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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
THE APPLICATION FOR A LICENSE OF

KEVIN A. WEIDMAN, M.D.,

Applicant

ORDER GRANTING PETITION

On January 8, 1993, Dr. Kevin A. Weidman filed his application for a license to practice medicine and surgery in the State of Wisconsin. Dr. Weidman indicated on his application that disciplinary action had been taken against his license in the States of Minnesota and North Dakota, and information provided established that his licenses in both those states were suspended. The board considered the application at its meeting of April 28, 1993, and denied the application by its order dated May 7, 1994. In denying the application, the board commented in its Order as follows:

At such time that North Dakota, which is apparently Dr. Weidman's state of original licensure, and Minnesota determine that it is safe to reinstate Dr. Weidman licenses in those states, the board will be happy to further consider his application in this state. Until Dr. Weidman is able to establish his satisfactory rehabilitative status to the boards in the states where he is currently licensed, however, it would be inappropriate for this board to grant a new license in Wisconsin.

Having submitted evidence satisfying the conditions set forth in the board's previous Order, Dr. Weidman petitioned the board to reconsider his application. The board considered the petition at its meeting of September 22, 1994. The board and Dr. Weidman thereafter entered into a Stipulation by which the board agreed to grant, and Dr. Weidman agreed to accept, a limited license to practice medicine and surgery in the State of Wisconsin. The board thereafter filed its order granting the limited license.

Pursuant to the board's order, Dr. Weidman appeared before the board at its meeting of March 23, 1995. At that time, Dr. Weidman petitioned for a reduction in the number of required urine screens from weekly to twice-monthly and to permit him to apply for and hold a DEA registration number. The board considered the matter on that date, and denied the petition by its order dated March 29, 1995.

By letter dated May 5, 1995, Dr. Weidman again petitioned for the board to permit him to apply and hold a DEA registration. He appeared before the board on May 25, 1995, in support of his petition. The board considered the matter on that date.

Based upon the petition and all other information of record herein, the board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition of Kevin A. Weidman, M.D., for modification to the limitations on his license to permit him to apply for and hold a DEA registration is granted, and the terms of the board's Order Adopting Stipulation dated November 25, 1994 are therefore amended to read as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that Kevin A. Weidman is hereby granted a license to practice medicine and surgery in the State of Wisconsin imposing the following terms and conditions:

1. The limitations set forth herein shall remain in full force and effect for a period of three years from the date of this Order.
2. David G. Benzer, D.O., Director of the McBride Center at Milwaukee Psychiatric Hospital, shall be Dr. Weidman's supervising physician for the full term of this limited license. The supervising physician may designate another qualified physician to provide coverage and to exercise the duties and responsibilities of the supervising physician in his absence. In the event that Dr. Benzer is unable or unwilling to serve as supervising physician, the Medical Examining Board shall in its sole discretion select a successor supervising physician.
3. Dr. Weidman shall abstain from all personal use of controlled substances as defined in Sec. 161.01(4), Stats. except when necessitated by a legitimate medical condition and then only with the prior approval of the supervising physician.
4. Dr. Weidman shall abstain from all personal use of alcohol.
5. Dr. Weidman shall report all medications and drugs, over-the-counter or prescription, taken by him to his supervising physician within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs for him. Dr. Weidman shall within 24 hours of a request by his supervising physician, by the Medical Examining Board or any member thereof, or by any employee of the Department of Regulation and Licensing designated by the Medical Examining Board to exercise this authority, provide releases which comply with state and federal laws authorizing release of his health care records by the person who prescribed, dispensed, administered or ordered this medication for him. These releases shall also authorize the supervising physician, the Medical Examining Board or any member thereof and any employee of the Department of Regulation and Licensing acting under the authority of the Medical Examining Board to discuss Dr. Weidman's health care with the person who prescribed,

dispensed, administered or ordered this medication. The terms of this paragraph shall not be deemed to modify or negate Dr. Weidman's obligations as set forth in paragraph four of this Order.

