

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JESSE J. VAN BOMMEL, M.D.,  
RESPONDENT.

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**FINAL DECISION AND ORDER**

**ORDER 0002362**

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Division of Legal Services and Compliance Case No. 12 MED 330

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

Jesse J. Van Bommel, M.D.  
N51W16911 Old Hickory Road  
Menomonee Falls, WI 53031

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

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

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Medical Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Jesse Jacob Van Bommel, M.D., (dob April 16, 1973) is licensed in the State of Wisconsin to practice medicine and surgery having license number 41512-20, first issued on August 6, 1999 and current through October 31, 2013. Respondent is certified by the American Board of Anesthesiology. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N51W16911 Old Hickory Road, Menomonee Falls, Wisconsin 53031.

2. On September 15, 2012, Respondent obtained propofol, fentanyl, and rocuronium from Community Memorial Hospital, not in the course of practice and by using a patient's name improperly. Respondent was despondent and suicidal as a result of an argument with his spouse.

3. Respondent was comprehensively evaluated at the Waukesha County Mental Health Center, on an inpatient basis, between September 16 and 19, 2012. Respondent was found to have unprescribed amphetamines in his urine, and admitted having smoked marijuana within the previous week. Respondent was diagnosed with recurrent severe major depression, and anxiety.

4. On February 25, 2013, Respondent was convicted of the following offenses in the Waukesha County Court (Case No. 2012CF001212), all of which grew out of the events of September 15, 2012:

- a. Count No. 1, Possession of Narcotic Drugs, Felony I; the charge was dismissed but read in.
- b. Count No. 2, Possess/Illegally Obtain Prescription, misdemeanor U; the charge was dismissed but read in.
- c. Count 3, Criminal Damage to Property, misdemeanor A; Respondent pled guilty.
- d. Count 4, Disorderly Conduct, misdemeanor B; Respondent pled guilty.

5. Sentence was withheld, and Respondent was placed on probation for three years, on condition that he follow through with mental health care including medication, maintain absolute sobriety, submit to random urine drug screens, and refrain from all acts of domestic violence.

6. On February 25, 2013, Respondent was convicted of the following offense in the Waukesha County Court (Case No. 2012CF001435), all of which grew out of a subsequent domestic violence incident which occurred on November 19, 2012:

- a. Count 1, Bail Jumping, Felony H; the charge was dismissed but read in.
- b. Count 2, Battery, misdemeanor A; Respondent pled guilty.

6. Sentence was withheld, and Respondent was placed on probation for three years with the same conditions described in paragraph 5, above; Respondent was also ordered to spend 90 days in the County jail during nonworking hours, stayed after the first 15 days on condition that Respondent report daily for 75 days subsequent.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. 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).

2. By the conduct described in the Findings of Fact, Jesse J. Van Bommel, M.D., violated Wis. Admin. Code § MED 10.02(2)(i) by practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.

3. By the conduct described in the Findings of Fact, Jesse J. Van Bommel, M.D., violated Wis. Admin. Code § MED 10.02(2)(p) by administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in Wis. Stat. § 961.01(4), otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

4. By the conduct described in the Findings of Fact, Jesse J. Van Bommel, M.D., violated Wis. Admin. Code § MED 10.02(2)(z) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of medicine.

5. As a result of the above unprofessional conduct, Jesse J. Van Bommel, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

1. The attached Stipulation is accepted.

2. The license to practice medicine and surgery issued to Respondent Jesse J. Van Bommel, M.D., (license number 41512-20.) is SUSPENDED as follows:

#### SUSPENSION

A.1. The license of Jesse J. Van Bommel, M.D., to practice medicine and surgery in the State of Wisconsin is SUSPENDED for an indefinite period.

A.2. Respondent shall mail or physically deliver all indicia of Wisconsin medical licensure 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://dsps.wi.gov/index.htm>.

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 medical 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.

## STAY OF SUSPENSION

- B.1. The suspension of Respondent's Wisconsin license to practice medicine and surgery may be stayed 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.
- 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, 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 this Final Decision and Order and all other subsequent orders.

- 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 or decompensation, 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 medication and 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. Respondent shall take all medication as prescribed.
- 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 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 Legal Services and Compliance 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. [omitted].

#### 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 medical 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

- C.20. Respondent may work as a physician in a setting in which Respondent has access to controlled substances.
- C.21. Respondent shall practice only under the general supervision of a physician or other licensed health care professional approved by the Board or its designee.
- C.22. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- C.23. Respondent may not engage in *locum tenens* practice, or practice medicine for a temporary placement agency.
- C.24. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a physician or care giver or provides health care, currently or in the future.
- C.25. It is Respondent's responsibility to arrange for written reports from supervisors 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 medical practice worked during that quarter. If a report indicates poor performance, the Board may institute



appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.

- C.26. 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  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

### 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, 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

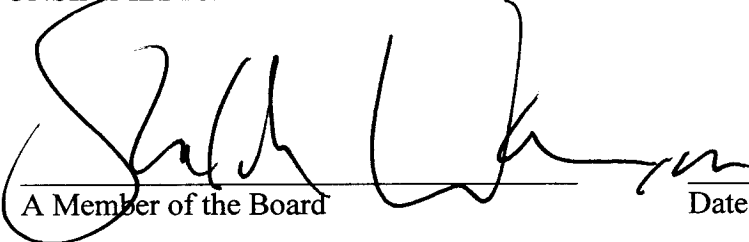
- D.8. Respondent shall pay costs of \$1,400, to the Department of Safety and Professional Services, within ninety (90) days of this Order. Payment should be directed to the attention of the Department Monitor at the address in paragraph D.1., above. In the event Respondent fails to timely submit any payment of costs, the Respondent's license (#41512) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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. § 448.02(3).

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

WISCONSIN MEDICAL EXAMINING BOARD

by:  \_\_\_\_\_ Date 3/24/13  
akt A Member of the Board