

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
 : (89 MED 295)
LOUIS SENO, JR., M.D., : (92 MED 325)
RESPONDENT. :

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Louis Seno, Jr., M.D.
6900 North Port Washington Road
Milwaukee, WI 53217

State of Wisconsin
Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter, Louis Seno, Jr., M.D., Respondent, personally and through his attorney, Michael P. Malone and Pamela M. Stach, Attorney for Complainant, have agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and finds it acceptable.

Accordingly, the Board adopts the Stipulation and makes the following:

FINDINGS OF FACT

1. Louis Seno, Jr., Respondent herein, date of birth; May 31, 1949, 6900 North Port Washington Road, Milwaukee, Wisconsin 53217, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license #20090 which was granted on July 15, 1976.
2. Respondent specializes in the area of family practice.
3. Respondent provided medical care and treatment for Patient A from approximately August 15, 1980 through September 12, 1992.

4. From on or about August 15, 1980 through September 12, 1994, Respondent prescribed Percocet, Demerol, and oxycodone for Patient A on the dates and the amounts set forth in Exhibit A attached hereto.

5. Percocet is an analgesic containing oxycodone, a Schedule II Controlled Substance as defined in Wis. Stats. secs. 161.01(4) and 161.16(2)(a) and (b) with high abuse and severe dependency potential.

6. Demerol is an analgesic containing meperidine hydrochloride, a Schedule II Controlled Substance as defined in Wis. Stats. secs. 161.01(4) and 161.16(2)(a) and (b) with high abuse and severe dependency potential.

7. Oxycodone is a Schedule II Controlled Substance as defined in Wis. Stats. secs. 161.01(4) and 161.16(2)(a) and (b) with high abuse and severe dependency potential.

8. Respondent prescribed Percocet, Demerol and oxycodone for Patient A otherwise than in the course of legitimate professional practice in the following respects:

- A. Respondent administered and prescribed the controlled substances as set forth in paragraph 3 in excessive amounts for excessive periods of time thereby creating an unnecessary and unacceptable risk of physical and psychological dependence.
- B. Respondent failed to adequately record and monitor the controlled substances he prescribed for Patient A thereby increasing the unacceptable risk of inappropriate and excessive prescribing.
- C. Respondent, on occasion, prescribed the controlled substances when the patient's presenting condition may not have indicated the type, amount or frequency of the controlled substance.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in these proceedings pursuant to Wis. Stats. secs. 448.02(3) and 227.44(5).

2. Respondent's conduct in prescribing controlled substances as defined in Wis. Stats. sec. 161.01(4) was otherwise than in the course of legitimate professional practice and therefore constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(p).

ORDER

NOW THEREFORE, it is ordered that the Stipulation in this matter is approved.

IT IS FURTHER ORDERED that the license of Louis Seno, Jr., M.D. to practice medicine and surgery in the State of Wisconsin is hereby limited on the following terms and conditions:

- A. Respondent's license to practice medicine and surgery in the State of Wisconsin shall be suspended for a period of sixty days to commence March 22, 1996 through April 21, 1996 and August 1, 1996 through August 30, 1996.
- ✓ B. Respondent shall recertify with the American Board of Family Practice within one year of the effective date of this Order. Respondent shall immediately notify the Medical Examining Board when recertification has been accomplished.
- C. Respondent shall immediately surrender his Drug Enforcement Administration Certificate of Registration for all Schedule I and II Controlled Substances and shall not reapply at any time in the future for said registration.
- ✓ D. Respondent shall immediately surrender his Drug Enforcement Administration Certificate of Registration for all Schedule III and IV Controlled Substances and shall not reapply for registration for these schedules until he has completed the following terms:
 - ✓ 1. Respondent shall participate in and successfully complete the four day "Intensive Course in Controlled Substance Management" conducted by Case Western Reserve University School of Medicine in Cleveland, Ohio.
 - ✓ 2. Respondent shall participate in an assessment of his knowledge and skills in the areas of 1) the treatment of chronic pain and 2) the prescribing of narcotic substances for the treatment of pain. This assessment shall be conducted by the University of Wisconsin Continuing Medical Education Program and shall be approved by the Medical Examining Board or its designee prior to commencement. In the event the assessment identifies areas of deficiency in either or both of these areas, Respondent shall participate in and successfully complete any recommended retraining set forth by the individual/s conducting the assessment. Such retraining program shall be approved by the Medical Examining Board or its designee prior to Respondent's participation.
 - ✓ 3. Upon evidence of successful completion of the terms set forth in paragraphs 1 and 2 above, the Respondent may petition the Board for the right to reapply for reinstatement of his Schedule III and IV controlled substances registration. The Board retains the discretion to designate which schedules may be reinstated and under what conditions. Denial in whole or in part of any petition by Respondent for the right to reapply for DEA registration under this paragraph shall not constitute a denial of a license within the meaning of Wis. Stats. sec. 227.01(2)(a) and Wis. Adm. Code sec. RL 2.
- ✓ E. Respondent shall, within six months of the effective date of this Order, participate in and successfully complete a medical record keeping course which shall be preapproved by the Board.

