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STATE OF WISCONSIN

BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE APPLICATION FOR A LICENSE OF

MICHAEL A. DEHNER, M.D.,

Applicant

ORDER GRANTING THE LIMITED LICENSE

On July 28, 1998, Dr. Michael Delmer filed his application for a license to practice medicine and -surgery in the State of Wisconsin. Because disciplinary action had been taken against Dr. Delmer's license in the State of Iowa, Dr. Dehner was asked to appear for oral examination in connection with his application and to appear before the board for oral interview. Dr. appeared before the board at its meeting of April 1, 1999, and the board considered his application on that date. The board and Dr. Delmer thereafter entered into a Stipulation, by which the board agreed to issue, and Dr. Dehner agreed to accept, a limited license to practice medicine and surgery.

Based upon the Stipulation, and upon other information of record, the Medical Examining Board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that Michael A. Dehner, M.D., is hereby granted a limited license to practice medicine and surgery in Wisconsin, imposing the following terms and conditions. Upon a showing by applicant of complete, successful and continuous compliance for a period of five (5) years with these terms and conditions, applicant may petition for return of full licensure.

1. Applicant shall enroll and participate in all components of the drug and alcohol treatment program at a treatment facility acceptable to the Board as his Supervising Health Care Provider shall determine to be appropriate for his or her rehabilitation. Applicant shall commence his involvement in the drug and alcohol rehabilitation program within 30 days of the date of this Final Decision and Order.

2. Applicant shall obtain a supervising health care provider acceptable to the Board for the full term of this limited license. The supervising health care provider shall be responsible for coordinating applicant's rehabilitation, drug monitoring and treatment program as required under the terms of this Order. The supervising health care provider may designate another qualified health care provider acceptable to the board to exercise the duties and responsibilities of the supervising health care provider in his or her absence

April 23, 1999

Page 2

3. Applicant 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 health care provider.

4. Applicant shall abstain from all personal use of alcohol.

5. Applicant shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, or which may create false positive screening results, or which may interfere with applicant's treatment and rehabilitation. Applicant shall report all medications and drugs, over-the-counter or prescription, taken by him or her to his or her supervising health care provider 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 or her. Within 24 hours of a request by his or her supervising health care provider or the Medical Examining Board or its designee, applicant shall provide releases which comply with state and federal laws authorizing release of his or her health care records by the person who prescribed, dispensed, administered or ordered this medication for him. These releases shall also authorize the supervising health care provider, the Medical Examining Board or its designee to discuss applicant's health care with the person who prescribed, dispensed, administered or ordered this medication.

6. The department monitor is the individual designated by the board as its agent to coordinate compliance with the terms of this Order, including: receiving and coordinating all reports and petitions; and requesting additional monitoring and surveillance. The department monitor may be reached as follows:

Department Monitor

Department of Regulation Division of Enforcement

7. Applicant shall provide and keep on file with his supervising health care provider, 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 health care provider 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.

8. Applicant shall supply on at least four times per month basis random monitored urine, blood or hair specimens as the supervising health care provider shall direct. The supervising health care provider (or his or her designee) shall request the specimens from applicant and these requests shall be random with respect to the hour of the day and the day of

April 23, 1999

Page 3

the week. In addition, the Medical Examining Board or its designee may at any time request a random monitored urine, blood or hair specimen from applicant by directing the department monitor in the Department of Regulation and Licensing, Division of Enforcement to contact applicant and request applicant provide a specimen.

9. Applicant shall keep the supervising health care provider informed of applicant's location and shall be available for contact by his supervising health care provider at all times.

10. All requested urine, blood or hair specimens shall be provided by applicant 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. Urine specimen collections shall be by direct observation if-

(a) The applicant must provide an additional specimen because applicant's initial specimen was outside of the normal temperature range (32.5 - 37.7°C / 90.5 -99.8°F) and he or she refuses to have an oral body temperature measurement or he does provide an oral body temperature measurement and the reading varies by more than VC

1.8°F from the temperature of the urine specimen.

(b) Applicant'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 / 1.

(c) The collection site person observes applicant acting in such a manner to provide reason to believe that applicant 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 applicant to provide an additional observed urine specimen.

