

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
	:	
KIRSTEN D. PETERSON, M.D.,	:	ORDER 0000345
RESPONDENT.	:	

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Division of Enforcement Case No. 10MED214

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Kirsten D. Peterson, M.D.  
Respondent  
340 Country Club Drive  
Lake Geneva, WI 53417

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

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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Kirsten D. Peterson, M.D., Respondent, date of birth April 14, 1961, is licensed and currently registered by the Medical Examining Board (Board) to practice medicine and surgery in the State of Wisconsin, pursuant to license number 37385-20, which was first granted January 12, 1996. Respondent specializes in internal medicine.
2. Respondent's last address reported to the Department of Regulation and Licensing (Department) is 340 Country Club Drive, Lake Geneva, WI 53147.

## COUNT I

3. Respondent was employed by Mercy Health System at the Mercy Walworth Hospital and Medical Center (Clinic) in Lake Geneva, until her employment was terminated on July 16, 2010.

4. On June 25, 2010, Respondent was at work in the Clinic but left work because of illness. Respondent left the clinic, returned and was found sitting in the lobby unresponsive. She was placed on a cart and taken to the emergency department. Respondent was seen in the Urgent Care Clinic where the emergency physician's impression was altered mental state. A head CT was done to rule out intracranial cause and was negative. Her blood alcohol level was .57. She was later counseled regarding her alcohol use and afforded the opportunity to access their Employee Assistance Program.

5. On July 12, 2010 at about 11 a.m., a patient and a nurse reported that Respondent appeared to be under the influence of alcohol while providing professional services at the Clinic. A supervisor interviewed Respondent and she admitted she had been drinking alcohol. The supervisor concluded that Respondent was under the influence of alcohol based on Respondent being unsteady and drowsy, speaking slowly and sometimes incoherently and smelling of alcohol. Respondent was removed from the clinic and suspended from her employment.

6. On July 21, 2010, Respondent reported for admission to Rogers Memorial Hospital inpatient unit for alcohol detoxification. She was diagnosed with alcohol dependence, in part because at the time of admission her blood alcohol content exceeded 0.320 and she was in full control of her mental faculties.

7. Respondent told her physician at Rogers that:

- a. She had been fired from her position as a physician in Lake Geneva because she was found intoxicated and actively drinking while in the clinic and had done this on another occasion and was found passed out in her clinical office.
- b. She was under monitoring in North Dakota for alcohol dependence but was not under any monitoring in Wisconsin.
- c. She would not self-report herself to the Board and was going to move anyway.
- d. She had a past medical history of requiring residential substance abuse programs.

8. Respondent's physician at Rogers told her the adequate level of her treatment required residential treatment. Respondent declined to consider it because of financial concerns. Respondent agreed to attend a partial hospitalization program which the physician told her was below the adequate level of treatment she required. However, she initially failed to appear for the partial hospitalization appointments. At that point, the physician reported the situation to the Board. Respondent did begin the partial hospitalization program a few days later.

9. Respondent's physician, who is board certified in psychiatry, has expressed his opinion that: "I do have grave concerns that Dr. Peterson has a severe alcohol dependence that puts her at high risk of harming patients and public safety."

## COUNT II

10. Respondent is also licensed to practice medicine in North Dakota. Because of relapses with alcohol use and being impaired while on duty at a clinic in North Dakota, Respondent entered into a Physician Health Program agreement on August 20, 2008 with the North Dakota Board. One term of the agreement was that she would not ingest alcohol.

11. On March 30, 2009, Respondent saw patient's at a clinic in North Dakota while she was impaired from ingesting alcohol prior to coming to work at the clinic. On April 6, 2009, Respondent entered into residential and partial hospitalization in Fargo, North Dakota.

12. On April 21, 2009, the North Dakota Board issued a disciplinary complaint against Respondent and issued an ex parte order of temporary suspension of her license to practice because she violated her Physician Health Program agreement by ingesting alcohol.

