

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK S. PETROVANI, M.D.
RESPONDENT.

:
:
: **FINAL DECISION AND ORDER**
:
:

ORDER 3126

Division of Legal Services and Compliance Case No. 14 MED 020

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

Mark S. Petrovani, M.D.
2 N. Allen Street
Madison, WI 53726

Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree 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 (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Mark S. Petrovani (born May 3, 1963) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 56427-20, first issued on October 20, 2011, and current through October 31, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2 N. Allen Street, Madison, WI 53726.

2. At all times pertinent to this matter, Respondent practiced as a family medicine physician in Madison, WI.

3. Respondent applied for a Wisconsin license to practice medicine and surgery by endorsement of national boards on July 16, 2011. Respondent was initially licensed to practice medicine in the state of New York.

4. Prior to obtaining licensure in the state of Wisconsin, Respondent was required to undergo an oral examination before two members of the Board, and was subsequently allowed to enroll in the Department's confidential Professional Assistance Program (PAP).

5. On January 31, 2014, Respondent was discharged from PAP for lack of full compliance, including a March 2013 relapse involving marijuana.¹

6. Respondent was tested in PAP for drugs of abuse including marijuana 69 times between October 11, 2011, and March 31, 2014. All test results were negative for marijuana except for two test samples collected on March 25, 2013, and April 25, 2013.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 pursuant to Wis. Stat. §§ 227.44(5) and 448.02(5).

Note: All references to Wis. Admin. Code § Med 10.02(2) refer to the Code as it existed before October 1, 2013.

2. By the conduct described in the Findings of Fact, Respondent Mark S. Petrovani, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(p) by obtaining a controlled substance as defined in s. 961.01(4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

3. As a result of the above violation, Respondent Mark S. Petrovani is subject to discipline pursuant to Wis. Stat. § 448.02.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Mark S. Petrovani, M.D., is REPRIMANDED.
3. The license to practice medicine and surgery issued to Mark S. Petrovani, M.D. (license number 56427-20) is LIMITED as follows:
 - a. For a period of at least two (2) years from the date of this Order:

¹ Marijuana contains Tetrahydrocannabinols ("THC"), a Schedule I Controlled Substance per Wis. Stats. § 961.14(4)(t).

- i. Respondent shall enroll and participate in a drug monitoring program which is approved by the Department (Approved Program).
- ii. 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 monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
 3. The Approved Program shall require the testing of specimens at a frequency of not less than 28 times per year, for the first year of this Order. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The Board may adjust the frequency of testing on its own initiative at any time.
- iii. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug 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, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- iv. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports of any new prescription must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- v. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that he may take from time to time. Over-the-counter medications and drugs that mask the consumption of

controlled substances, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)iv.

- vi. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
 - vii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
 - viii. Respondent shall provide his medical employer with a copy of this Order before engaging in practice as a physician.
4. The Board or its designee may, without hearing, suspend Respondent's license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision.
 5. After two (2) years from the date of this Order, Respondent may petition the Board for the modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.
 6. Within 180 days from the date of this Order, Respondent Mark S. Petrovani shall pay COSTS of this matter in the amount of \$2,950.15.
 7. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

8. 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

Final Decision and Order
In the matter of disciplinary proceedings against
Mark S. Petrovani, M.D.
Case No.: 14 MED 020

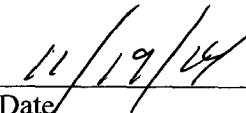
additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered Respondent's license (no. 56427-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
MARK S. PETROVANI, M.D., :
RESPONDENT. :

STIPULATION

ORDER 3126

Division of Legal Services and Compliance Case No. 14 MED 020

Respondent Mark S. Petrovani, M.D, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision 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 other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and is represented by Attorney Kevin Milliken.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal or review related to the issuance of the Board's Order if adopted in the form as attached.

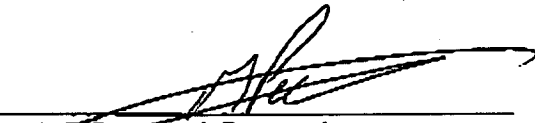
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

Stipulation
In the matter of disciplinary proceedings against
Mark S. Petrovani, 14 MED 020

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

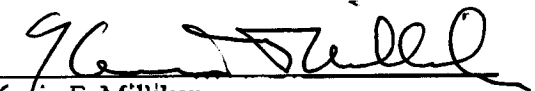
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



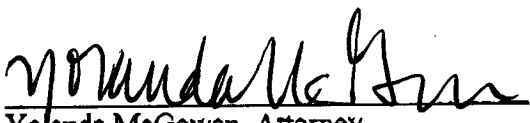
Mark S. Petrovani, Respondent
2 N. Allen Street
Madison, WI 53726
License no. 56427-20

Date 10-22-14



Kevin F. Milliken
Relles & Milliken, LLP
301 North Broom Street
Madison, WI 53703

Date 10-23-2014



Yolanda McGowan, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

Date 10/24/14