

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
: FINAL DECISION AND ORDER
: FOR REMEDIAL EDUCATION
VANCE A. MASCI, M.D. :
0004554

Division of Legal Services and Compliance Case No. 13 MED 187

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

Vance A. Masci, M.D.
Milwaukee Occupational Medicine
377 W. River Woods Pkwy., Ste. 111
Glendale, WI 53212

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 Medical Examining Board. The Medical Examining Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Medical Examining 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 Vance A. Masci, M.D., (DOB November 30, 1953) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 37148-20, first issued on September 29, 1995, with registration current through October 31, 2017. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Milwaukee Occupational Medicine, 377 W. River Woods Parkway, Suite 111, Glendale, Wisconsin 53212.

2. Licensee is an occupational medicine physician.

3. Starting in 2005, Licensee treated Patient A, a male born in 1969 who presented subsequent to a workplace injury with various orthopedic injuries and complaints of inadequate pain control.

4. Between 2005 and 2013, Licensee prescribed opioid pain medications to Patient A as follows:

December 2005 – May 2006: hydrocodone 15 mg daily dose

June 2006 – November 2006: hydrocodone 22.5 mg daily dose

December 2006 – February 2008: oxycodone 20 mg daily dose

March 2008 – September 2008: oxycodone 40 mg daily dose

October 2008 – February 2010: oxycodone 80 mg daily dose

March 2010 – June 2013: oxycodone 60 mg daily dose

5. Licensee never entered into a written opioid contract with Patient A nor ordered any urine drug screens.

6. In 2011, the workers compensation insurer paying benefits for Patient A's workplace injury retained an orthopedic surgeon to perform an "Independent Medical Evaluation" of Patient A, and a pain management specialist to conduct an "Independent Medical Record Review" of Licensee's prescribing. The resulting reports reflected the authors' opinions that Patient A was overmedicated, that his use of opioids should be reduced or eliminated altogether, and criticized various aspects of Licensee's opioid prescribing.

7. Licensee was provided with the reports referenced in paragraph 6, but questioned their credibility and potential conflict of interest, in part because other prior IME reports opined that Patient A's work-related injuries required no further treatment, yet Patient A thereafter required lumbar spine surgery, and continued to treat with the providing neurosurgeon, as well as with Licensee. Licensee thus declined to further explore the concerns set forth in the reports and maintains he attempted to decrease or cease the use of pain medications, but was unable to achieve clinically acceptable pain control.

8. In 2013, Licensee charted that Patient A "will not and never has been drug screened in my practice; it has been suggested by insurance companies that this occur; however, [Patient A] is not able to afford drug screens and the insurance companies often demand the test but refuse to pay for it leaving my patient with an unpaid bill and legal difficulties . . . no written contract will be signed to prevent insurance companies or other illegitimate authority using it irresponsibly; our verbal contract is confidential between him and me."

9. On June 19, 2015, the Department filed a formal complaint, alleging that Licensee had engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h) (Nov. 2002) by failing to implement a written opioid agreement, and by failing to implement other drug diversion and abuse controls.

10. On August 10-14, 2015, Licensee, on his own initiative, attended the University of Wisconsin School of Medicine and Public Health Comprehensive Review of Pain Medicine,

for which he was awarded 39.25 AMA PRA Category 1 Credits, and which included education pertaining to opioid prescribing, urine drug testing, opioid misuse and addiction, and monitoring for abuse and diversion.

11. Licensee disputes the allegations of unprofessional conduct, but to resolve the matter, he consents to entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

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

ORDER

1. The attached Stipulation is accepted.

2. The Board recognizes the above-described continuing medical education as the equivalent of the education the Board would have otherwise required.

3. Within ninety (90) days from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$4,600.00.

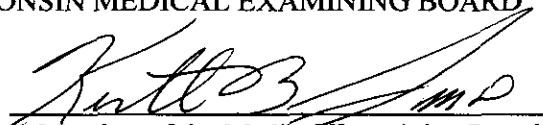
4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Licensee to the Department Monitor at the address below:

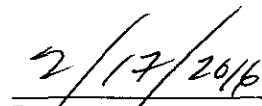
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Medical Examining Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF
VANCE A. MASCI, M.D.

STIPULATION

0004554

Division of Legal Services and Compliance Case No. 13 MED 187

Licensee Vance A. Masci, 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. Respondent is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Licensee is represented by Attorney Mark Larson.

4. Licensee 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.

Vance A. Masci

Vance A. Masci, M.D., Licensee
Milwaukee Occupational Medicine
377 W. River Woods Pkwy., Ste. 111
Glendale, WI 53212
License No. 37148-20

5 February 2016
Date

Mark Larson

Mark Larson, Attorney for Respondent
Gutglass Erickson Bonville & Larson
735 N. Water St., Ste. 1400
Milwaukee, WI 53202

Feb. 5, 2016
Date

Joost Kap

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

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Date