

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before the  
State of Wisconsin  
Medical Examining Board

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In the Matter of the Disciplinary Proceedings  
Against Manuel J. Thomas, M.D., Respondent

FINAL DECISION AND ORDER

Order No. **ORDER 0007046**

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Division of Legal Services and Compliance Case No. 17 MED 338, 18 MED 053, 19 MED 016,  
19 MED 142, 19 MED 212, 19 MED 533, and 19 MED 552

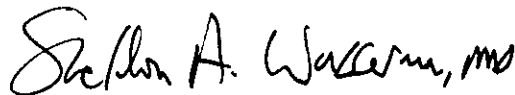
The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 21 day of October, 2020.



Member  
Medical Examining Board



Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of Disciplinary Proceedings Against  
MANUEL J. THOMAS, M.D., Respondent

DHA Case No. SPS-20-0016  
DLSC Case Nos. 17 MED 338,  
18 MED 053, 19 MED 016,  
19 MED 142, 19 MED 212,  
19 MED 533 and 19 MED 552

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PROPOSED DECISION AND ORDER

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Manuel J. Thomas, M.D.  
15985 Smith Drive  
Brookfield, WI 53005

Wisconsin Medical Examining Board  
P.O. Box 8366  
Madison, WI 53707-8366

Department of Safety and Professional Services,  
Division of Legal Services and Compliance, by:

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

PROCEDURAL HISTORY

The proceedings were initiated on May 27, 2020, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint against Respondent Manuel J. Thomas, M.D., alleging that Respondent engaged in unprofessional conduct by failing to cooperate in a timely manner with the Medical Examining Board's (Board) investigations and the Division's requests for information, in violation of Wis. Admin. Code § Med 10.03(3)(g) and Wis. Stat. § 440.20(5)(a), respectively; and, by practicing medicine without a license and failing to register on or before November 1, 2019 and exercising the rights or privileges conferred by his license while not currently registered, in violation of Wis. Admin. Code § Med 10.03(1)(a), and Wis. Stats. §§ 448.03(1)(a) and

448.07(1)(a), respectively. Administrative Law Judge Kristin Fredrick (ALJ) was assigned to the matter.

The Division served Respondent on May 27, 2020 by sending a copy of the Notice of Hearing and Complaint to Respondent's address on file with the Department via certified and regular first-class mail, pursuant to Wis. Admin. Code § SPS 2.08. On July 6, 2020, the Division received the Notice of Hearing and Complaint mailed via certified mail back from the U.S. Postal Service marked unclaimed; the Notice of Hearing and Complaint mailed via regular first-class mail were not returned.

Respondent was required to file an Answer 20 days from the date of service, pursuant to Wis. Admin. Code § SPS 2.09(4); however, no Answer was filed. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for June 30, 2020. The ALJ sent notice of the conference by U.S. mail to Respondent. The notice ordered Respondent to contact the ALJ no later than June 29, 2020 to provide his current telephone number. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against him.

Respondent failed to contact the ALJ and at the prehearing conference held on June 30, 2020, Respondent failed to appear. During the prehearing conference, the Division provided the ALJ with Respondent's telephone number and email address on file with the Department. The ALJ called Respondent's number and left a voicemail message, but Respondent did not call back. The ALJ emailed Respondent and advised him that his failure to contact the ALJ by telephone may result in default judgment; Respondent did not respond. The Division moved for default, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

On July 1, 2020, the ALJ issued a Notice of Default against Respondent and ordered that the Division file a recommended proposed decision and order by July 31, 2020. The Division timely filed its submission.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

1. Respondent Manuel J. Thomas, M.D., is licensed in the state of Wisconsin to practice medicine and surgery, having license number 47171-20, first issued on July 16, 2004, with registration current through October 31, 2021. (Complaint ¶ 1).
2. Respondent's address on file with the Department, currently and at all times relevant to the complaint, is 15985 Smith Drive, Brookfield, Wisconsin, 53005. (Complaint ¶ 2)
3. At all times relevant to the complaint, Respondent was self-employed as physician at Viva Advanced Healthcare located at 1107 W. Oklahoma Ave., Milwaukee, Wisconsin, 53215 (Clinic). (Complaint ¶ 3).

