

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
STEVEN M. KOTSONIS, M.D., :
RESPONDENT. :

ORDER 0006731

Division of Legal Services and Compliance Case No. 16 MED 224

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

Steven M. Kotsonis, M.D.
Menomonee Falls, WI 53051-0605

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 Steven M. Kotsonis, M.D. (DOB XX-XX 1981) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 53437-20, first issued on August 3, 2009, with registration current through October 31, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Menomonee Falls, Wisconsin 53051-0605.

2. On June 21, 2016, Respondent was named as a defendant in an indictment filed in Case No. 16-CR-092 in the United States District Court – Eastern District of Wisconsin (Indictment).

3. The Indictment relates to Respondent's conduct with controlled substances in 2012 and 2013 as the physician and co-owner of a pain management clinic in Wauwatosa, Wisconsin.

4. The Indictment charged Respondent with 21 counts of knowingly and intentionally distributing and dispensing unlawfully, and attempting to distribute and dispense unlawfully, oxycontin, oxycodone, morphine sulfate, and Diazepam, all outside of a professional medical practice and not for a legitimate medical purpose. The co-owner of the clinic, an unlicensed assistant who served as patient care coordinator, was also charged with the distribution of controlled substances, both in and out of the clinic.

5. On June 24, 2016, the Department's Division of Legal Services and Compliance (Division) opened the investigation of this matter, Division Case No. 16 MED 224.

6. On December 13, 2019, Respondent entered into a plea agreement by which he pled guilty to one count in the Indictment. Respondent admitted that on January 31, 2013, he knowingly issued a prescription for Oxycodone 30mg #90 outside of professional practice and not for a legitimate medical purpose, in violation of Title 21, U.S.C. §§ 841(a)(1), 841(b)(1)(C), which are federal laws that are substantially related to the practice of medicine and surgery.

7. On December 23, 2019, Respondent surrendered his United States Drug Enforcement Administration registration to prescribe controlled substances.

8. On December 3, 2019, Respondent entered inpatient treatment for alcohol use.

9. Respondent is scheduled for sentencing on May 15, 2020. Under his guilty plea, he is subject to twenty years in prison and a fine of \$1,000,000, along with at least 3 years and a maximum of lifetime supervised release upon completing the imposed prison term.

10. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order in resolution of this matter.

CONCLUSIONS OF LAW

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

2. Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h) (Nov. 2002) by engaging in any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

3. Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(p) (Nov. 2002) by administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

4. Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(r) (Nov. 2002) by violating a federal law or laws regulating the possession, distribution, or use of controlled substances.

5. Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(j) (Oct. 2013) by being convicted of any federal law or regulation that is substantially related to the practice of medicine and surgery.

ORDER

1. The attached Stipulation is accepted.
2. The medicine and surgery license issued to Respondent Steven M. Kotsonis, M.D., (license number 53437-20) is **SUSPENDED INDEFINITELY**.
3. After no less than three (3) years from the date of this Order, Steven M. Kotsonis may request that the Wisconsin Medical Examining Board fully or conditionally lift the suspension by submitting a petition which complies with the terms of this Order.
4. Any petition for reinstatement shall include:

Mental Health/AODA

- a. A list of every individual who has treated Respondent for any mental health and/or AODA condition between the date of this Order and the date of Respondent's petition for reinstatement (Treater).
- b. A report prepared by every Treater, as follows:
 - i. Each report shall be prepared by the Treater no more than thirty (30) days prior to being submitted with the petition for reinstatement.
 - ii. All reports shall include a current CV and copies of all professional licenses and board certifications held by the Treater.
 - iii. Each Treater must be licensed and board certified in a relevant field of practice. At the discretion of the Board's designee, additional experience in a relevant field of practice and/or alternate recognitions may be substituted for board certification, particularly if board certification is not available in the Treater's profession.
 - iv. Each Treater report shall summarize the course of the Treater's care of Respondent to date, prognosis at the time of the report, and future treatment plans, and shall identify specific mental health and/or AODA treatment goals, if any, which must be met before Respondent is able to practice medicine and surgery with reasonable skill and safety.

