

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :

VIBHA AGRAWAL, M.D.,
LICENSEE. :

**FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION**

0003340

Division of Legal Services and Compliance Case No. 13 MED 225

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

Vibha Agrawal, M.D.
11409 North Justin Drive
Mequon, WI 53092

Wisconsin 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 Wisconsin 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. Licensee Vibha Agrawal, M.D., (dob July 2, 1967) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 52154-20, first issued on September 12, 2008, with registration current through October 31, 2015. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 11409 North Justin Drive, Mequon, Wisconsin 53092.

2. On and between July 20, 2012, and April 9, 2013, Licensee undertook the care and treatment of a man born in 1983. The patient presented for initial evaluation on July 20, 2012, with chronic back pain as a result of two motor vehicle collisions. The patient reported having a number of epidural injections, and having tried a number of medications. At the time of initial evaluation, the patient reported being on Cymbalta 60 mg, zolpidem ER, clonazepam,

Pepcid, albuterol, Adderall XR, Pulmicort, and ibuprofen. The patient reported being a college graduate, currently on Social Security disability; he denied any use of illicit drugs or tobacco. Licensee prescribed hydrocodone 7.5 mg/APAP 325 mg, q8H, and advised the patient to continue Cymbalta. A prescribing agreement was signed. No urine drug screen was performed, although a sample was obtained for standard urinalysis. No vital signs were charted, nor was the patient's height and weight charted.

3. The patient returned to care on August 16, 2012. The patient reported having difficulty sleeping and getting ready to take some art classes. The patient reported being off hydrocodone, and of having increased pain. The chart contains no explanation for why the patient was off of the prescribed hydrocodone. No vital signs were charted, nor was the patient's weight recorded, although there is a notation "try for healthier diet/weight loss." Licensee's hydrocodone dosage was increased to 10 mg q8H, without explanation. Neither a urine drug screen nor a pill count was conducted.

4. The patient returned to care on October 2, 2012. The patient reported increasing his Cymbalta dosage to 120 mg; there is no indication who ordered this change. The patient's vital signs and weight were not recorded. Neither a urine drug screen nor a pill count was conducted. The patient's medications were continued.

5. The patient returned to care on November 13, 2012. He reported that the hydrocodone helped with his pain and "able to function." The patient reported losing weight, but neither his weight nor any vital signs were charted. Neither a urine drug screen nor a pill count was conducted. The patient's medications were continued.

6. On December 12, 2012, Licensee performed a trigger point injection, although the exact location is unclear because Licensee's procedure note is illegible. The patient also reported constipation. No vital signs or patient weight were charted. Neither a urine drug screen nor a pill count was conducted. The patient's hydrocodone was changed from 10 mg q8H, to 5 mg, with instructions to take 1 or 2 every 8 hours, as needed.

7. On December 17, 2012, Licensee received a fax from the Dane County District Attorney's office requesting Licensee's records be furnished to the Dane County Deferred Prosecution Program.

8. On January 3, 2013, the patient returned to care, reporting an increase in neck pain due to strain. The patient also reported that the trigger point injection did not help. No vital signs or patient weight were charted. Neither a urine drug screen nor a pill count was conducted. The patient's medications were continued, and Flexeril 5 to 10 mg HS, as needed, was added. There is no indication that there was any discussion concerning the request from the Dane County District Attorney.

9. The patient returned to care on January 31, 2013. The patient reported receiving 150 hydrocodone 5 mg pills on January 4, and to using 6 tablets per day. "He feels 10/325 or 10/500 is very slow release as compared to 5/325 works better." He reported being more active. Patient reported that he had lost some weight, but neither his weight nor any vital signs were charted. Licensee charted: "He is now deferred prosecution of Dane County" but there is no

indication as to what the charges might have been, or whether the circumstances involved substance use or abuse. Licensee then charted: "Continue hydrocodone 5/325, take 1-2, PO, q6H, PRN, #180." Although this represents an increase in dosage, there is no explanation for this increase. Licensee ordered a urine drug screen, but did not chart a pill count.

10. The patient returned to care on February 28, 2013. The staff noted "did not have drug testing done." Licensee charted "he stated [illegible] lab needs preapproval from insurance and could not do urine test. He left a message here." Neither the patient's weight nor any vital signs were charted. Licensee prescribed "hydrocodone 5/325, take 1-2, PO, q8H, PRN (max 3-6/day)." Licensee further charted: "Patient was told he need to have a urine test when ordered, otherwise I can discharge him. He was given a chance do [sic] test today. I repeat random in near future."