17 MED 338

4. On October 7, 2017, the Division received a complaint from a physician alleging that Respondent overprescribed controlled substances to Patient A, who had a history of heroin and cocaine use. (Complaint ¶ 4).

5. On November 20, 2019, a Division investigator sent a letter to Respondent at his mailing address on file with the Department requesting a response to the complaint. Respondent failed to respond. (Complaint ¶ 5).

6. On December 10, 2019, a Division investigator sent an email to Respondent at his email address on file with the Department, [mthomasc@hotmail.com](mailto:mthomasc@hotmail.com), attaching the letter referred to in paragraph 5 and requesting a response to the complaint. Confirmation of delivery was received, but Respondent failed to respond. (Complaint ¶ 6).

7. On January 21, 2020, a Division investigator sent a letter to Respondent at his Clinic requesting a response to the complaint. The request was addressed to 1107 Oklahoma Avenue, Milwaukee, Wisconsin, 53215. Respondent failed to respond. (Complaint ¶ 7).

18 MED 053

8. On February 16, 2018, the Division received a complaint from the Children's Community Health Plan (CCHP) alleging that Respondent continued to prescribe medications to CCHP patients despite being terminated from the CCHP network over concerns about his controlled substance prescribing. (Complaint ¶ 8).

9. On February 26, 2020, a Division investigator sent a letter to Respondent at his mailing address on file with the Department requesting a response to the complaint and additional information. Respondent failed to respond. (Complaint ¶ 9).

10. On February 26, 2020, a Division investigator sent a letter to Respondent at his Clinic requesting a response to the complaint and additional information. The letter was addressed to 1107 Oklahoma Avenue, Milwaukee, Wisconsin, 53215. Respondent failed to respond. (Complaint ¶ 10).

11. On February 26, 2020, a Division investigator sent an email to Respondent at his email address on file with the Department, [mthomasc@hotmail.com](mailto:mthomasc@hotmail.com), attaching the letter referred to in paragraph 10 and requesting a response to the complaint and additional information. Confirmation of delivery was received, but Respondent failed to respond. (Complaint ¶ 11).

12. On February 26, 2020<sup>1</sup>, a Division investigator faxed the letter referred to in paragraph 10 to Respondent at his Clinic fax number, 1-414-384-3404, requesting a response to the complaint

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<sup>1</sup> The Division's requests sent to Respondent on February 26, 2020 included a request for a response to complaints in each of 18 MED 053, 19 MED 016, 19 MED 212, 19 MED 313, 19 MED 533 and 19 MED 552.

and additional information. Confirmation that the fax was successfully sent was received, but Respondent failed to respond. (Complaint ¶ 12).

19 MED 016

13. On February 1, 2019, the Division received a complaint from UW Health<sup>2</sup> alleging that several of its pharmacies in the Madison, Wisconsin, area received prescriptions for Schedule II narcotics from Respondent for multiple patients because Milwaukee-area pharmacies refused to fill Respondent's prescriptions. (Complaint ¶ 13).

14. The facts set forth in paragraphs 9-12 are restated and incorporated herein. (Complaint ¶ 14).

19 MED 142

15. On May 22, 2019, the Division received a complaint from United Healthcare alleging that Respondent was inappropriately prescribing narcotics to their network members without a supporting medical claim and that Respondent failed to respond to its requests for patient records. (Complaint ¶ 15).

16. The facts set forth in paragraphs 9-12 are restated and incorporated herein.<sup>3</sup> (Complaint ¶ 16).

19 MED 212

17. On June 17, 2019, the Division received a complaint from Manitowoc Pharmacy alleging that Respondent was issuing large volume prescriptions of oxycodone 30 mg to young female patients who did not appear to have pain issues and who were traveling long distances to see Respondent in Milwaukee. (Complaint ¶ 17).

18. The facts set forth in paragraphs 9-12 are restated and incorporated herein. (Complaint ¶ 18).

19 MED 533

19. On November 13, 2019, the Division received a complaint from Life Change Pharmacy alleging that Respondent was issuing prescriptions while his medical license was expired. (Complaint ¶ 19).