6. Dr. Weidman shall continue to participate in all components of the drug and alcohol treatment program at the McBride Center as his supervising physician shall determine to be appropriate for his rehabilitation.

7. The drug and alcohol treatment program in which Dr. Weidman is enrolled shall at all times utilize a United States Department of Health and Human Services certified laboratory for the analysis of all urine, blood and hair specimens collected from Dr. Weidman.

8. The drug and alcohol treatment program in which Dr. Weidman is enrolled shall utilize only those urine, blood and hair specimen collection sites for collection of Dr. Weidman's urine, blood and hair specimens as comply with the United States Department of Transportation collection and chain of custody procedures set forth in 49 CFR Part 40.

9. Dr. Weidman shall supply on at least a weekly basis random monitored urine, blood or hair specimens as the supervising physician shall direct. The supervising physician or persons designated by the supervising physician shall request the urine, blood or hair specimens from Dr. Weidman and these requests shall be random with respect to the hour of the day and the day of the week. In addition, the Medical Examining Board or any member thereof may at any time request a random monitored urine, blood or hair specimen from Dr. Weidman by directing the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement to contact Dr. Weidman and request that he provide a urine, blood or hair specimen. All requested urine, blood or hair specimens shall be provided by Dr. Weidman within five (5) hours of the request for the specimen. All urine specimen collections shall be a split sample accomplished by dividing urine from a single void into two specimen bottles. The total volume of the split sample shall be at least 45 ml. of urine. All split sample urine specimens, blood specimens and hair specimens shall be collected, monitored and chain of custody maintained in conformity with the collection, monitoring and chain of custody procedures set forth in 49 CFR Part 40, except that urine specimen collections shall be by direct observation if:

a. Dr. Weidman must provide an additional specimen because the initial specimen was outside of the normal temperature range (32.5 - 37.7°C / 90.5 - 99.8°F) and Dr. Weidman either refuses to have an oral body temperature measurement or he does provide an oral body temperature measurement and the reading varies by more than 1°C / 1.8°F from the temperature of the urine specimen.

b. Dr. Weidman's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below 0.2 g / l.

c. The collection site person observes Dr. Weidman acting in such a manner to provide reason to believe that Dr. Weidman may have attempted or may attempt to substitute or adulterate the specimen. The collection site person, if he or she believes that

the initial urine specimen may have been adulterated or a substitution made, shall direct Dr. Weidman to provide an additional observed urine specimen.

d. The Medical Examining Board or any member thereof acting through the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, or the supervising physician shall direct that the urine specimen collection be by direct observation.

If either of the above conditions (a) or (c) require collection of an additional observed urine specimen, the collection of the subsequent specimen shall be accomplished within the required five (5) hours of the request for the initial specimen and the collection of the initial specimen shall not satisfy the requirement that the urine specimen be collected within five (5) hours of the request for the initial specimen.

10. The supervising physician, treatment facility, laboratory and collection site shall maintain a complete and fully documented chain of custody for each urine, blood and hair specimen collected from Dr. Weidman.

11. Every urine specimen collected from Dr. Weidman shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of Dr. Weidman. Every urine specimen collected from Dr. Weidman shall be further analyzed at the laboratory for tampering by measuring the creatinine concentration and the specific gravity of the specimen. The laboratory may at its discretion or at the direction of a supervising physician or the Medical Examining Board or any member thereof conduct additional tests to evaluate the urine specimen for tampering including, but not limited to, pH, color and odor.

12. Every urine, blood and hair specimen collected from Dr. Weidman shall be analyzed for alcohol, amphetamine, cocaine, opiates, phencyclidine, marijuana, methadone, propoxyphene, methaqualone, barbiturates, benzodiazepines, or the metabolites thereof. The Medical Examining Board or any member thereof, through the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, or the supervising physician may at any time direct that screens for additional substances and their metabolites be conducted by scientific methods and instruments appropriate to detect the presence of these substances. The laboratory shall conduct confirmatory tests of positive or suspected positive test results by appropriate scientific methods and instruments including, but not limited to, gas chromatography and mass spectrometry.

