

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 DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
THOMAS J. KALINOSKY, D.O., :
RESPONDENT. :

0004609

Division of Legal Services and Compliance Case No. 15 MED 047

The parties to these actions for the purpose of Wis. Stat. § 227.53 are:

Thomas J. Kalinosky, D.O.
215 Corporate Drive, Suite G
Beaver Dam, WI 53916

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 (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 Thomas J. Kalinosky, D.O. (DOB March 18, 1951), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 24188-21, first issued on October 23, 1981, with registration current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 215 Corporate Drive, Suite G, Beaver Dam, Wisconsin 53916.

2. Respondent's practice specialty is family practice. He is not certified by any board recognized by the American Board of Medical Specialties.

3. At the time of the events set forth below, Respondent was employed as a physician at a medical clinic (Clinic) he owned located in Beaver Dam, Wisconsin.

Patient A

4. On September 14, 2001, Respondent began providing care and treatment to Patient A, a woman born in 1959. At that time, Respondent diagnosed Patient A with Fibromyalgia, and prescribed OxyContin^{®1} “20 mg #60, one pr q 12 hours prn” to her.

5. At a November 08, 2001 office visit, Respondent increased Patient A’s OxyContin[®] prescription to “20 mg #90 (illegible) – 8 hr prn.”

6. On or about December 22, 2005, Patient A’s prescription for OxyContin[®] was increased to 40 mg tablets, 6-7 times daily.

7. As of March 27, 2015, Patient A’s prescription for OxyContin[®] was 40 mg tablets, 7 times daily.

8. Respondent, from 2001 through March 27, 2015, diagnosed Patient A with various conditions, including left shoulder osteoarthritis, fibromyalgia, arthralgia of multiple joints, pain limb, disturbance skin sensation, “maj depress affect dis recur mod,” other acquired hypothyroidism, symptomatic menopausal state, mixed hyperlipidemia, “diabetes uncomp. type II, osteoarthritis mutl. site,” and esophageal reflux.

9. From 2001 to 2015, Respondent required Patient A to undergo two drug screens: August 4, 2011 and January 1, 2013.

10. From 2001 to 2015, Respondent referred Patient A to two other physicians: an orthopedic surgeon for shoulder pain, and a neurologist to determine if arm and forearm pain was due to nerve compression. During this time, Patient A saw other physicians on her own for concerns such as hearing loss, thyroid concerns, and hospital visits.

11. On multiple occasions, other treating physicians involved in Patient A’s care charted their concerns regarding the amount of narcotics Patient A was being prescribed.

12. Respondent spoke with Patient A about possible changes to her pain medication regimen on only one occasion - November 17, 2014. He suggested changing Patient A’s pain medication regimen, but Patient A refused. Notwithstanding that, Respondent continued to prescribe opioid pain medications to Patient A.

13. From 2001 to 2015, Respondent did not document any communications with Patient A regarding the risks and benefits of opioid use, or alcohol and other drug (AODA) assessments or treatments.

¹ OxyContin[®] is a brand name for extended release oxycodone, a Schedule II controlled substance pursuant to Wis. Stat. §961.16(2)(a)11.

14. Respondent did not have a documented narcotic pain medication contract with Patient A.

Patient B

15. On November 16, 2009, Respondent began providing care and treatment to Patient B, a male born in 1962. Patient B is married to Patient A.

16. Respondent diagnosed Patient B with chronic lower back pain and knee pain.

17. Respondent began prescribing hydrocodone² to Patient B in 2009, and continued doing so until July 7, 2010, at which point he began prescribing OxyContin[®] to Patient B.

18. Respondent began prescribing Patient B 10mg of OxyContin[®] 3 times per day, then increased it to 20mg 3 times per day, and ultimately, increased it to 30mg 3 times per day. In addition, Respondent prescribed immediate release oxycodone³ 10mg for “breakthrough relief.” These prescriptions continued through at least March 27, 2015.

19. Between 2009 and 2015, Respondent diagnosed Patient B with various conditions, including chronic lower back pain, lumbar radiculopathy, mixed hyperlipidemia, spinal stenosis, “other acquired hypothyroidism, benign htn,” and “diabetes uncomp. Type II.”

20. Between 2009 and 2015, Respondent required Patient B to undergo three drug screens: July 7, 2011, April 5, 2012, and October 14, 2014.

21. Without referrals from Respondent, Patient B saw other providers for complaints of back pain, knee pain, and back surgery.

22. On February 23, 2011, Respondent referred Patient B to Advanced Pain Management. Respondent did not chart a reason for the referral to Advanced Pain Management, but notes reference Patient B’s continued back pain and his being unable to use a forklift at work while on opioid pain medications.

23. In April 2012, Patient B was prescribed alprazolam by another provider, with whom he had a pain contract whereby he agreed not to obtain controlled substances from any other provider. Patient B continued to obtain controlled substance prescriptions from Respondent during this time.

24. Results of the April 5, 2012 drug screen Respondent ordered showed that Patient B tested positive for alprazolam.⁴ Respondent charted “Alprazolam?” in Patient B’s healthcare record.

