

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
DAVID L. ROSS, M.D.,	:	
LICENSEE.	:	0005557

Division of Legal Services and Compliance Case No. 14 MED 210

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

David L. Ross, M.D.
3807 Spring Street
Racine, WI 53405

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. Licensee David L. Ross, M.D., (DOB May 9, 1971) is licensed by the State of Wisconsin to practice medicine and surgery, having license number 49924-20, first issued on November 21, 2006 with registration current through October 31, 2019. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3807 Spring Street, Racine, Wisconsin 53405.

2. Licensee practices family medicine and is certified by the American Board of Family Medicine – General. He has no prior complaints or disciplinary history with the Board.

3. On October 27, 2011, Patient A, a male born in 1988, first presented to Licensee with complaints of back pain resistant to over-the-counter treatments. Licensee ordered lumbar x-rays which were unremarkable, and prescribed naproxen and cyclobenzaprine 10 mg #30 once daily, with one refill.

4. On November 2, 2011, Patient A reported the naproxen upset his stomach so Licensee prescribed hydrocodone/acetaminophen 5/325 mg #60 up to eight daily to Patient A. Licensee subsequently refilled the same prescription five times through the end of 2011.

5. Licensee continued to refill Patient A's prescription in January and February 2012. On February 20, 2012, Licensee increased Patient A's prescription to hydrocodone/acetaminophen 10/325 mg #120 one every six hours, but his medical documentation contains no examination findings or other clinical justification for the increase.

6. Licensee saw Patient A in May and September 2012 and authorized refills for hydrocodone/acetaminophen 10/325 mg #120 in March, April, May, July, September and October of 2012.

7. On January 24, 2013, Patient A told Licensee he was taking higher-than-prescribed dosages of the hydrocodone/acetaminophen 10/325 mg Licensee prescribed to him.

8. Despite Patient A's admission of exceeding his prescribed dosage of the hydrocodone/acetaminophen 10/325 mg and consistently unremarkable physical examination findings, Licensee continued to regularly prescribe hydrocodone/acetaminophen 10/325 mg #120 to Patient A from January 2013 to May 2014.

9. In May 2014, Licensee discontinued hydrocodone/acetaminophen 10/325 mg #120 and prescribed oxycodone/acetaminophen 10/325 mg #120 to Patient A, but failed to document any medical justification for the change.

10. Throughout 2013 and 2014, Patient A frequently requested early refills, and although Licensee denied the requests, he failed to address why Patient A consistently sought early refills and failed to explore other reasons for why Patient A claimed his pain was inadequately controlled.

11. On October 24, 2014, Patient A failed to present for a scheduled visit with Licensee and subsequently requested another early refill, which was denied.

12. On November 6, 2014, Patient A presented to Licensee who documented an unremarkable physical examination and again prescribed oxycodone/acetaminophen 10/325 mg #120 with instructions for Patient A to return in three months.

13. In 2015, Licensee saw Patient A four times; Patient A was a no show for two appointments; Patient A made four early refill requests which were denied, but Licensee issued sixteen prescriptions for oxycodone/acetaminophen 10/325 mg #120 to Patient A.

14. Licensee did not have adequate informed consent discussions with Patient A regarding the controlled substances Licensee prescribed to Patient A.

15. Licensee did not utilize adequate methods to address potential diversion and/or abuse of the controlled substances Licensee prescribed to Patient A.

16. Licensee did not make adequate efforts to explore the causes of Patient A's reported symptoms for which Licensee prescribed controlled substances to Patient A.

17. Licensee did not set functional goals for Patient A or assess Patient A's functional level and any changes thereto.

18. Department review of other patient records from the same time period reflect some or all of the same concerns set out above.

19. During the investigation of this matter, the Department communicated with the United States Drug Enforcement Administration (DEA) in regard to Licensee's prescribing of controlled substances, which DEA was also investigating. DEA subsequently closed its investigation with no action taken.

20. The Department's investigation found that although Licensee did not engage in demonstrably egregious prescribing of controlled substances and at times employed methods to prevent diversion and abuse of prescribed medications, his overall practices reflected the need for substantial continuing medical education on prescribing.

21. On his own initiative and while the Department's investigation was pending, Licensee successfully completed the Case Western Reserve School of Medicine *Intensive Course in Controlled Substances Prescribing*, earning 26 AMA PRA Category 1 credits.

22. Licensee maintains that his prescribing practices were not below the minimal standard of competence in effect at the time, but consents to the 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.

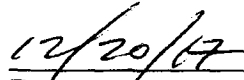
2. The Board accepts Licensee's successful completion of the Case Western Reserve School of Medicine *Intensive Course in Controlled Substances Prescribing* as education it would have otherwise ordered.

3. The education completed may not be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.

4. 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 LICENSE OF

DAVID L. ROSS, M.D.,
RESPONDENT.

:
:
:
:

STIPULATION

0005557

Division of Legal Services and Compliance Case No. 14 MED 210

Respondent David L. Ross, 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 has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Mark E. 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

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.

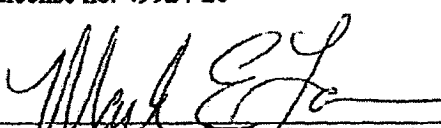
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David L. Ross, M.D., Respondent
3807 Spring Street
Racine, WI 53405
License no. 49924-20

11-30-2017

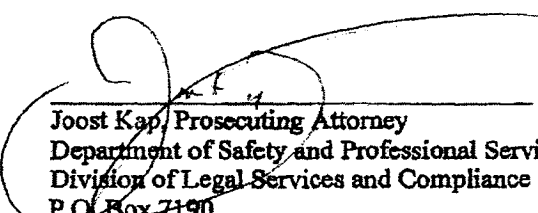
Date



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

12/1/17

Date



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

12/6/17

Date