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<sup>2</sup> UW Health is the academic medical center and health system for the University of Wisconsin.

<sup>3</sup> The Division's requests sent to Respondent on February 26, 2020 asked for a response to the complaint in 19 MED 313, not 19 MED 142. There were two identical complaints filed with the Division by United Healthcare, each given a different case number. For administrative efficiency, case number 19 MED 313 was closed by the Division and the two cases were consolidated under case number 19 MED 142.

20. Respondent failed to renew his license to practice medicine (license number 47171-20) by the October 31, 2019 deadline. As of November 1, 2019, Respondent's Wisconsin license was considered expired. (Complaint ¶ 20).

21. On November 8, 2019, Respondent attempted to renew his license to practice medicine via the Department's website, but his attempt was denied because the Wisconsin Department of Revenue had certified to the Department that Respondent owed delinquent taxes. (Complaint ¶ 21).

22. On November 19, 2019, the Department sent Respondent a Notice of Renewal Denial. (Complaint ¶ 22).

23. On December 13, 2019, Respondent paid the delinquent taxes he owed to the Wisconsin Department of Revenue. (Complaint ¶ 23).

24. On December 21, 2019, Respondent paid his fee to the Department to renew his Wisconsin license to practice medicine. (Complaint ¶ 24).

25. On December 23, 2019, the Department emailed notice to Respondent that his license to practice medicine had been renewed and his registration was current. (Complaint ¶ 25).

26. Respondent's license to practice medicine in Wisconsin (license number 47171-20) was expired from November 1, 2019 through December 23, 2019. (Complaint ¶ 26).

27. The Division obtained 23 prescriptions written by Respondent for patients during November 2019. (Complaint ¶ 27).

28. The facts set forth in paragraphs 9-12 are restated and incorporated herein. (Complaint ¶ 28).

19 MED 552

29. On December 4, 2019, the Division received a complaint from a licensed pharmacist in Milwaukee alleging that Respondent was issuing prescriptions without an active Wisconsin license to practice medicine. (Complaint ¶ 29).

30. The facts set forth in paragraphs 20-26 are restated and incorporated herein. (Complaint ¶ 30).

31. The Division obtained 10 prescriptions written by Respondent for patients between November 1, 2019 and December 16, 2019 that were confiscated by the complainant. (Complaint ¶ 31).

32. The facts set forth in paragraphs 9-12 are restated and incorporated herein. (Complaint ¶ 32).

Facts Related to Default

33. The Notice of Hearing and Complaint were served on Respondent at his last known address on May 27, 2020, by both certified and first-class mail, pursuant to Wis. Admin. Code § SPS 2.08. (Affidavit of Service, ¶¶ 3-4; Ex. 1).

34. The Division also emailed a copy of the Notice of Hearing and Complaint to Respondent at his last known email address on May 27, 2020. (Affidavit of Service, ¶ 5; Ex. 2).

35. On July 6, 2020, the Division received the Notice of Hearing and Complaint mailed via certified mail back from the U.S. Postal Service marked unclaimed; the Notice of Hearing and Complaint mailed to Respondent via regular first-class mail were not returned. (Affidavit of Service, ¶¶ 6-7; Ex. 3).

36. Respondent failed to file an Answer to the Complaint.

37. After the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for June 30, 2020. The ALJ sent notice of the conference by U.S. mail to Respondent. The notice ordered Respondent to contact the ALJ no later than June 29, 2020, to provide his current telephone number. The notice also stated that if Respondent failed to appear at the scheduled conference, default judgment may be entered against him.

38. The Respondent failed to contact the ALJ by June 29, 2020, with his current telephone number.

39. At the prehearing conference on June 30, 2020, Respondent failed to appear. The Division provided the ALJ with Respondent's telephone number and email address on file with the Department. The ALJ called Respondent's number and left a voicemail message, but Respondent did not call back. The ALJ emailed Respondent and advised him that his failure to contact the ALJ by telephone may result in default judgment; Respondent did not respond. The Division moved for default, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).