- F. Respondent shall maintain medical records which are dictated and transcribed, and which contain, at a minimum, the following information for each patient visit: a pertinent medical history relating to the presenting complaints, the presenting complaints, clinical findings, including the results of physical examination, a notation of any tests ordered and their results, a notation of any referrals for consultation and their results, diagnosis, and treatment prescribed, including notations of all drugs prescribed with dosage, strength and amount indicated. The medical records shall be adequate to allow a successor physician to immediately and adequately treat the patient in the absence of Respondent. In the event the dictation and transcription does not occur within ten days of the patient's visit, the above information shall be entered by Respondent in legible, handwritten notes.
- G. The Medical Examining Board or its designee may conduct three random audits, without prior notice, of Respondent's medical records within one year of the date of this Order to ensure compliance with the conditions set forth in paragraph F above.
- H. All costs incurred under paragraphs A through F above shall be the sole responsibility of Respondent.

IT IS FURTHER ORDERED that all costs incurred by either party in this matter are hereby waived.

IT IS FURTHER ORDERED that Counts II through IX of the Amended Complaint are hereby dismissed.

IT IS FURTHER ORDERED that pursuant to Wis. Stats. sec. 448.02(4) if the Board determines that the Respondent has violated any term of this Final Decision and Order, the Board may order that the license of Respondent to practice medicine and surgery in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

Dated this 22nd day of February, 1996.

WISCONSIN MEDICAL EXAMINING BOARD

BY: W.R. Schwartz
W.R. Schwartz, Secretary

PMS:kcb
ATY-DLG2128

PATIENT A

DATE	RECORDS	DRUGS	STRENGTH	AMOUNT	PHARMACY
8/15/80	OV	Demerol	50mg	40	
2/17/81	OV	Demerol			
No Date	HV	Demerol			
9/8/81	HV	Demerol			
9/13/81	HV	Demerol			
7/3/84	OV	Percocet			
1/21/85	OV	Percocet		30	
5/13/85	OV	Percocet		20	
10/12/85	OV	Percocet			
2/1/86	OV	Demerol			
8/14/86	OV	Percocet		40	
8/16/86	OV	Percocet		40	
8/18/86	OV	Percocet		30	
8/26/86	OV	Percocet			
8/27/86		Percocet		40	Walgreen
9/23/86	OV	Percocet			
1/15/87	OV	Percocet			
12/5/87		Percocet		40	Walgreen
12/11/87	OV	Percocet			
1/9/88		Percocet		30	Walgreen
2/13/88	OV	Percocet			
3/10/88	OV	Percocet			
4/8/88	OV	Percocet		40	Walgreen
4/22/88		Percocet		40	Walgreen
4/30/88	OV	Percocet		40	DE
5/29/88		Percocet		40	Walgreen
7/3/88		Percocet		40	Fritzgerald
7/9/88		Percocet		40	Fritzgerald
7/31/88		Percocet		40	Walgreen
8/12/88		Percocet		40	GC
9/21/88		Percocet		40	Fritzgerald
9/29/88		Percocet		40	Walgreen
10/9/88		Percocet		40	Walgreen
11/8/88		Percocet		40	DE
11/17/88		Percocet		40	Walgreen
12/1/88		Percocet		40	GC
12/10/88		Percocet		40	Walgreen
12/26/88		Percocet		40	Walgreen
2/3/89		Percocet		40	Walgreen
2/20/89		Percocet		40	Fritzgerald
2/27/89		Percocet		40	Fritzgerald
3/10/89	OV	Oxycodone		40	GC
3/20/89		Percocet		40	GC
4/13/89		Oxycodone		40	GC
4/21/89		Percocet		40	Walgreen
5/6/89		Percocet		40	Walgreen
5/11/89		Percocet		40	Fritzgerald
5/20/89		Percocet		40	Fritzgerald
5/25/89		Percocet		40	Walgreen
6/7/89		Oxycodone		40	Walgreen
6/24/89		Percocet		40	DE
7/22/89		Percocet		40	DE
7/23/89		Percocet		40	Fritzgerald
7/31/89		Percocet		40	GC
8/1/89		Percocet		40	GC
8/11/89		Percocet		40	Walgreen
9/1/89		Percocet		40	GC
9/5/89		Percocet		40	Fritzgerald

