

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 :
: FINAL DECISION AND ORDER
TRACIE M. DUNEK, D.O., :
RESPONDENT. :

0005225

Division of Legal Services and Compliance Case No. 16 MED 079

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

Tracie M. Dunek, D.O.
Highland Family Health Center
12800 N. Port Washington Road
Mequon, WI 53097

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 Tracie M. Dunek, D.O. (DOB June 4, 1971), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 49861-21, first issued on October 30, 2006, with registration current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Highland Family Health Center, 12800 N. Port Washington Road, Mequon, Wisconsin 53097.

2. Respondent is a board certified in family medicine - general.

3. On March 25, 2015, Patient A, a female born in 1979, presented to Respondent to establish care as a new patient. Patient A weighed 75 lbs. at the visit and reported the following to Respondent:

- a. a history of prescription drug abuse “of which she had been off for five years”;
- b. Suboxone use with self-weaning for two weeks;
- c. running out of lorazepam two days earlier which resulted in increased anxiety; and
- d. leaving her prior physician over disagreement as to whether Patient A had an eating disorder.

Respondent ordered a comprehensive metabolic panel and a urine drug screen. Respondent also prescribed mirtazapine 15 mg (30 tablets), clonazepam 2 mg (60 tablets) and alprazolam 2 mg (60 tablets) for 30 days. Respondent prescribed the mirtazapine in part because it was a known appetite stimulant. Respondent counseled the patient on diet and anxiety and recommended a follow up appointment in one to two weeks.

4. On March 26, 2015, Patient A contacted Respondent’s office and requested a prescription of Ambien (zolpidem) for sleep as she had taken her mother’s prescription for two nights. Patient A was instructed to see Respondent for an office visit the next day.

5. On March 27, 2015, Respondent saw Patient A for an office visit. Patient A’s drug screen was positive for benzodiazepine which was consistent with taking her medications as prescribed. Respondent prescribed zolpidem 10 mg (30 tablets) for 30 days and Imodium with potassium to address diarrhea and hypokalemia. Respondent also referred Patient A to psychiatry for evaluation and treatment of depression and anxiety.

6. On March 31, 2015, Respondent saw Patient A for an office visit. Patient A reported worsening diarrhea and Respondent ordered stool culture, parasite culture, and C. Diff. testing with follow up in one week. Patient A also reported sleeping better with zolpidem.

7. On April 14, 2015, Respondent saw Patient A for an office visit. Patient A weighed 72.6 lbs. with a body mass index (BMI) of 13. Patient A attributed her weight loss to C. Diff. colitis and related diarrhea. Respondent did not refer Patient A to an eating disorder clinic, but documented concern for a hidden eating disorder not reported by the patient. Respondent counseled Patient A that she was severely underweight and its impact on bone strength, heart health and immune system. Respondent encouraged the patient to gain weight for her health. Between April 23, 2015 and August 21, 2015, Respondent prescribed refills of alprazolam, mirtazapine, zolpidem, and clonazepam to Patient A.

8. On May 6, 2015, Respondent saw Patient A for an office visit. Respondent ordered repeat C. Diff. testing and Patient A was to follow up within a week. Patient A declined referral for treatment for eating disorder and was trying to gain weight on her own.

9. On May 11, 2015, Patient A sought treatment in an emergency room after suffering a right knee laceration outside of a grocery store, and was prescribed tramadol HCL 50 mg (20 tablets) for three days by the treating emergency room physician.

10. On May 12, 2015, Respondent saw Patient A for an office visit. On exam, Respondent noted a warm, dry, healing right knee laceration one cm in length with no signs of infection, purulent discharge, erythema or swelling. Patient A reported her pain was not improved by tramadol, Tylenol, Aleve, or aspirin. Respondent prescribed tramadol HCL 50 mg (80 tablets) for 10 days, meloxicam 15 mg (10 tablets) for 30 days, mirtazapine to 15 mg (60 tablets) for 30 days and an anti-nausea medication. Respondent documented that other narcotics would be avoided due to Patient A's history of opiate dependence and recommended the use of crutches, rest, elevation and ice.