40. On July 1, 2020, the ALJ issued a Notice of Default against Respondent and ordered the Division to file a recommended proposed decision and order by July 31, 2020. According to the Notice, "[i]n light of Respondent's failure to file an Answer to the Complaint and failure to appear for the prehearing conference, the ALJ finds Respondent to be in default."

41. The Division timely filed its recommended proposed decision and order.

DISCUSSION

Jurisdictional Authority

Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).



### Default

The Division properly served the Notice of Hearing and Complaint upon Respondent by mailing copies to him at his last known address. Service by mail is complete upon mailing. Wis. Admin. Code § SPS 2.08(1). Under Wis. Admin. Code § SPS 2.14, if a respondent “fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence.” *See also* Wis. Admin. Code § HA 1.07(3)(c).

Here, Respondent violated Wis. Admin. Code § SPS 2.09(4) by failing to file an Answer to the Complaint within 20 days from the date of service, or by June 16, 2020. Respondent also failed to appear at the prehearing telephone conference on June 30, 2020, as ordered by the ALJ. Therefore, Respondent is in default, and findings and an order may be entered on the basis of the Complaint.

### Burden of Proof

The burden of proof in disciplinary proceedings before the Board is a preponderance of the evidence. Wis. Stat. § 440.20(3). However, given the Respondent’s failure to answer the allegations in the Complaint and default, the facts in this proceeding are undisputed and are found on the basis of the Complaint.

### Violations

The Board has the authority to impose discipline against the Respondent pursuant to Wis. Stat. § 448.02(3). Following an investigation and disciplinary hearing, if the Board determines that a physician is guilty of unprofessional conduct, it may “warn or reprimand that person, or limit, suspend or revoke any license or certificate granted by the board to that person.” Wis. Stat. § 448.02(3)(c). The Board has the authority to promulgate rules to carry out its purposes. Wis. Stat. § 448.40.

Pursuant to Wis. Admin. Code § Med 10.03 Unprofessional Conduct, “Unprofessional conduct” includes the following, or aiding or abetting the same:

(1) Dishonesty and Character.

- (a) Violating or attempting to violate ch. 448, Stats., or any provision, condition, or term of a valid rule or order of the board.

...

(3) Law Violations, Adverse Action, and Required Reports to the Board.

- (g) After a request by the board, failing to cooperate in a timely manner with the board’s investigation of a complaint filed against a license holder. There is a rebuttable presumption that a credential holder who

takes longer than 30 days to respond to a request of the board has not acted in a timely manner.

Wisconsin Statute § 440.20 governs disciplinary proceedings:

...

(5)(a) The department, or the appropriate credentialing board or other board in the department, may reprimand a credential holder, or may deny, limit, suspend, or revoke a credential, if the credential holder fails to respond, to the satisfaction of the department, credentialing board, or other board in the department, within 30 days to a request for information from the department, credentialing board, or other board in the department in connection with an investigation of alleged misconduct of the credential holder.

The Complaint against the Respondent further alleged that the Respondent practiced medicine without proper licensure and registration, which constitute violations of the following subsections under Chapter 448 of the Wisconsin Statutes:

Wis. Stat. § 448.03 License or certificate required to practice; use of titles; civil immunity; practice of Christian Science.

(1) License Required to Practice.

(a) No person may practice medicine and surgery, or attempt to do so or make a representation as authorized to do so, without a license to practice medicine and surgery granted by the board.

Wis. Stat. § 448.07 Registration.

(1) Registration.

(a) Every person licensed or certified under this subchapter shall register on or before November 1 of each odd-numbered year following issuance of the license or certificate with the board. Registration shall be completed in such manner as the board shall designate and upon forms the board shall provide, except that registration with respect to a compact license shall be governed by the renewal provisions in s. 448.980(7). The secretary of the board, on or before October 1 of each odd-numbered year, shall mail or cause to be mailed to every person required to register a registration form. The board shall furnish to each person registered under this section a certificate of registration and the person shall display the registration certificate conspicuously in the office at all times. No person may exercise the rights or privileges conferred by any license

or certificate granted by the board unless currently registered as required under this subsection.<sup>4</sup>

Respondent committed unprofessional conduct by failing to cooperate in a timely manner with the Board's investigations and the Division's requests for information, in violation of Wis. Admin. Code § Med 10.03(3)(g) and Wis. Stat. § 440.20(5)(a), respectively. The Division received seven separate complaints against the Respondent: one from a physician, three from pharmacists, and three from health insurance providers. All the complaints contained serious allegations regarding Respondent's prescribing practice. In all seven cases, the Respondent failed to respond to multiple requests by the Division for additional information and his response to the complaints. By Respondent's refusal to respond or acknowledge the Division's requests for information, the Division's ability to investigate Respondent's practice, specifically his prescribing practice at his own clinic, has been completely obstructed.