- v. Each Treater report shall identify restrictions on the nature of practice or practice setting or requirements for supervision of practice, if any, which are necessary to render Respondent able to practice medicine and surgery with reasonable skill and safety.
- vi. All opinions and conclusions in each Treater report must be rendered to a reasonable degree of professional certainty.
- vii. Respondent must provide each Treater with a copy of this Order.
- viii. Respondent shall authorize the Board or its designee to obtain complete certified records created by each Treater in the course of their treatment of Respondent and allowing the Board or its designee to communicate freely with each Treater.

Clinical Competence

- c. A report of a clinical competence evaluation establishing Respondent's clinical competence to safely practice medicine and surgery, performed by an assessment program acknowledged by the Federation of State Medical Boards and preapproved by the Board or its designee.
 - i. The evaluation shall be completed no more than one hundred eighty (180) days prior to being submitted with the petition for reinstatement.
 - ii. Respondent shall provide the clinical competence evaluator with a copy of this Order and shall authorize the Board or its designee to communicate freely with the clinical competence evaluator.
 - iii. Respondent shall complete, to the satisfaction of the Board or its designee, all education and training recommended by the clinical competence evaluator before the Board will decide to grant, conditionally grant, or deny Respondent's petition for reinstatement.

5. Respondent shall be responsible for all costs associated with the clinical competence evaluation and training required under this Order, including all additional evaluations, treatment, education and training, as may be recommended by the evaluators.

6. The Board shall have full discretion to grant, conditionally grant, or deny any petition for reinstatement, in full or in part, and may condition any reinstatement with limitations, including but not limited to, a Professional Mentor to monitor professional competence and behavior, mental health and/or AODA treatment, and restrictions related to practice scope and setting.

7. The Board may require Respondent to supplement a petition for reinstatement with any additional information it deems helpful to assessing the petition and, if the Board denies

Respondent's petition for reinstatement, it may establish a reasonable time period before Respondent can file another petition for reinstatement.

8. Prior to any petition for reinstatement, Respondent Steven M. Kotsonis, M.D., shall, as a prerequisite, pay COSTS of this matter in the amount of \$3,530.00.

9. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services), any petition for reinstatement, requests for approval of evaluators, and evaluation reports and related documents shall be sent by Respondent 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 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information via the DSPS Monitoring Case Management System:

<https://dpsmonitoring.wi.gov>

9. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and the Board may, in its discretion, impose additional conditions and limitations or other additional discipline as it deems appropriate.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Kenneth Simons, MD
A Member of the Board

3/27/2020
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

STEVEN M. KOTSONIS, M.D.,
RESPONDENT.

STIPULATION

ORDER 0006731

Division of Legal Services and Compliance Case No. 16 MED 224

Respondent Steven M. Kotsonis, 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 Patrick J. Knight.

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.

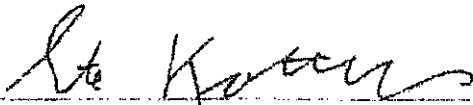
Stipulation for Final Decision and Order
In the matter of disciplinary proceedings against
Steven M. Kotsonis, M.D. 16 MED 224

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.

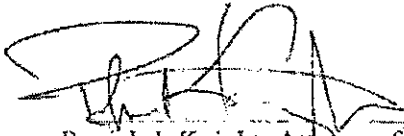
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



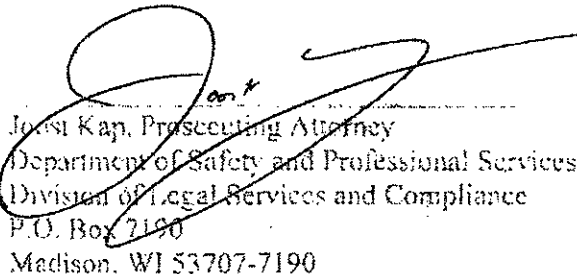
Steven M. Kotsonis, M.D., Respondent
N52 W16073 Bette Drive
Menomonee Falls, WI 53051-0605
License no. 53437-20

3/6/20
Date



Patrick J. Knight, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown LLP
330 East Kilbourn Ave., Ste. 1170
Milwaukee, WI 53202

3/6/20
Date



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

3/6/20
Date