11. On May 26, 2015, Respondent prescribed tramadol HCL 50 mg (80 tablets) for 10 days.

12. On June 6, 2015, Respondent prescribed tramadol HCL 50 mg (80 tablets) for 10 days.

13. On June 23, 2015, Respondent saw Patient A for an office visit. Patient A weighed 66.8 lbs. with a BMI of 12. Patient A reported continued knee pain and claimed she ran out of tramadol because she spilled it while walking. Respondent referred Patient A to an outpatient eating disorder clinic, ordered a knee MRI, and prescribed tramadol HCL 50 mg (180 tablets) for 22 days.

14. On June 30, 2015, Patient A underwent a knee MRI which did not demonstrate fracture, ligament tear, or infection. The MRI was normal except for findings of decreased body fat and signs of malnutrition.

15. On July 21, 2015, Respondent saw Patient A for an office visit. Patient A weighed 71.6 lbs. Patient A reported her knee pain continued to be severe and admitted to taking oxycodone-acetaminophen from a January 2015 dental prescription. Respondent prescribed oxycodone-acetaminophen 10-325 (40 tablets) for 10 days to Patient A and documented her plan as follows:

Will control pain with percocet [oxycodone-acetaminophen] only temporarily and only if she enrolls in an eating disorder program as I believe this is the true cause of her weight loss, not pain.

The patient agreed to accept an eating disorder referral and follow up with Respondent on July 30, 2015.

16. On July 30, 2015, Respondent saw Patient A for an office visit. Patient A weighed 70.2 lbs. and reported an upcoming appointment with outpatient behavioral health for weight loss treatment, discussing specific clinical options by name. Respondent prescribed oxycodone-acetaminophen 10-325 (40 tablets) for 10 days and documented her plan to wean Patient A after 30 days:

Refilled percocet [oxycodone-acetaminophen] and made a plan to have her only take this for a month total to help her through her knee pain from injury. Will wean off after this.

Respondent counseled Patient A on her caloric intake and planned to see patient weekly until she followed through with her behavioral health appointment.

17. On August 6, 2015, Respondent administered a knee steroid injection and prescribed oxycodone-acetaminophen 10-325 (40 tablets) for 10 days. Respondent again noted her plan to wean Patient A after 30 days:

Refilled percocet [oxycodone-acetaminophen] and made a plan to have her only take this for a month total to help her through her knee pain from injury. Will wean off after this. Hopefully her pain will be better after the kenalog injection today and percocet will no longer be needed.

18. On August 21, 2015, Patient A presented to Respondent following a motor vehicle accident which resulted in Patient A being jailed for a third OUI. Respondent ordered a chest x-ray to rule out rib fracture and prescribed oxycodone-acetaminophen 10-325 (40 tablets) for 10 days. Although Respondent was prescribing beyond the originally planned 30 days, Respondent continued to document a 30 day plan:

Refilled percocet [oxycodone-acetaminophen] and made a plan to have her only take this for a month total to help her through her knee pain and rib pain from injury. The kenalog injection that she was given did improve her pain and hopefully will continue to improve her pain.

Respondent confirmed that Patient A had scheduled appointments with a specific psychiatrist. Patient A was also required to wear an ankle bracelet by law enforcement which would detect any alcohol use. Subsequently, Patient A's ankle bracelet was removed and she was required to provide daily urine screens through law enforcement.

19. On September 4, 2015, Respondent saw Patient A for an office visit. Patient A weighed 68.2 lbs. with a BMI of 12. Respondent noted the chest x-ray was unremarkable. Patient A nevertheless reported continued rib and knee pain, and claimed new onset of ankle pain she blamed on the ankle bracelet. Respondent prescribed oxycodone-acetaminophen 10-325 (56 tablets) for 14 days and again documented a 30 day plan:

Knee pain, right. Refilled percocet [oxycodone-acetaminophen] and made a plan to have her only take this for a month total to help her through her knee pain and rib pain from injury.

Respondent's medical documentation for Patient A on September 4, 2015 contained an erroneous reference to hydrocodone as Respondent did not prescribe hydrocodone to Patient A. Respondent counseled Patient A on her eating and the importance of compliance with mental and behavior health treatment referrals.