13. On November 20, 2009, the North Dakota Board indefinitely suspended Respondent's license to practice medicine in that State and her license remains suspended. One of the requirements for reinstatement was that Respondent successfully complete enrollment in the Shands Vista Florida Recovery Center Program, which Respondent has not done.

## CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3), and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. §§ 227.44(5) and 448.02(5).

2. Respondent, by engaging in the conduct set out in Count I, has engaged in conduct which tends to constitute a danger to patients, which is unprofessional conduct, as defined by Wis. Adm. Code § MED 10.02 (2)(h) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

3. Respondent, by practicing or attempting to practice while her ability to perform services was impaired by alcohol, as set out in Count I, has committed unprofessional conduct, as defined by Wis. Adm. Code § MED 10.02 (2)(i) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

4. Respondent, by having her license to practice medicine in another State suspended by that State, as set out in Count II, , has committed unprofessional conduct, as defined by Wis. Adm. Code § MED 10.02 (2)(q) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

## ORDER

IT IS ORDERED that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

## SUSPENSION

- A.1. The license of Kirsten D. Peterson, M.D., to practice medicine and surgery in the State of Wisconsin is **SUSPENDED** for an indefinite period.
- A.2. Respondent shall not engage in the practice of medicine and surgery in any capacity unless her suspension is stayed and she is in full compliance with this Order. Respondent shall mail or physically deliver all indicia of registration to the Department Monitor within 14 days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least **five (5) years** with the terms of this Order, including at least 600 hours of active practice for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure. At the Board's discretion, the 5-year period may be started anew for every substantial or repeated violation of any provision of Sections C or D of this Order.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

## STAY OF SUSPENSION

- B.1. **The suspension shall not be stayed for the first 60 days**, but will be stayed after 60 days upon Respondent providing information to the Board or its designee that Respondent is in full compliance with this Order, and shall continue to be stayed so long as Respondent remains in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
  - (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

## LIMITATIONS

The license to practice medicine and surgery of Respondent is LIMITED as set forth in Wis. Stat. § 448.02(3)(e), and as follows:

### Treatment Required

- C.1. Respondent shall enter into and continue, in a drug and alcohol treatment program with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

### AA/NA Meetings

- C.7. Respondent shall attend Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.

- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), and all mood-altering or psychoactive substances, except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Within 24 hours of ingestion or administration, Respondent shall report to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent, shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

#### Drug and Alcohol Screens

- C.12. Respondent shall enter into and continue in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program – including any positive test for any controlled substance or alcohol – is a substantial violation of this Order. The requirements shall include:
- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than **48 times per year**, for the first year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly

submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

#### Controlled Substance Privileges

- C.19. This Order does not impose any limitations on Respondent's prescribing, dispensing, administering or ordering of controlled substances.

#### Reporting Required

- C.20. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel where Respondent is engaged in the practice of medicine or surgery as defined at Wis. Stat. § 448.01(9).
- C.22. It is Respondent's responsibility to arrange for written reports from her employer or practice partner(s) to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active practice worked during that quarter.
- C.23. Respondent shall arrange for agreement by his employer or practice partner(s) to immediately report to the Board and to the Treater any conduct or condition of Respondent that may constitute a violation of this Order or a danger to the public.

#### MISCELLANEOUS

##### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935



Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months, the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.
- D.3. Respondent 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.

Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board for modification of the terms of this Order or termination, however, no such petition for modification shall occur earlier than one year from the date of this Order, no such petition shall be made any earlier than three months from the date the Board has acted on the last such petition, and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

- D.6. Respondent 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. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

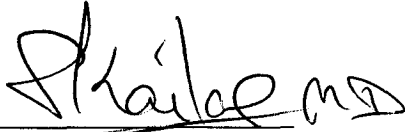
- D.7. Respondent shall pay costs of \$357.00 to the Department of Regulation and Licensing, within ninety (90) days of this Order. In the event Respondent fails to timely submit full payment of costs, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid them in full, together with any accrued interest.

Additional Discipline

- D.8. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.02(3).

Wisconsin Medical Examining Board

By: \_\_\_\_\_



A Member of the Board



Date

10MED214/Peterson/Zwieg/MC/8-16-10