

## 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
CHARLES E. NELSON, M.D.,	:	
RESPONDENT.	:	<b>ORDER 0007857</b>

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Division of Legal Services and Compliance Case No. 21 MED 179

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

Charles E. Nelson, M.D.  
Spooner, WI 54801

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 Charles E. Nelson, M.D., (Year of Birth 1963) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 38077-20, first issued on July 26, 1996, with registration current through October 31, 2021.<sup>1</sup> Respondent's most recent

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<sup>1</sup> Respondent's registration of his license to practice medicine and surgery was set to expire October 31, 2021, and it does not appear Respondent completed the online renewal process. However, due to 2021 Wisconsin Act 10, all health care provider credentials will not expire and will remain active until 30 days after the end of the declared emergency (which is currently extended until February 24, 2022). Therefore, Respondent's license remains active despite the fact that he has not completed the online renewal process. In addition, Wis. Stat. § 440.08(3) provides Respondent with a five-year right to apply for renewal of his license.

address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Spooner, Wisconsin 54801.

2. On April 15, 2009, the Board issued Final Decision and Order No. LS0904152MED which suspended Respondent's medical license and placed him on a five-year impairment order requiring him to participate in Alcohol and Other Drug Abuse (AODA) treatment and random drug testing. The basis of the Order was Respondent's conduct in inappropriately prescribing controlled substances to a patient and a patient's relative, writing prescriptions for controlled substances for a non-existent patient and filling the prescriptions for his own personal use, and asking other physicians to write prescriptions for controlled substances for his own personal use. Respondent was diagnosed with opioid dependence. On February 28, 2014, the Board reinstated Respondent's license in full after five years of compliance with the Order.

3. At all times relevant to this matter, Respondent practiced as an emergency physician via a staffing agency (Agency) at a hospital located in Spooner, Wisconsin (Hospital).

4. The Department received a complaint alleging Respondent may have been intoxicated/under the influence while at work at the Hospital on August 31, 2020, and that Respondent has a history of substance abuse and OWIs. The Division of Legal Services and Compliance opened case number 21 MED 179 to investigate.

5. On November 4, 2019, Respondent was involved in a hit-and-run accident in which he was driving and hit a building. Respondent's preliminary breathalyzer results showed a BAC of 0.16. Respondent was arrested and charged with OWI (3<sup>rd</sup>), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(a), Possession of THC, a misdemeanor, in violation of Wis. Stat. § 961.41(3g)(e), Possession of Drug Paraphernalia, a misdemeanor, in violation of Wis. Stat. § 961.573(1), Operating with PAC (3<sup>rd</sup>), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(b), and Operate with Restricted Controlled Substance (3<sup>rd</sup>), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(am) in Barron County Circuit Court Case No. 2019CM000343.

6. On November 24, 2020, Respondent pled guilty to and was convicted of OWI (3<sup>rd</sup>), a misdemeanor, in violation of Wis. Stat. § 346.63(1)(a). The remaining four charges were dismissed but read in. Respondent was sentenced to 80 days in jail, his license was revoked for 27 months, and he was required to complete an AODA assessment and comply with all recommendations.

7. Respondent did not report this conviction to the Department or provide the Board with certified copies of the criminal complaint and judgment of conviction.

8. On August 23, 2019, Respondent was diagnosed with alcohol abuse and opioid dependence.

9. On October 23, 2019, Respondent reported to his AODA counselor that he had consumed two bottles of wine on October 19 and argued with his wife. He reported that he was "out of control" and decided to stop drinking and had been sober for 4 days.

10. On January 4, 2020, Respondent admitted he was not able to control his alcohol consumption over the holidays and reported an OWI arrest with THC possession in November 2019.

11. On May 24, 2021, Respondent reported he started drinking again after months of sobriety.

12. On June 22, 2021, Respondent was suspended from the Agency after repeatedly cancelling shifts at the last minute. The Agency also suspected that Respondent was impaired during a phone call with their Vice President of Operations prior to a shift he was supposed to work. Respondent claimed he had medical issues at the time.

13. Respondent voluntarily entered an inpatient treatment program for addiction/alcoholism at Hazelden in Center City, MN, on September 28, 2021. Respondent transferred to day treatment with structured sober housing on October 19, 2021, and was discharged from that program on November 12, 2021.

14. While at Hazelden, Respondent's diagnoses included alcohol use disorder, severe, dependence; and opioid use disorder, severe, in sustained remission, dependence. Upon discharge from inpatient treatment on November 12, 2021, it was noted that Respondent "is at moderate to high risk of relapse outside of a day treatment level of care with structured housing".

15. Since discharge from the Hazelden inpatient program, Respondent has participated in an intensive outpatient program through Hazelden with Dr. Hyong Sun Lee, established with a sponsor, and has been active in his local AA/NA group.