In addition, Respondent committed unprofessional conduct by practicing medicine without a license, and by failing to register on or before November 1, 2019 and exercising the rights or privileges conferred by his license while not currently registered, in violation of Wis. Stat. §§ 448.03(1)(a) and 448.07(1)(a), and Wis. Admin. Code § Med 10.03(1)(a). Respondent continued issuing prescriptions to patients while his license to practice medicine was expired in blatant disregard for the law and the Board. Respondent failed to renew his license to practice medicine (license number 47171-20) by the October 31, 2019 deadline. As of November 1, 2019, Respondent's Wisconsin license was considered expired. On November 8, 2019, Respondent attempted to renew his license to practice medicine via the Department's website, but his attempt was denied because the Wisconsin Department of Revenue had certified to the Department that Respondent owed delinquent taxes. On November 19, 2019, the Department sent Respondent a Notice of Renewal Denial. On December 13, 2019, Respondent paid the delinquent taxes he owed to the Wisconsin Department of Revenue. On December 21, 2019, Respondent paid his fee to the Department to renew his Wisconsin license to practice medicine. On December 23, 2019, the Department emailed notice to Respondent that his license to practice medicine had been renewed and his registration was current.

Respondent's license to practice medicine in Wisconsin was expired from November 1, 2019 through December 23, 2019. During that period, the Division obtained evidence that Respondent issued prescriptions to patients on 33 occasions.

By violating these laws and rules of professional conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3)(c).

### Discipline

The Division recommends that Respondent's license to practice medicine and surgery be suspended indefinitely, pursuant to the terms and conditions of the Order below.

The three purposes of discipline in a professional misconduct case are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct;

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<sup>4</sup> Par. (a) is as stated as of November 2019. Par. (a) was amended effective December 16, 2019.

and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209, 237 N.W.2d 689 (1976). Given that the Respondent has made no argument to the contrary and because the recommended discipline is consistent with the purposes articulated in *Aldrich* and case law, I adopt the Division's recommendation.

The recommended discipline is consistent with the purposes articulated in *Aldrich*. Respondent is the subject of seven complaints filed with the Division. These complaints contain serious allegations of overprescribing and inappropriate prescribing of controlled substances and issuing prescriptions to patients without a license and current registration. By repeatedly failing to cooperate with the Board's investigations and refusing to respond to the Division's requests for information, Respondent impeded the Division's investigations into these serious allegations, thus putting public safety at risk. An Order that suspends Respondent's license is necessary to ensure Respondent's prescribing practice is consistent with the standard of minimal competence and does not create an unacceptable risk of harm to the public.

The Order allows Respondent to petition the Board to stay the suspension once he fully cooperates with the Board's investigations, provides proof of his prescribing history, and provides additional evidence which demonstrates to the satisfaction of the Board that his prescribing practice is consistent with the standard of minimal competence and does not create an unacceptable risk of harm to the public. The Order requires Respondent to provide to the Board his Prescription Drug Monitoring Program (PDMP) prescriber metrics report so the Board may evaluate his prescribing history and practice, before and after the suspension, before deciding on any petition for a stay of the suspension.

Suspending Respondent's license indefinitely under these conditions protects the public from other potential instances of misconduct. "Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, the Board is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep't of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the Board, via the Department, cannot assure the public of the licensee's competence to practice the profession, then suspension is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189-90, 349 N.W.2d 68 (1984). In the present case, the Board cannot assure the public that a physician who fails to cooperate with lawful investigations into his conduct and who continues to prescribe medications without a valid, active license is competent to practice medicine.