11. The patient submitted a sample of urine from his body that day. The sample was positive for amphetamines (as prescribed by the patient's mental health provider), and negative for all other substances, including "extended opiates." A repeat urine drug test was ordered.

12. The patient returned to care on April 2, 2013, reporting increased muscle spasms in his neck and mid back, intermittently. The patient reported having given a urine sample shortly before the office visit, and having taken hydrocodone both that morning, and the previous evening. Neither the patient's weight nor any vital signs were charted. No pill count was conducted. The patient's medications were continued, however, only a one week supply of hydrocodone was provided pending the results of the urine drug test.

13. On April 7, 2013, Licensee received the results of the urine drug screen, which was positive for the prescribed amphetamines, and negative for all other substances, including "extended opiates."

14. On April 9, 2013, the patient returned to care. Neither the patient's weight nor any vital signs were charted. No pill count was conducted. The patient was noted to be "argumentative." The patient's non-opioid medications were continued, and the patient was given a prescription for hydrocodone 5/325, take 1 to 2 every 8 hours as needed (max 3-6 day) #42, no refills. The patient did not return to care.

15. Licensee's chart contains a significant number of illegible notations, is largely in a checklist format, and does not set forth Licensee's reasoning or thought process with respect to the treatment of this patient. At no time are functional goals established.

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

CONCLUSION OF LAW

The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. §§ 227.44(5) and 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Within 6 months of the date of this Order, Vibha Agrawal, M.D., shall at Licensee's own expense take and successfully complete 17 hours of education in medical record-keeping, and 25 hours of education in appropriate prescribing of controlled substances, as follows:
 - a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
 - b. The following courses are preapproved for the record keeping requirement:
 - Medical Record Keeping with Individual Preceptorships, Case Western Reserve University, Continuing Medical Education Program, Cleveland, Ohio (including the preceptorship option, which includes a post-course three and six month self-critique of medical records followed by an expert preceptor review and feedback).
 - Medical Record Keeping Course, University of California at San Diego, Physician Assessment and Clinical Education Program.
 - c. The following courses are preapproved for prescribing controlled substances:
 - Intensive Course in Controlled Substance Prescribing, Case Western Reserve University School of Medicine.
 - Physician Prescribing Course, University of California, San Diego School of Medicine.
 - Prescribing Controlled Drugs: Critical Issues & Common Pitfalls of Misprescribing, University of Florida College of Medicine, Department of Psychiatry.
 - Prescribing Controlled Drugs, Vanderbilt University School of Medicine and the Center for Professional Health.
 - d. Licensee may propose alternative courses, which shall be the substantial equivalent of the preapproved courses, above.
 - e. Licensee shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any education requirements that have been or may be instituted by the Board or Department.

3. Within 120 days from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$800.

4. Request of approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Licensee 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

5. 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 Licensee's license. The Board in its discretion may in the alternative impose additional conditions and limitations for a violation of any of the terms of this Order. In the event Licensee fails to timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Licensee's license (no. 52154-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Licensee has complied with payment of the costs and completion of the education.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board

akt

August 20, 2014
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	STIPULATION
VIBHA AGRAWAL, M.D.,	:	
LICENSEE.	:	0003340

Division of Legal Services and Compliance Case No. 13 MED 225

Licensee Vibha Agrawal, 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. Licensee consents to the resolution of this investigation by Stipulation.

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

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Otjen, Gendelman, Zitzer, Johnson & Weir SC.

4. Licensee denies any unprofessional conduct, but solely to settle this matter and avoid the expenses and uncertainties of litigation, agrees to the adoption of the attached Final Decision and Order for Remedial Education by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order for Remedial Education without further notice, pleading, appearance or consent of the parties. Licensee waives all rights to any appeal 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.

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 Licensee, 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 for Remedial Education.


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

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




Vibha Agrawal, M.D., Licensee
11409 North Justin Drive
Mequon, WI 53092
License No. 52154-20

7.21.14
Date



Michael L. Johnson, Attorney for Respondent
Otjen, Gendelman, Zitzer, Johnson & Weir SC
20935 Swenson Dr Ste 310
Waukesha WI 53186-2057

7/22/14
Date



Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

7/22/14
Date