

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
GLENN A. TOTH, M.D., :  
RESPONDENT. :

ORDER 0007326

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Division of Legal Services and Compliance Case No. 19 MED 513

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

Glenn A. Toth, M.D.  
Waukesha, WI 53188

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. Glen A. Toth, M.D. (Respondent), (Year of Birth 1965), is licensed in the state of Wisconsin to practice medicine and surgery, having license number 33436-20, first issued on July 1, 1992, 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 located in Waukesha, Wisconsin 53188.

2. At all times relevant to this matter, Respondent worked as a primary care physician, in the Waukesha, Wisconsin area.

3. The Wisconsin Controlled Substances Board reviewed Respondent's Prescription Drug Monitoring Program (PDMP) Prescriber Monitoring Report and referred him to the Board

based on suspicious or critically dangerous prescribing pursuant to Wis. Stat. § 961.385(2)(cm)3.c. The Board then opened this matter for investigation.

4. The Department's Division of Legal Services and Compliance (Division) reviewed medical records, PDMP recipient reports, and prescriber queries for six (6) patients treated by Respondent in 2016 through 2020. Medical records were requested and received for all treatment beginning January 1, 2016, through November 2020.

5. Patient records, PDMP recipient reports, and PDMP prescriber query actions involving the six (6) patients demonstrated the following:

- a. Respondent treated all six (6) patients for multisystem and/or chronic pain.
- b. Respondent prescribed Oxycodone HCl 30 mg, (every three (3) hours as needed), on a repeated monthly basis to all six (6) patients.
- c. The total morphine milligram equivalent (MME) prescribed to Patient K.A. by Respondent from June 2018 through January 2020 varied between 300 and 363.
- d. The total MME prescribed to Patient J.B. by Respondent from June 2018 through May 2019 varied between 90 and 390.
- e. The total MME prescribed to Patient S.D. by Respondent from June 2018 through December 2019 varied between 495 and 675.
- f. The total MME prescribed to Patient K.J. by Respondent from June 2018 through May 2019 varied between 550 and 580.
- g. The total MME prescribed to Patient M.K. by Respondent from June 2018 through March 2019 varied between 180 and 470.
- h. The total MME prescribed to Patient J.R. by Respondent from July 2018 through December 2018 varied between 720 and 840.
- i. No documentation of pill counts is contained in any of the patient records.
- j. Only two (2) urine drug screens were documented in all the records reviewed and although some records indicated a drug screen would be performed at a future visit, none were subsequently documented.
- k. On July 31, 2018, Patient K.A.'s urine drug screen was positive for marijuana. Respondent did not address it in his charting and on August 18, 2018, he prescribed Oxycodone HCl 30 mg #120 to Patient K.A.
- l. On multiple occasions, Respondent documented that adjuvant therapies would be discussed at next visit; Respondent did not discuss adjuvant therapies at next visit.

- m. Multiple patient records do not contain objective patient notes on function; instead, patient notes state that current medication provides reasonable management of pain.
  - n. Multiple patient records do not document whether the prescribed medications were at the minimum amount necessary to improve the patient's functioning; including attempts to decrease medications and how that may have affected the patient's functioning.
  - o. Respondent did not refer patients to alternative treaters, such as an addictionologist.
  - p. Patient M.K. was hospitalized for alcohol and opioid withdrawal, and alcohol intoxication, on multiple occasions in May, June, and July 2018. An addiction specialist recommended decreasing Patient M.K.'s use of oxycodone by 50%. Respondent reduced Patient M.K.'s oxycodone by 33% for approximately one (1) month and then returned Patient M.K. to her pre-reduction amount thereafter.
  - q. On multiple occasions, neither Respondent nor his delegate, queried the PDMP prior to prescribing a controlled substance to a patient.
6. The Board's Opioid Prescribing Guidelines provide-in part:

Given that there is no evidence base to support efficacy of doses over 90 MMEs, with dramatically increased risks, dosing above this level is strongly discouraged, and appropriate documentation to support such dosing should be present in the chart.

7. 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 by 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 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.

4. Wisconsin Admin. Code § CSB 4.105(1), requires a practitioner, or a practitioner's delegate, to review the monitored prescription drug history report about a patient before the practitioner issues a prescription order for a monitored prescription drug to the patient.

5. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MED 10.03(3)(i), by violating a law substantially related to the practice of medicine and surgery.

6. 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 is REPRIMANDED.
3. The medicine and surgery license issued to Respondent, (license number 33436-20) is LIMITED as follows:

a. Within three (3) months of the date of this Order, Respondent shall at his own expense successfully complete five (5) hours of education on the topic of opioid prescribing practices as follows:

- i. Each course attended in satisfaction of this Order must be preapproved by the Board or its designee. Respondent shall be responsible for locating the course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Respondent must take and pass any exam offered for the course(s).
- ii. Within thirty (30) days of completion of each course, Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor.
- iii. None of the education completed pursuant to this Order may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.
- iv. The Board or its designee may change the number of credit hours and/or education topics in response to a request from Respondent. The Board or its designee may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

4. Within 90 days from the date of this Order, Respondent, shall pay COSTS of this matter in the amount of \$1,936.00.

5. Requests for course approval, proof of successful course completion, and payment of costs (made payable to the Department of Safety and Professional Services) shall be submitted to

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 at: <https://dspsmonitoring.wi.gov/>

6. In the event Respondent violates any term of this Order, Respondent's license (no. 33436-20), 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: Stephan A. Wacker, MD  
A Member of the Board

21 April 2021  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

GLENN A. TOTH, M.D.,  
RESPONDENT.

:  
:  
:  
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:  
:

STIPULATION

**ORDER 0007326**

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Division of Legal Services and Compliance Case No. 19 MED 513

Respondent Glenn A. Toth, 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 Stacie Rosenzweig.

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.

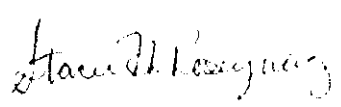
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



\_\_\_\_\_  
Glenn A. Foth, M.D., Respondent  
Waukesha, WI 53188  
License no. 33436-20

4/14/2021  
\_\_\_\_\_  
Date



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Stacie Rosenzweig, Attorney for Respondent  
Halling & Cayo SC  
320 E. Buffalo Street, Suite 700  
Milwaukee, WI 53202

4/14/2021  
\_\_\_\_\_  
Date



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

04/15/2021  
\_\_\_\_\_  
Date