Suspending Respondent's license indefinitely also deters other credential holders from engaging in similar conduct. Respondent has totally disregarded the Board's authority as well as the law in place to protect public health and welfare. Therefore, the suspension of Respondent's license to practice medicine in Wisconsin, and limitations on his ability to renew his Wisconsin license, are an appropriate response.

Finally, the recommended discipline is consistent with Board precedent. See *In the Matter of Disciplinary Proceedings Against Michael N. Mangold, M.D.*, Order Number 0002433 (May 15, 2013) (Board suspended Respondent's license indefinitely or until a showing that Respondent recognized the authority of the Board and understood his obligations to comply with the Board's orders for practicing medicine without a valid license); and, *In the Matter of Disciplinary*

*Proceedings Against Ossama Abdellatif, M.D.*, Order Number LS0904201MED (September 16, 2009) (Board suspended Respondent's license indefinitely for failing to cooperate with the Board's investigation and practicing medicine under another name).

Based upon the facts of this case and the factors set forth in *Aldrich*, an indefinite suspension of Respondent's license, pursuant to the terms and conditions of the Order below, is warranted.

### Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d. 237, 751 N.W.2d 385. In previous orders, Boards have considered the following factors when determining if all or part of the costs should be assessed against the Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a program revenue agency, funded by other licensees; and (7) any other relevant circumstances. *See In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Considering the above factors, it is appropriate for Respondent to pay the full costs of the seven investigations and of these proceedings. Respondent defaulted and the factual allegations identified in this decision were deemed admitted. Respondent failed to cooperate with the Board's seven investigations and this disciplinary process by failing to answer the complaint, failing to respond to the Department and the ALJ's attempts to contact him, and failing to appear at the prehearing telephone conference as ordered by the ALJ. Respondent also practiced medicine by prescribing medications to patients without a license and current registration. Respondent has not offered any acceptable justification for his actions.

Finally, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. It would be unfair to impose the costs of pursuing discipline in this proceeding on those licensees who have not engaged in misconduct. Therefore, it is appropriate for Respondent to pay the full costs of the seven investigations and this proceeding, as determined pursuant to Wis. Admin. Code § SPS 2.18.

### ORDER

For the reasons set forth above, IT IS ORDERED:

1. Respondent Manuel J. Thomas, M.D.'s license to practice medicine and surgery in Wisconsin (License No. 47171-20) is SUSPENDED for an indefinite period.

2. Respondent may petition the Board for a stay of the suspension. Any petition shall include the following:
  - a. A copy of his prescription drug monitoring program (PDMP) prescriber metrics report for the eighteen (18) months preceding the date of the Board's Order.
  - b. A copy of his PDMP prescriber metrics report for the period from the date of the Board's Order to the date of the petition.
  - c. A sworn statement describing in detail all actions he has taken to cooperate with the Board's seven (7) investigations and the Division's requests for information.
3. The Board or its designee may require that Respondent provide additional information it deems appropriate before determining whether to grant, grant with condition(s) and/or limitation(s), or deny Respondent's petition to stay the suspension.
4. The Board or its designee may request information from the Division regarding Respondent's cooperation with the Board's seven (7) investigations before determining whether to grant, grant with condition(s) and/or limitation(s), or deny Respondent's petition to stay the suspension.
5. If the Board grants Respondent's petition for a stay of the suspension, it may impose any condition(s) and/or limitation(s) on Respondent's license it deems appropriate in order to protect the health, safety and welfare of patients and the public.
6. Petition for a stay of the suspension, the documentation required in paragraphs 2.a.-c., and any additional information requested by the Board, may 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](mailto:DSPSMonitoring@wisconsin.gov)

7. Respondent shall pay all recoverable costs in these matters in an amount to be established pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to the address listed in paragraph six (6) above.
8. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 448.03.

9. The terms of this Order are effective the date the Final Decision and Order in these matters is signed by the Board.

Dated at Madison, Wisconsin, on 4th of September, 2020.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
4822 Madison Yards Way, 5<sup>th</sup> Floor North  
Madison, Wisconsin 53705  
Tel. (608) 266-7709  
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By: 

Kristin P. Fredrick  
Administrative Law Judge