20. On September 15, 2015, Respondent saw Patient A for an office visit. Patient A weighed 67.2 lbs. with a BMI of 12. Patient A reported a history of taking laxatives when she was constipated and attributed her recent weight loss to stress, diarrhea and bloody stool. Respondent referred the patient to a gastroenterologist and reordered C. Diff testing. Respondent

tapered and reduced Patient A's oxycodone-acetaminophen to 7.5-325 (56 tablets) for 14 days. Respondent documented Patient A had not initiated eating disorder treatment and charted:

Refilled percocet [oxycodone-acetaminophen] and made a plan to have her only take this for a month more to help her through her knee pain and rib pain from injury.

Upon learning that Patient A did not have appointment with an eating disorder program Respondent contacted the agency previously identified by the patient. Respondent also referred Patient A to an AODA program which Respondent personally contacted. Patient A was scheduled to see Respondent on September 30, 2015 after seeing the psychiatrist that same date.

21. On September 17, 2015, Respondent received Patient A's C.Diff. results which were positive. She prescribed an antibiotic and attempted to reach the patient to discuss her health issues but was unsuccessful.

22. On September 17, 2015, Patient A was found unresponsive in her home. She suffered head trauma and right acute subdural hematoma with subarachnoid hemorrhage. Life support measures were withdrawn at the family's request and Patient A died on September 18, 2015.

23. At no time did Respondent require Patient A to sign a written narcotics user agreement.

24. At no time did Respondent require Patient A to submit to a pill count.

25. Respondent did not document discussing with Patient A the risks of prescribing multiple benzodiazepines in combination with opiates although it would have been her practice to do so. Respondent did document discussions as to the risks of Patient A taking any opiate, specifically Percocet.

26. Respondent began and continued to prescribe multiple benzodiazepines and an opiate to Patient A despite knowing Patient A's history of opiate abuse and alcohol use at the time of her OWI.

27. 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).

2. By the conduct described in the Findings of Fact, Respondent Tracie M. Dunek, D.O., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(c) by prescribing ordering, dispensing, administering, supplying, selling, giving, or obtaining any prescription medication in any manner that is inconsistent with the standard of minimal competence.

3. As a result of the above conduct, Tracie M. Dunek, D.O., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Tracie M. Dunek, D.O., is REPRIMANDED.

3. Within 90 days from the date of this Order, Tracie M. Dunek, D.O., shall pay COSTS of this matter in the amount of \$2,603.18.

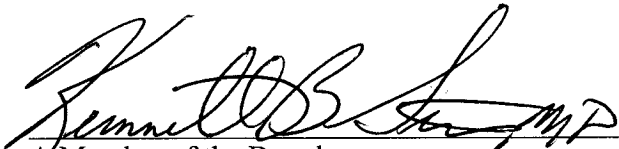
4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and be sent to the Department Monitor at the address below:

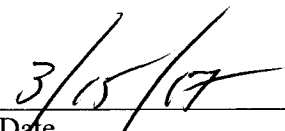
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 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 (no. 49861-21) 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.

6. 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

TRACIE M. DUNEK, D.O.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005225

Division of Legal Services and Compliance Case No. 16 MED 079

Respondent Tracie M. Dunek, 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. Respondent is represented by Attorney Mark Larson.

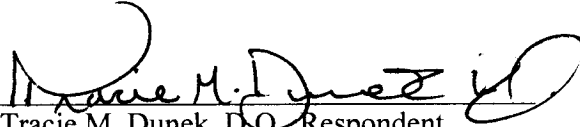
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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.

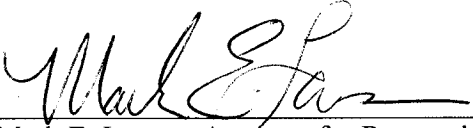
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's 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.

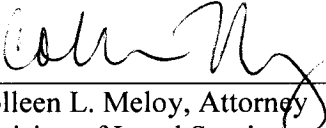
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Tracie M. Dunek, D.O., Respondent
Highland Family Health Center
12800 N. Port Washington Road
Mequon, WI 53097
License No. 49861-21

3/3/2017
Date


Mark E. Larson, Attorney for Respondent
Gutglass Erickson Bonville & Larson
735 N. Water Street, Suite 1400
Milwaukee, WI 53202

3/3/17
Date


Colleen L. Meloy, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

3/7/17
Date