² Hydrocodone is a Schedule II controlled substance pursuant to Wis. Stat. §961.16(2)(a)7.

³ Immediate release oxycodone is a combination drug containing oxycodone, and like OxyContin[®], is a Schedule II controlled substance.

⁴ Alprazolam is a Schedule IV controlled substance pursuant to Wis. Stat. §961.20(2)(a).

25. Between 2009 and 2015, Respondent did not document any communications with Patient B regarding the risks and benefits of opioid use, or alcohol and other drug (AODA) assessments or treatments.

26. Respondent did not have a documented narcotic pain medication contract with Patient B.

27. At various times during the course of prescribing narcotic pain medications to Patients A and B, Respondent:

- a. failed to document any functional treatment goals;
- b. failed to document functional improvement due to opioid use;
- c. failed to adequately monitor opioid use by requiring regular urine drug screens and other diversion/abuse controls;
- d. failed to have a signed patient care agreement for opioid use;
- e. failed to do proper exams, adequate patient histories and diagnostics;
- f. failed to refer patients to other specialist or providers;
- g. failed to conduct or order diagnostic testing to determine the most effective way to address and treat the patient's pain condition;
- h. failed to document informed consent for the continued and long-term use of opioid medications for pain management, and
- i. used opioids in isolation.

28. 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).

2. By the conduct described in the Findings of Fact, Respondent Thomas J. Kalinosky, D.O., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(a) (Nov. 2002) by failing to indicate on a patient's medical record he has communicated to the patient reasonable alternate modes of treatment in violation of Wis. Admin. Code § Med 18.05.

3. By the conduct described in the Findings of Fact, Respondent Thomas J. Kalinosky, D.O., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(1)(a) (Oct. 2013) by failing to indicate on a patient's medical record he has communicated

to the patient reasonable alternate modes of treatment in violation of Wis. Admin. Code § Med 18.05.

4. By the conduct described in the Findings of Fact, Respondent Thomas J. Kalinosky, D.O., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(h) (Nov. 2002) by engaging in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, specifically by how he prescribed controlled substances, including substantial quantities of opioid medications.

5. By the conduct described in the Findings of Fact, Respondent Thomas J. Kalinosky, D.O., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.03(2)(b) (Oct. 2013) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient, specifically by how he prescribed controlled substances, including substantial quantities of opioid medications

6. By the conduct described in the Findings of Fact, Respondent Thomas J. Kalinosky, D.O., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.03(2)(c) (Oct. 2013) by prescribing controlled substance medication in any manner that is inconsistent with the standard of minimal competence.

7. As a result of the above conduct, Thomas J. Kalinosky, D.O., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Thomas J. Kalinosky, D.O., is REPRIMANDED.
3. The medicine and surgery license issued to Thomas J. Kalinosky, D.O., (license number 24188-21) is LIMITED as follows:
 - a. Within nine (9) months of the date of this Order, Respondent shall demonstrate successful completion of one of the following courses, or a substantially equivalent course which has been preapproved by the Board or its designee, including taking and passing any exams offered for the course(s).
 1. Intensive Course in Controlled Substance Prescribing, Case Western Reserve University School of Medicine.
 2. Physician Prescribing Course, University of California, San Diego School of Medicine.
 3. Prescribing Controlled Drugs: Critical Issues & Common Pitfalls of Misprescribing, University of Florida College of Medicine, Department of Psychiatry.

4. Prescribing Controlled Drugs, Vanderbilt University School of Medicine and the Center for Professional Health.
 - b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the course(s) from the Wisconsin Medical Examining Board, or its designee, prior to commencement of the course(s). The above-referenced courses are approved; no further approval is required.
 - c. Within thirty (30) days of completion of the educational component, Respondent shall file an affidavit with the Department Monitor stating under oath that he has attended, in its entirety, the course(s) approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations.
 - f. Respondent is responsible for all costs associated with compliance with this educational requirement.
 - g. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.
4. Within ninety (90) days from the date of this Order, Thomas J. Kalinosky, D.O., shall pay the combined COSTS of this matter in the amount of \$1267.00.
5. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

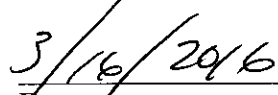
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov
6. Violation of any of the terms of this Order may be construed as conduct imperiling 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. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (24188-21) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

7. 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 DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS J. KALINOSKY, D.O.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004609

Division of Legal Services and Compliance Case No. 15 MED 047

Respondent Thomas J. Kalinosky, D.O., 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 has been provided an opportunity to obtain legal counsel before signing this Stipulation.

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 of the Board's order, if adopted in the form as attached.

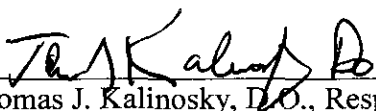
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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 Respondent, 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.

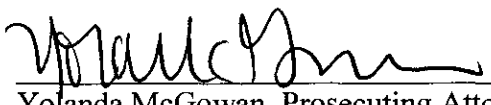
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Thomas J. Kalinosky, D.O., Respondent
215 Corporate Drive, Ste G
Beaver Dam, WI 53916
License no. 24188-21

2/18/16

Date



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

2/23/16

Date