

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ELIZABETH A. POLACHECK, M.D.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0008209**

Division of Legal Services and Compliance Case No. 21 MED 552

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

Elizabeth A. Polacheck, M.D.
Greenfield, WI 53221

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-f8366

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 Elizabeth A. Polacheck, M.D., (Year of Birth 1965) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 35784-20, first issued on July 22, 1994, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Greenfield, Wisconsin 53221.

2. At all times relevant to this matter, Respondent practiced as a physical medicine and rehabilitation physician at a clinic in Greenfield, Wisconsin (Clinic).

3. On December 16, 2021, the Department received notification from the U.S. Drug Enforcement Administration (DEA) that Respondent stipulated to voluntarily surrender her DEA

Registration Number for cause after she was contacted by the DEA on December 14, 2021 regarding a patient who died from a suspected drug overdose (Patient A, a female born in 1969).

4. On June 2, 2016, Respondent began seeing Patient A after she was referred to Respondent for pain management due to injuries suffered in a 2015 motor vehicle accident.

5. While Respondent entered into pain agreements with other patients, Patient A's records indicate that Respondent failed to perform urine drug screens, conduct pill counts, or have Patient A sign a pain agreement.

6. On July 29, 2021, Respondent informed Patient A that she would no longer prescribe controlled substances to her as of September 1, 2021 due to a change in Respondent's practice. Respondent provided a tapering schedule to Patient A to wean her off oxycodone. Respondent's last prescription for oxycodone was filled by the pharmacy on August 12, 2021.

7. On October 27, 2021, Patient A was found deceased in her home. Patient A's autopsy toxicology revealed positive results for cocaine, opiates, oxycodone, fentanyl, and 6-monoacetylmorphine.

8. Respondent was not informed of Patient A's death until December 14, 2021, when the DEA represented to her that Patient A was known to the DEA to sell prescription medication in order to purchase illicit substances. Respondent did not receive an alert or any red flags from the Wisconsin ePDMP regarding Patient A prior to January 11, 2022.

9. On July 31, 2006, Respondent began seeing Patient B (a male born in 1964) after he sustained an electrocution injury resulting in left-sided weakness, left brachial plexus with nerve pain, left leg weakness, and a foot drop. He subsequently suffered another injury to his neck at work for which he sought treatment with Respondent.

10. Between April 11 and 25, 2018, Respondent prescribed 360 30mg tablets and 120 15mg tablets of oxycodone to Patient B. Later in 2018, Respondent reduced Patient B's prescription of oxycodone from 225 30mg tablets over a 21-day period to 180 30mg tablets.

11. On April 24, 2021, Patient B's urine drug screen tested positive for morphine, codeine, oxycodone, fentanyl, heroin, and cocaine. On May 10, 2021, Respondent informed Patient B that she would no longer prescribe oxycodone or any controlled substance to him excepting lower oxycodone dose(s) for tapering purposes only.

12. On December 14, 2021, Respondent surrendered her DEA Registration Number for cause and accordingly, is no longer authorized to order, dispense, administer, prescribe, or engage in any other activities with controlled substances.

13. Respondent maintains that even before surrendering her DEA Registration Number, she had begun to shift her practice away from pain management, which included discharging patients, informing patients she could no longer prescribe controlled substances to them, and providing weaning schedules. Respondent now maintains a mostly non-clinical practice with insurance companies and performs electromyography and nerve conduction studies.

14. Respondent does not admit to any actionable violation of the rules of professional conduct, however, in the interest of resolving this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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. Based on 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. Based on 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 is REPRIMANDED.

3. Respondent's license and registration to practice medicine and surgery in the state of Wisconsin (number 35784-20) is SUSPENDED for 30 days from the date of this Order.

4. The suspension of Respondent's license and registration is STAYED, and her license and registration are LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete three (3) hours of education on the topic of the Board's controlled substance prescribing guidelines, and three (3) hours of education on the topic of appropriate prescribing of controlled substances offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
- b. 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 at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- d. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed all the ordered education. Respondent shall not re-apply for an active DEA Registration until this limitation has been removed.

5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,690.00.

6. Any requests, petitions, payments of costs (made payable to 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>.

7. In the event Respondent violates any term of this Order, Respondent's license and registration (number 35784-20), or Respondent's right to renew her license and registration, 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Sharon A. Wacker, MD
A Member of the Board

10/19/22
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ELIZABETH A. POLACHECK, M.D.,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

ORDER 0008209

Division of Legal Services and Compliance Case No. 21 MED 552

Respondent Elizabeth A. Polacheck, 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 Lauren Wick.

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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.


9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Elizabeth A. Polacheck, M.D., Respondent
Greenfield, WI 53221
License No. 35784-20

10/10/2022
Date


Lauren Wick, Attorney for Respondent
Gutglass, Erickson, Larson & Schneider, S.C.
735 N. Water St., Suite 1400
Milwaukee, WI 53202-4267

10/10/2022
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

10/10/2022
Date