(d) The last provided specimen resulted in a positive or suspected positive test result for the presence of controlled substances;

(e) The Medical Examining Board or any member thereof or the Department Monitor, or applicant's

Supervising Health Care Provider directs that the urine specimen collection be by direct observation.

If either of the above conditions (a) or (c) requires 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; 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.

11. The drug and alcohol treatment program in which applicant is enrolled shall at all times utilize a United States Department of Health and Human Services certified laboratory for the analysis of all specimens collected from applicant.

April 23, 1999 Page 4

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

13. The supervising health care provider, treatment facility, laboratory and collection site shall maintain a complete and fully documented chain of custody for each urine, blood or hair specimen collected from applicant.

14. Every urine specimen collected from applicant shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of applicant. Every urine specimen collected from applicant 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 health care provider 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.

15. Every urine, blood or hair specimen collected from applicant shall be analyzed for alcohol, amphetamine, cocaine, opiates, phencyclidine, marijuana, methadone, propoxyphene, methaqualone, barbiturates, benzodiazepines; or the metabolites thereof. The Medical Examining Board or its designated agent 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.

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

17. For the purpose of further actions affecting applicant's license under this Order, it shall be presumed that all confirmed positive reports are valid. Applicant shall have the burden of proof to establish that the positive report was erroneous and that the applicant's specimen sample did not contain alcohol or controlled substances or their metabolites.

18. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, applicant shall promptly submit to additional tests or examinations as the supervising health care provider shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

19. The supervising health care provider shall report immediately to the department monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or

April 23, 1999

Page 5

telephonic communication: any failure of applicant to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate applicant to request a specimen. The laboratory shall immediately report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the department monitor, and to the supervising health care provider.

20. The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from

all specimens requested of applicant under this Order to the department monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites 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.

21. The supervising health care provider 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 on a quarterly basis, as directed by the department monitor. These reports shall assess applicant's progress in his drug and alcohol treatment program and summarize the results of the urine, blood or hair specimen analyses. The supervising health care provider shall report immediately to the department monitor [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.

22. Applicant shall be responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of applicant to promptly notify the department monitor, of any suspected violations of any of the terms and conditions of this Order, including any failures of the supervising health care provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

23. If the Medical Examining Board determines that the supervising health care provider, treatment facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Order, the board may, at its sole discretion, direct that applicant continue his treatment and rehabilitation program under the direction of another supervising health care provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Order.

24. Applicant shall not engage in the practice of medicine and surgery in any capacity unless he is in full compliance with the rehabilitation and treatment programs specified and approved under this Order.

25. Applicant shall appear before the Medical Examining Board at least annually to review the progress of his treatment and rehabilitation. Applicant may petition the Medical Examining Board for modification of the terms of his limited license and the Medical Examining Board shall consider applicant's petition at the time it meets with applicant to review the progress of his rehabilitation. Any such petition shall be accompanied by a written recommendation from applicant's Supervising Health Care Provider expressly supporting the specific modifications

April 23, 1999

Page 6

sought. 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 applicant 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 or her limited license.

26. Applicant shall not possess, purchase, administer or dispense any controlled substance in the course of his practice.

27. Applicant shall maintain medical records of his patients in strict compliance with chapter Med 21, Code, as well as with other state and federal laws and regulations regulating prescriptive and controlled substance records, and shall, upon request, make all such records available for inspection by the board or its agents.

28. Applicant shall not prescribe, dispense or administer controlled substances to any member of his immediate family, siblings, nieces or nephews, and other blood relatives or relatives by marriage.

29. Applicant shall attend a pre-approved comprehensive prescribing course of not less than 16 hours within 90 days from the date of the board's Order adopting the terms of this Stipulation.

30. Applicant 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.

31. pursuant to Sec. 448.02(4), Stats., if the Medical Examining Board determines that there is probable cause to believe that applicant has violated the terms of this Order, the Medical Examining Board may order the license of applicant to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

April 23, 1999

Page 7

32. Applicant 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.

Dated this 26th of April, 1999

STATE OF WISCONSIN

MEDICAL EXAMINING BOARD

by

Ronald Grossman, M.D.

Secretary