

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

ANDREW E. FLOREN, M.D.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER

:
: ORDER U007048

Division of Legal Services and Compliance Case No. 19 MED 274

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

Andrew E. Floren, M.D.
Eau Claire, WI 54701

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 Andrew E. Floren, M.D., (DOB xx-xx-1959), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 45288-20, first issued on January 27, 2003, 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 Eau Claire, Wisconsin 54701.

2. At all times relevant to this matter, Respondent practiced occupational medicine at a clinic in Eau Claire, Wisconsin.

3. On March 30, 2015, Patient A, a male born in 1953, presented to Respondent with head, neck, upper back, shoulder, rib, and low back injuries due to an assault. Respondent ordered

an MRI, which showed AC joint arthrosis with slight mass effect of the supraspinatus tendon, cystic changes deep to the subscapularis, and degenerative type I labral posterior-superior quadrant tear. Respondent ordered Flexeril at bedtime, physical therapy, and light work duty.

4. Patient A continued to have severe pain in his shoulder. On August 18, 2015, Respondent charted that non-operative treatments had been exhausted. Patient A underwent shoulder surgery on August 19, 2015.

5. Post-surgery, Respondent continued Patient A's physical therapy, light work duty, and Flexeril, but Patient A's pain slowly increased. On August 2, 2016, another MRI showed reactive edema in the humeral head, degenerative changes, and mild mass effect on the supraspinatus tendon. An orthopedic surgeon said further surgery would not be beneficial.

6. On November 15, 2016, Respondent first prescribed tramadol 50 mg tablets to Patient A after a cortisone injection yielded no improvement.

7. On January 31, 2017, Respondent charted that Patient A reported no improvement. Respondent continued the tramadol, physical therapy, and light work duty. Respondent also referred Patient A to a second orthopedic surgeon who also opined that surgery was not recommended.

8. On March 1, 2017 and May 3, 2017, Respondent charted that Patient A reported no improvement.

9. On May 31, 2017, Respondent saw Patient A for the last time and charted that Patient A's pain was unchanged and Respondent was discharging him with "maximum medical improvement at this time. Patient [A] with the tramadol for the long-term."

10. Respondent continued to fill Patient A's tramadol prescription at regularly scheduled intervals between the May 31, 2017 discharge through July 25, 2019, without examining him or conducting periodic urine drug testing.

11. Respondent prescribed tramadol to Patient A despite no reported improvement, no clinical examinations, and no measures in place to address potential diversion and abuse of a narcotic.

12. 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 engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(b), 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 or the public whether or not the act or omission resulted in actual harm to any person.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined in 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.

4. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Andrew E. Floren, M.D., is REPRIMANDED.
3. The medicine and surgery license issued to Respondent, (No. 45288-20), is LIMITED as follows:
 - a. Within six (6) months of the date of this Order, Respondent shall successfully complete four (4) hours of education on the topic of controlled substance prescribing and/or the Board's Opioid Prescribing Guidelines.
 - b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course(s) 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).
 - c. The Board or its designee may reject any course(s) and may accept a course(s) for less than the number of hours for which Respondent seeks approval.
 - d. Within thirty (30) days of completion of each educational component, Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
 - e. Respondent is responsible for all costs associated with compliance with this educational requirement.
 - f. 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 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$637.00.

5. Requests for pre-approval of course(s), proof of successful course completion, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dspsmonitoring.wi.gov/>

6. In the event Respondent violates any term of this Order, Respondent's license, (No. 45288-20), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: 
A Member of the Board

21 October 2020
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANDREW E. FLOREN, M.D.,
RESPONDENT.

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STIPULATION

ORDER 0007048

Division of Legal Services and Compliance Case No. 19 MED 274

Respondent Andrew E. Floren, 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 in this case by Attorney Guy J. DuBeau.
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.



Andrew E. Floren, M.D., Respondent
Eau Claire, WI 54701
License No. 45288-20

9/3/2020

Date



Guy J. DuBeau, Respondent's Attorney
Axley Brynelson LLP
2 E. Mifflin St., Suite 200
P.O. Box 1767
Madison, WI 53701-1767

9/10/20

Date



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

09/14/2020

Date