

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
GREGORY B. JACKSON, M.D.,	:	LS9009072MED
RESPONDENT.	:	

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 20 day of March, 1991.

Michael P. Mehras

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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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|-------------------------------|---|---------------------------|
| IN THE MATTER OF DISCIPLINARY | : |                           |
| PROCEEDINGS AGAINST           | : | AMENDED PROPOSED DECISION |
|                               | : | LS 9009072 MED            |
| GREGORY B. JACKSON, M.D.,     | : |                           |
| RESPONDENT.                   | : |                           |

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The parties to this proceeding for purposes of s. 227.53, Stats., are:

Gregory B. Jackson, M.D.  
5710 South Marilyn Street  
Milwaukee, WI 53221

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

Medical Examining Board  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708

The allegations of the complaint in this matter were admitted in an answer filed by Dr. Jackson, and a hearing was held on December 11, 1990, limited to the issue of what discipline, if any, should be imposed because of the violations admitted by Dr. Jackson in his answer to the complaint. At the hearing, Dr. Jackson appeared, representing himself, without counsel. The Division of Enforcement was represented by Attorney Gilbert Lubcke.

On the basis of the entire record in this proceeding, the Administrative Law Judge recommends that the Medical Examining Board adopt the following Findings of Fact, Conclusions of Law, Order, and Opinion as its Final Decision in this matter. The amendment appears in Paragraph 12 of the Findings of Fact, in which the Administrative Law Judge corrected a transcription error in the original Proposed Decision.

FINDINGS OF FACT

1. Gregory B. Jackson, M.D., is a physician licensed to practice medicine and surgery in the state of Wisconsin under license #27235, granted October 25, 1985.

2. On January 15, 1987, the Wisconsin Medical Examining Board issued a Final Decision and Order finding Dr. Jackson in violation of Wis. Stats. ss. 448.02(3) and 161.38(5), and Wis. Admin. Code s. MED 10.02(2)(p), and imposing

a five year limited license. The Medical Examining Board modified the original limited license by an Order dated March 2, 1990.

3. Paragraph "c" of the January 15, 1987, Order of the Medical Examining Board, as amended on March 2, 1990, provides as follows:

"Dr. Jackson shall continue to participate in all components of the impaired professional program at DePaul Rehabilitation Hospital, or such other rehabilitation program as shall be approved by the Board, and shall comply with all treatment recommendations of the program."

4. Paragraph "d" of the January 15, 1987, Order of the Medical Examining Board provides as follows:

"Dr. Jackson shall abstain from any and all personal use of controlled substances as defined in Wis. Stats. sec. 161.01(4) except when necessitated by a legitimate medical condition and then only with the prior approval of the supervising physician."

5. Paragraph "g" of the January 15, 1987, Order of the Medical Examining Board, as amended on March 2, 1990, provides as follows:

"Dr. Jackson shall supply on at least a twice-monthly basis random monitored urine or blood specimens within 24 hours of a request for said specimen by Dr. Jackson's treatment program supervising physician or his designee."

6. Abstinence from the use of controlled substances, except for the treatment of legitimate medical conditions, is a component of the impaired professional program at DePaul Rehabilitation Hospital.

7. Collection and analysis of random monitored urine specimens for controlled substances are components of the impaired professional program at DePaul Rehabilitation Hospital.

8. Cocaine is a Schedule II controlled substance as defined in Wis. Stats. ss. 161.01(4) and 161.16(2)(b)(1).

9. On or about March 11, 1990, Dr. Jackson acted in violation of paragraph "c" of the March 2, 1990, Order of the Medical Examining Board, and paragraph "d" of the January 15, 1987, Order of the Board by using cocaine.

10. On or about March 13 and 14, 1990, Dr. Jackson acted in violation of paragraphs "c" and "g" of the March 2, 1990, Order of the Board by failing to provide a monitored urine specimen within 24 hours of a request for a specimen.

11. On or about March 23, 1990, Dr. Jackson acted in violation of paragraph "c" of the March 2, 1990, Order and paragraph "d" of the January 15, 1987, Order by using cocaine.

