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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GREGORY B. JACKSON, M.D.,
RESPONDENT.

:
: FINAL DECISION
: AND ORDER
: LS9109251MED
:

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 20th day of November, 1991.

George W. Arnold MD

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	PROPOSED DECISION
	:	
GREGORY B. JACKSON, M.D.,	:	LS 9109251 MED
RESPONDENT.	:	

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

Gregory B. Jackson, M.D.
2436 North 50th Street
Milwaukee WI 53210

Medical Examining Board
P.O. Box 8935
Madison WI 53708

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

A hearing was held in this matter on October 16, 1991, at the Department of Regulation and Licensing, Madison, Wisconsin. There was no appearance by Respondent Gregory B. Jackson, nor did anyone appear on his behalf. The Complainant Division of Enforcement was represented by Attorney Arthur Thexton. No answer of any kind had been filed by Respondent prior to the hearing, despite proof of service of the Notice of Hearing and Complaint upon him by certified mail, with a date of service of September 25, 1991, within the provisions of ch. RL 2, Wis. Admin. Code.

Based upon the entire record of 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.

FINDINGS OF FACT

1. Gregory B. Jackson, M.D., was at all times relevant to this proceeding licensed to practice medicine and surgery in the state of Wisconsin. Respondent has not kept the Department apprised of his current address, but has received mail at and addressed mail from 2436 North 50th Street, Milwaukee, Wisconsin 53210 as recently as October 14, 1991.

2. Cocaine is defined as a controlled substance by s. 161.01(4), Stats., and is included as a Schedule II controlled substance by s. 161.16(2)(b), Stats.

3. On August 18, 1991, the state of Wisconsin Medical Examining Board accepted a stipulation in connection with the application of Gregory Jackson for a limited license to practice medicine and surgery in the state of Wisconsin. The Stipulation provided that Dr. Jackson would participate in a program for the rehabilitation of professionals addicted to alcohol and other drugs of abuse, and would refrain from "any and all personal use of alcohol or controlled substances, as defined by Wis. Stats. sec. 161.01(4), unless prescribed for him by his treating physician" and entered an order granting a limited license to practice medicine and surgery with that, and other, conditions.

4. On or about August 31, 1991, respondent consumed a controlled substance, cocaine, for non-medical purposes and without a prescription, contrary to s. 161.41(3m), Stats.

CONCLUSIONS OF LAW

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

2. By consuming cocaine for a non-medical purpose and without a prescription, in violation of the Order of the Medical Examining Board issued August 18, 1991, Respondent has violated ss. MED 10.02(2)(b), (h), and (r), Wis. Admin. Code.

ORDER

IT IS ORDERED that the license previously issued to Gregory B. Jackson to practice medicine and surgery in the state of Wisconsin be, and hereby is, REVOKED, effective on the date of this Order.

IT IS FURTHER ORDERED that the total assessable costs of this proceeding be imposed against Gregory Jackson, pursuant to s. 440.22, Wis. Stats.

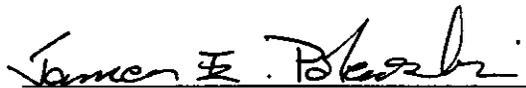
OPINION

Dr. Jackson is addicted to cocaine, and has tried, with the Board's assistance, to continue in the practice of medicine while pursuing rehabilitation from the addiction. Dr. Jackson has been unable to maintain the discipline required to pursue his rehabilitation. He is bright, but 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 Dr. Jackson will commit himself

to his recovery, and, if he achieves it, be reinstated to the practice of medicine. In the meantime, it is patently evident that 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 29th day of October, 1991.

A handwritten signature in cursive script, reading "James E. Polewski". The signature is written in dark ink and is positioned above a horizontal line.

James E. Polewski
Administrative Law Judge

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GREGORY B. JACKSON, M.D.,
RESPONDENT.

:
:
: AFFIDAVIT OF COSTS
: OFFICE OF BOARD LEGAL SERVICES
:
: LS 9109251 MED

STATE OF WISCONSIN
COUNTY OF DANE, ss.

James E. Polewski, being first duly sworn on oath, deposes and says:

1. He is an attorney admitted to practice law in the state of Wisconsin, and employed by the Department of Regulation and Licensing.

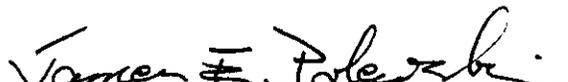
2. In the course of his employment, he was appointed administrative law judge in this proceeding, and in the course of that appointment expended the following time and incurred the following expenses for the Office of Board Legal Services:

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
10/16/91	Preside at hearing	40 m.
10/23/91	Draft decision	45 m.
10/29/91	Draft decision	30 m.
	TOTAL TIME:	1 hr. 55 m.

Salary and benefits, Administrative Law Judge, 1.92 hours @ \$24.75: \$47.52

Expenses: Reporter and Transcript Fees (Magne Script, Madison): \$101.10

TOTAL EXPENSES, OFFICE OF BOARD LEGAL SERVICES: \$148.62


James E. Polewski

SWORN TO AND SUBSCRIBED BEFORE ME THIS 29th DAY OF OCTOBER, 1991.



Notary Public
My Commission is Permanent

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 November 21, 1991.

27.49 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. 7.025 (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.

27.52 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) 1. 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. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. 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.

3. 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) A copy 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 each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(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.