13. All urine, blood and hair specimens remaining after testing shall be maintained in the manner necessary to preserve the integrity of the specimens for at least seven (7) days and all positive or suspected positive urine, blood and hair specimens remaining after testing shall be so maintained for a period of at least one (1) year. The supervising physician or the Medical Examining Board or any member thereof may direct that the urine, blood and hair specimens be maintained for a longer period of time.

14. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Dr. Weidman shall promptly submit to additional tests or examinations as the supervising physician shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

15. The supervising physician shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, by FAX (608-266-2264) or telephonic communication (608-267-7139) any failure of Dr. Weidman to provide a urine, blood or hair specimen within five (5) hours from the time it was requested. All urine specimens suspected to have been tampered with and all urine, blood and hair specimens which are positive or suspected positive for controlled substances or alcohol shall be reported immediately by the laboratory to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608) 266-2264, telephone no. (608) 267-7139, and to the supervising physician.

16. The laboratory shall mail the report from each urine, blood and hair specimen requested of Dr. Weidman to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 within 48 hours of completion of each drug or alcohol analysis performed regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances or alcohol. Each report shall state the date and time the specimen was requested, the date and time the specimen was collected, the results of the tests performed to detect tampering and the results of the laboratory analysis for the presence of controlled substances and alcohol.

17. The supervising physician shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 every 90 days commencing 90 days after the date of this Order. The report shall assess Dr. Weidman's progress in the drug and alcohol treatment program and summarize the results of the urine, blood and hair specimen analyses. The supervising physician shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608) 266-2264, telephone no. (608) 267-7139 any violation or suspected violation of this Order.

18. Dr. Weidman shall provide and keep on file with his supervising physician, all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all of his urine, blood and hair specimen screen results and his medical and treatment records and reports to, and permitting his supervising physician and his treating physicians and therapists to disclose and discuss the progress of his treatment and rehabilitation with, the Medical Examining Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Medical Examining Board. Copies of these releases shall be filed simultaneously with the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935.

19. Dr. Weidman shall be responsible for compliance with all of the terms and conditions of this Final Decision and Order. Dr. Weidman shall promptly notify the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608) 266-2264, telephone no. (608) 267-7139 of any suspected violations of any of the terms and conditions of this Order including any failures of the supervising physician, treatment facility, laboratory or collections sites to conform to the terms and conditions of this Order.

20. The Medical Examining Board, if it determines that the supervising physician, treatment facility, laboratory or collections sites have failed to satisfy the terms and conditions of this Order, may, at its sole discretion, direct that Dr. Weidman terminate his involvement with the supervising physician, treatment program, laboratory or collection sites, and continue his treatment and rehabilitation program under the direction of another supervising physician at a treatment facility, laboratory or collection sites which will conform to the terms and conditions of this Order.

21. Dr. Weidman shall appear before the Medical Examining Board at its August, 1995, meeting to review the progress of his treatment and rehabilitation. Dr. Weidman may petition the Medical Examining Board for modification of the terms of his limited license and the Medical Examining Board shall consider Dr. Weidman's petition at the time it meets with him to review the progress of his rehabilitation. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a), Stats. and Dr. Weidman shall not have a right to any further hearings or proceedings on any denial in whole or in part of his petition for modification of his limited license.

22. If the Medical Examining Board determines that there is probable cause to believe that Dr. Weidman has violated the terms of this Order, the Medical Examining Board may order the license of Dr. Weidman to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

23. With the exception of the administrative costs generated within the department in administering this Order, all costs and expenses arising from Dr. Weidman's compliance with this Order shall be borne by Dr. Weidman.

Dated this 5th day of June 1995.

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

by W.R. Schwartz, M.D.
W.R. Schwartz, M.D., Secretary