#### 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 violated Wis. Admin. Code § Med 10.03(2)(a), by practicing or attempting to practice under any license when unable or unwilling to do so with reasonable skill and safety.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Med 10.03(3)(h), by failing, within 30 days of conviction of any crime, to provide the board with certified copies of the criminal complaint and judgment of conviction.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § Med 10.03(3)(i), by a violation or conviction of any laws or rules of this state, or of any other state, or any federal law or regulation that is substantially related to the practice of medicine and surgery.

5. 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. This Final Decision and Order (Order) is effective on the date of its signing.
3. Respondent's license to practice medicine and surgery (license number 38077-20) is SUSPENDED as follows:

### SUSPENSION

- A.1. Respondent's license to practice medicine and surgery in the state of Wisconsin (license number 38077-20) is SUSPENDED for an indefinite period.

### STAY OF SUSPENSION

- B.1. The suspension of Respondent's Wisconsin license may be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order for a period of at least thirty (30) consecutive days.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any provision of this Order. The Board or its designee may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
  - (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

### CONDITIONS AND LIMITATIONS

#### Treatment Required

- C.1. Respondent shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee (Treater). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.

- C.2. Respondent shall immediately provide Treater with a copy of this Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.5., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment.

#### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites, current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater and treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

#### AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an approved equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported quarterly to Treater and the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner

ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor. Respondent shall disclose the name and address of such practitioner to the Department Monitor within five (5) business days of receipt of a prescription for controlled substances.

- C.10. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Respondent shall abstain from all use of over-the-counter medications, products, or other substances (including but not limited to natural substances such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's test results, treatment and rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11. It is Respondent's responsibility to educate himself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of administration, fill or refill of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

#### Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a violation of this Order. The requirements shall include:
  - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b.) Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year (one of which may be a hair test at the Board's discretion), for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing

on its own initiative at any time and/or Respondent may petition for modification of testing frequency per paragraph D.5.

- C.15. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.18. The Approved Program shall submit information and reports to the Department Monitor as directed.

#### PRACTICE LIMITATIONS

- C.19. Respondent shall not work as a physician or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20. Respondent shall practice only under the direct supervision of a licensed physician or other licensed health care professional, approved by the Board or its designee, who has received a copy of this Order.
- C.21. Respondent shall practice only in a work setting pre-approved by the Board or its designee. Requests for pre-approval must be accompanied by a current job description, name and contact information of the direct supervisor, and written acknowledgment from the employer that a copy of this Order and any subsequent orders modifying this original Order have been received and that the restrictions will be accommodated.
- C.22. Respondent shall provide a copy of this Order, and any subsequent order modifying this original Order, immediately to supervisory personnel at all settings where Respondent works as a physician or provides health care, currently or in the future. Within fourteen (14) days from the date of this Order, including any subsequent order modifying this original Order, Respondent shall provide the Department Monitor with written acknowledgment from the employer that a copy of this Order, and any subsequent order modifying this original Order, have been received and that the restrictions will be accommodated.
- C.23. It is Respondent's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from his supervisor at each setting in which Respondent practiced



as a physician in the previous quarter. These reports shall be submitted as directed by the Department Monitor, and shall assess Respondent's work performance, and shall include the number of hours of active physician practice worked during that quarter. If a report indicates less than satisfactory performance, the Board may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.

- C.29. Respondent shall report to the Board any change of employment status, residence, mailing address, email address, or telephone number within five (5) days of the date of a change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

### MISCELLANEOUS

#### Department Monitor

- D.1. Any requests, petitions, reports payment of costs (made payable to the Department of Safety and Professional Services) and other information required by this Order 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) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

#### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Respondent shall submit self-reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. The reports shall include a summary of Respondent's compliance with the terms and conditions of the Order in the previous quarter, Respondent's current mailing address, email address, and home telephone number. The self-report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

Change of Treater or Approved Program by Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order; however, no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Board for termination of this Order after demonstrating five (5) years of successful compliance with all terms, including at least 600 hours of approved physician practice each year. The Board may, on its own motion, grant a full Wisconsin license at any time.

Costs of Compliance

- D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, mentoring and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

- D.8. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,102.00.

Additional Discipline

- D.9. In addition to any other action authorized by this Order or law, the Board, in its discretion, may impose additional limitations or pursue separate disciplinary action for violation of any term of this Order.

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephen A. Wasserman, MD  
A Member of the Board

16 February 2022  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

CHARLES E. NELSON, M.D.,  
RESPONDENT.

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STIPULATION

**ORDER 0007857**

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Division of Legal Services and Compliance Case No. 21 MED 179

Respondent Charles E. Nelson, 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.

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.

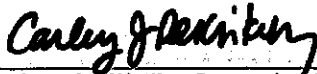
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Charles E. Nelson, M.D., Respondent  
Spooner, WI 54801  
License No. 38077-20

1/27/2022  
Date



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

01/27/2022  
Date