alcohol treatment program. 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 urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and

rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater. Attendance of Respondent at such meetings shall be verified and reported monthly 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), and all mood-altering or psychoactive substances, 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.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Within 24 hours of ingestion or administration, Respondent shall report to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent, shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

- C.12. Respondent shall enter into and continue in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § SPS 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. 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 – including any positive test for any controlled substance or alcohol – 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 specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens, to include testing for alcohol metabolites, at a frequency of not less than **30 times during the first 90 days of the Suspension**, pending a demonstration of continuous, successful compliance for a period of at least **90 days** with the terms of this Order. After demonstrating compliance, the Approved Program shall require the testing of urine specimens, to include testing for alcohol metabolites, at a frequency of not less than **80 times per year**, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. 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 urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. 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 or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § SPS 7.11.

Controlled Substance Privileges

- C.19. This Order does not impose any limitations on Respondent's prescribing, dispensing, administering or ordering of controlled substances.

Reporting Required

- C.20. 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.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel where Respondent is engaged in the practice of medicine or surgery as defined at Wis. Stat. § 448.01(9).
- C.22. It is Respondent's responsibility to arrange for written reports from his employer or practice partner(s) to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work

performance, and shall include the number of hours of active practice worked during that quarter.

- C.23. Respondent shall arrange for agreement by his employer or practice partner(s) to immediately report to the Board and to the Treater any conduct or condition of Respondent that may constitute a violation of this Order or a danger to the public.

Neuropsychological Examination

C.24. Within 30 days of the date of this Order, Respondent shall provide the Department Monitor with proof that he has scheduled a neuropsychological examination by a professional pre-approved by the Board or its designee, and will undergo the examination not more than 30 days thereafter. Respondent shall, within 10 days of scheduling the examination, inform the Department Monitor of the facility, contact information and dates during which the examination will occur.

- (a) The neuropsychological examination shall be performed by a doctorate-level, fully credentialed neuropsychologist, whose license to practice remains in good standing, and who has no personal or business association with Respondent, his staff or family members.
- (b) Respondent shall execute necessary documents authorizing the Division to obtain records of examination, and to discuss Respondent and his case with the examiner.
- (c) Respondent shall identify and provide the examiner with authorization to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated.
- (d) Respondent shall comply with any and all requests by the examiner for purposes of scheduling and completing the evaluation/assessment, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Medical Examining Board.
- (e) The examiner's report shall specifically address whether Respondent's alcohol consumption has resulted in any neuropsychological condition or damage which would prevent him from being able to safely and competently engage in the practice of medicine.
- (f) Respondent is responsible for timely payment of the costs of the examination. Payment shall be made directly to the examiner(s).
- (g) Respondent shall execute all releases necessary to permit disclosure of the final examination report to the Board or its designee. Certified copies of the final examination report shall be admissible in any future proceeding before the Medical Examining Board.

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 Avenue
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. Additionally, 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.
- D.3. 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.

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 for modification of the terms of this Order or termination, however, no such petition for modification shall occur earlier than one year from the date of this Order, no such petition shall be made any earlier than three months from the date the Board has acted on the last such petition, and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such 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.6. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision 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

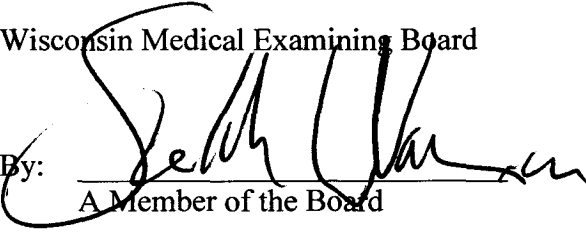
D.7. Respondent shall pay costs of \$ 500.00 to the Department of Safety and Professional Services, within ninety (90) days of this Order. In the event Respondent fails to timely submit full payment of costs, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid them in full, together with any accrued interest.

Additional Discipline

D.8. 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).

Wisconsin Medical Examining Board

By:


A Member of the Board

7/13/12
Date