

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

## FINAL DECISION AND ORDER

[Division of Enforcement Case #11 MED 133]

1. Jerome E. Hutchens, M.D., ("Respondent") was born on August 12, 1929 and is licensed to practice medicine and surgery in the State of Wisconsin (license #12806-20). This license was first granted on August 16, 1957. This license expired on October 31, 2009 and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until October 31, 2014.

2. Respondent's most recent address on file with the Wisconsin Medical Examining Board is 7827 Prestwood Drive, Houston, Texas.

3. On April 8, 2011, the Texas Medical Board and Respondent entered into an Agreed Order based on the following findings:

- a. In 2004, Respondent joined a pain management clinic operating in the Houston, Texas area;
- b. Unbeknownst to Respondent at the time, clinic staff used Respondent's DEA number to issue prescriptions for hydrocodone, aprazolam, and carisoprodol;
- c. In 2005, Respondent became the subject of a DEA investigation because of the abnormally high number of prescriptions issued for hydrocodone, aprazolam, and carisoprodol in comparison to other physicians practicing in the same area;
- d. In 2007, when Respondent's DEA registration expired, DEA met with Respondent to discuss the circumstances of his pain management practice, and based upon these meetings, agreed to renew Respondent's registration for Schedule IV and V controlled substances only;
- e. Before the agreement was finalized and Respondent's DEA registration certificate was renewed, Respondent mistakenly believed the agreement was in effect and prescribed a controlled substance to a patient;
- f. As a result of Respondent's prescribing a controlled substance without the federal authority to do so, the DEA offered Respondent the opportunity to surrender his registration certificate in lieu of further criminal prosecution;
- g. Respondent surrendered the certificate on October 9, 2008;
- h. In addition to legal issues, Respondent has experienced several serious health issues over the past eight years; and
- i. Respondent's involvement in a questionable pain management practice, DEA investigation and multiple health problems are causes of concern as to Respondent's ability to practice competently.

4. The April 8, 2011 Texas Medical Board Agreement Order limited Respondent's Texas medical license with the following terms and conditions:

- a. Within six months from the date of the order, Respondent shall enroll in and successfully complete the Knowledge, Skills, training, Assessment, and Research (KSTAR) program's Clinical Competency Assessment offered by the Texas A&M Health Science Center Rural and Community Health Institute;

- b. Within six months from the date of the order, Respondent shall undergo a complete medical examination by a board certified physician, whose specialty is to be approved by the Executive Director of the Board within 30 days from the date of the order; and
- c. Respondent shall not reregister or otherwise obtain DEA Controlled Substances Registration.

5. On June 2, 2011, the Idaho State Board of Medicine issued an Order for Reciprocal Discipline based on the action taken against Respondent's medical license in Texas.

6. Due to physical health problems, Respondent agreed to voluntarily surrender his Texas medical license on August 26, 2011, thus terminating the April 8, 2011 Texas Medical Board Order.

7. Respondent currently holds expired medical licenses in eight other states: Arizona, Kansas, Colorado, Tennessee, New Mexico, Georgia, Montana, and Indiana. On February 21, 2012, after approximately six months of retirement, Respondent wished to resume the practice of medicine.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by warranting discipline from the Texas Medical Board, committed unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(q) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that:

1. Respondent, Jerome E. Hutchens, M.D., (license #12806-20) is **SUSPENDED** indefinitely, from the date of this Order. During this period of suspension, Respondent is prohibited from practicing medicine and surgery.

2. Respondent may petition the Board for the termination of the suspension under the following terms and conditions:

- a. Respondent shall have, at Respondent's own expense, undergone an assessment by a mental health care provider experienced in evaluating health care practitioners' fitness for duty:

- i. The provider performing the assessment must not have treated Respondent and shall have been approved by the Board, with the opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed; and
  - ii. Within fifteen (15) days of the completion of the assessment, a written report regarding the results of the assessment shall be submitted to the Department Monitor at the address below.
- b. Respondent shall have, at Respondent's own expense, undergone a complete medical examination by a Board-approved physician;
- c. Within fifteen (15) days of the completion of the medical examination, a written report regarding the results of the examination shall be submitted to the Department Monitor at the address below;
- d. Respondent must provide proof sufficient to convince the Board that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents him from practicing in that manner;
- e. If the Board determines to end the suspension, Respondent's license shall be limited in a manner to address any concerns the Board has as a result of the conduct set out in the findings of fact and to address any recommendations resulting from the assessment, including, but not limited to:
  - i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with periodic reports to the Board by the therapist.
  - ii. Additional professional education in any identified areas of deficiency.
  - iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.

3. If Respondent believes that the Board refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board or its designee under paragraph 2e is inappropriate, Respondent may seek a Class I hearing pursuant to Wis. Stat. § 227.01(3)(a), in which the burden shall be on Respondent to show that the Board's or designee's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. In the event Respondent decides to resume practice of medicine and surgery under his Wisconsin license, he shall notify the Board of his intentions and practice address at least ninety (90) days prior to his return.

5. If Respondent ever applies to the Board for any credential, the following conditions shall apply:

- a. Whether to grant a license and whether to impose any limitations or restrictions on any license granted shall be in the discretion of the Board.
- b. Respondent shall, prior to becoming credentialed, pay to the Department of Safety & Professional Services costs of this proceeding in the amount of SIX HUNDRED DOLLARS (\$600.00) pursuant to Wis. Stat. § 440.22(2). Payment shall be made payable to the Department of Safety and Professional Services.

6. All petitions, reports, proof, notifications and payment shall be submitted to:

Department Monitor  
Division of Enforcement  
Department of Safety and Professional Services  
P. O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

8. This Order is effective on the date of its signing.

**MEDICAL EXAMINING BOARD**

By

  
A member of the Board

  
Date