12. On or about March 24, 1990, Dr. Jackson acted in violation of paragraph "c" of the March 2, 1990, Order of the Board and paragraph "d" of the January 15, 1987, Order of the Board by using cocaine.

13. On or about May 4 and 5, 1990, Dr. Jackson acted in violation of paragraphs "c" and "g" of the March 2, 1990, Order by failing to provide a monitored urine specimen within 24 hours of a request for a specimen.

14. On or about May 7 and 8, 1990, Dr. Jackson acted in violation of paragraphs "c" and "g" of the March 2, 1990, Order of the Board by failing to provide a monitored urine specimen within 24 hours of a request to provide a specimen.

15. On or about May 8, 1990, Dr. Jackson acted in violation of paragraph "c" of the March 2, 1990, Order of the Board by terminating his participation in the impaired professional program at DePaul Rehabilitation Hospital without the prior approval of the Medical Examining Board.

16. Soon after terminating his participation in the DePaul Rehabilitation Hospital impaired professional program, Dr. Jackson commenced a rehabilitation program at Greenbriar Hospital. The program was not approved by the Medical Examining Board, nor did Dr. Jackson notify the Board that he was engaged in the program at Greenbriar.

17. Dr. Jackson continued to use cocaine between July 30, 1990, and November, 1990, without reporting the use to the supervising physician at Greenbriar. During this period of time, Dr. Jackson coordinated his use of cocaine with the timing of urine screens required by the Greenbriar program to avoid providing a specimen that would test positive for cocaine metabolites.

18. In November, 1990, Dr. Jackson terminated his involvement with the rehabilitation program at Greenbriar, and began a program at a residential treatment facility, the Lawrence Center, affiliated with Waukesha Memorial Hospital. The program at the Lawrence Center is not associated in any way with either the DePaul or Greenbriar programs.

#### CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to Wis. Stat. s. 448.02(3).

2. Dr. Jackson's conduct in violation of the Orders of the Medical Examining Board dated January 15, 1987, and March 2, 1990, constitute unprofessional conduct within the meaning of Wis. Stats. s. 448.02(3) and Wis. Admin. Code s. MED 10.02(2)(b).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license previously issued to Gregory B. Jackson to practice medicine and surgery in the state of Wisconsin is hereby REVOKED.

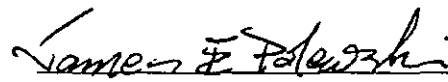
OPINION

Dr. Jackson is addicted to cocaine, and has tried, with the Board's assistance, to continue in the practice of medicine while pursuing his rehabilitation from the addiction. Dr. Jackson has been unable to maintain the discipline required to practice medicine at the same time as he pursues his rehabilitation. He testified that he left the program at DePaul Rehabilitation Hospital because of the stress he felt, believing that every sick day he took was interpreted as a sign that he was using cocaine and unable to come to work.

Rehabilitation from any substance abuse addiction is a struggle. Dr. Jackson should be given credit for the struggle he has made, and apparently continues to make, but credit for his effort must be tempered by the recognition that it has not been successful to break the addiction. Dr. Jackson continued to use cocaine while in treatment, and actively planned his use to avoid discovery because of a positive urine screen. He is bright and apparently able, and he has demonstrated that the addiction is so strong that the conditions under which he held his limited license are insufficient to assist him in his recovery while still allowing him to practice with safety to his patients and the public.

This is a tragedy, but it is possible that without the stress of trying to practice medicine while believing that every sick day is seen as proof of drug abuse that Dr. Jackson will be able to devote himself to his recovery and, when he achieves it, be reinstated to the practice of medicine. The responsibility, and the credit, for the achievement will have to be his alone because there is no license limitation which the Board can apply with confidence that it will be effective to protect the public from a doctor practicing under the influence of cocaine.

Dated this 14th day of February, 1991.

  
James E. Polewski  
Administrative Law Judge

## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

### 1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

### 2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is March 21, 1991

WLD:dms  
886-490



227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.