EXHIBIT A

DATE	RECORDS	DRUG	STRENGTH	AMOUNT	PHARMACY
9/14/89		Percocet		40	Fitzgerald
9/19/89		Percocet		40	Walgreen
9/23/89		Percocet		40	Walgreen
10/6/89		Percocet		40	Walgreen
10/20/89		Percocet		40	Fitzgerald
10/27/89		Percocet		40	Walgreen
10/30/89		Percocet		30	GC
11/6/89		Percocet		40	GC
11/16/89		Oxycodone		40	Walgreen
12/1/89		Percocet		40	GC
12/6/89		Oxycodone		40	DE
12/15/89		Percocet		40	GC
12/27/89		Oxycodone		40	Walgreen
1/3/90	OV	Percocet		40	GC
2/13/90		Percocet		40	Fitzgerald
4/21/90		Percocet		40	Walgreen
4/28/90		Percocet		40	Walgreen
5/14/90		Percocet		40	Walgreen
5/20/90	OV	Percocet			
5/29/90		Percocet		40	Walgreen
1/19/92		Percocet		40	Walgreens(B)
2/29/92		Percocet		40	Drug Empor
3/17/92		Percocet		40	Drug Empor
3/31/92		Percocet		40	Drug Empor
6/09/92		Percocet		40	Drug Empor
9/12/92		Percocet		40	Walgreens(L)

10/13/94
DOE@ 11442

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	(89 MED 295)
LOUIS SENO, JR., M.D.,	:	(92 MED 325)
RESPONDENT.	:	

It is hereby stipulated between Louis Seno, Jr., M.D., personally, and through his attorney, Michael P. Malone, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement as follows:

1. Louis Seno, Jr., M.D., Respondent herein, whose address is 6900 North Port Washington Road, Milwaukee, Wisconsin 53217, is duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin under license number 20090, which was granted on July 15, 1976.
2. A Complaint commencing formal disciplinary proceedings was filed against and duly served upon Respondent on April 7, 1994. The Complaint was subsequently amended on October 21, 1994..
3. Respondent has read the Amended Complaint and understands the nature of the allegations against him.
4. Respondent is aware of and understands each of the Respondent's rights including the right to a hearing on the allegations against him at which time the state has the burden of proving these allegations by preponderance of the evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decisions and to present briefs or oral arguments to the officials who are to render the Final Decision; the right to petition for rehearing; and all of the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.
5. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph four above.
6. The Division of Enforcement recommends that the Wisconsin Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order in resolution of this matter.
7. For the purpose of this Stipulation only, Respondent withdraws his previously filed Answer with regard to Count I of the Amended Complaint and, while neither admitting nor denying the allegations, voluntarily agrees to entry of the attached Final Decision and Order by the Medical Examining Board.
8. The parties hereby move that Counts II through IX of the Amended Complaint be dismissed.
9. Violation of the terms and conditions specified in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Medical Examining Board.

10. The parties to this Stipulation understand that the Medical Examining Board and the Department of Regulation and Licensing, Division of Enforcement will take no further action against Respondent's license based on the allegations contained in the Amended Complaint unless Respondent violates the terms and conditions of this Stipulation and Final Decision and Order in which event, the Board may, at its option and in addition to other remedies, reinstate the Amended Complaint and reinstitute proceedings against Respondent.

11. This agreement in no way prohibits the Medical Examining Board from any further action against Respondent based on acts not alleged in the present Amended Complaint which might be violative of the Wisconsin Medical Examining Board statutes and rules.

12. The parties agree to waive the Proposed Decision of the Administrative Law Judge and submit this Stipulation directly to the Medical Examining Board. All parties agree that counsel for the parties and the board advisor assigned to this case may appear before the Board in closed session to argue on behalf of acceptance of this Stipulation.

13. This Stipulation and Final Decision and Order, if adopted and entered by the Medical Examining Board, shall become effective upon the signing of this Order.

14. All costs of these proceedings incurred by either party are hereby waived.

15. In the event any term or condition of this Stipulation and Final Decision and Order is not entered by the Medical Examining Board, then no term of this Stipulation; and Final Decision and Order shall be binding in any manner on any party to this Stipulation.

Dated: February 21, 1996

Michael P. Malone
Michael P. Malone
Attorney for Respondent

Dated: February 21, 1996

Pamela M. Stach
Pamela M. Stach, Attorney
Department of Regulation and Licensing

I, Louis Seno, Jr., M.D., having read the above Stipulation and having discussed its contents with my attorney and understanding its terms, do hereby, freely, voluntarily and knowingly enter into this Stipulation.

Dated: February 21, 1996

Louis Seno, Jr.
Louis Seno, Jr., M.D.
Respondent

PMS:kcb
ATY-DLG2129

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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

February 27, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)