

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	:	
	:	FINAL DECISION AND ORDER
ELZBIETA PERRY, M.D.,	:	
RESPONDENT.	:	ORDER 0008410

Division of Legal Services and Compliance Case No. 22 MED 180

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

Elzbieta Perry, M.D.
Neenah, WI 54956

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 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 Elzbieta Perry, M.D., (Year of Birth 1972) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 51381-20, first issued on March 14, 2008, 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 Neenah, Wisconsin 54956.

2. At all times relevant to this proceeding, Respondent practiced rheumatology for a medical group in Menasha and Oshkosh, Wisconsin. Respondent's practice also included some chronic pain patients.

3. On April 5, 2022, the Wisconsin Controlled Substances Board referred Respondent to the Department after Prescription Drug Monitoring Program (PDMP) data identified her as a top opioid prescriber by volume in the state of Wisconsin for the fourth quarter of 2021.

4. As part of its investigation, the Department reviewed a sampling of Respondent's 2021 patient records and her 2021 PDMP query history. The Department discovered the following:

- a. Respondent co-prescribed opioids and benzodiazepines to several patients and failed to chart a reasonable justification or a conversation with the patient of the risks.
- b. Respondent continued to prescribe opioids to patients even after charting pain scores of 9/10 or 10/10, indicating the opioids were not providing a benefit, with no justification.
- c. Respondent continued to prescribe opioids to a patient after her urine drug screens tested positive for tetrahydrocannabinol (THC), an illicit drug in Wisconsin.
- d. Respondent failed to perform regular urine drug screens for patients on opioid therapy.
- e. Respondent failed to check a patient's PDMP prior to issuing each opioid prescription.
- f. Respondent failed to chart the functional benefit and the percent of pain relief for patients on opioid therapy.
- g. Respondent failed to use an opioid risk tool prior to prescribing opioids.
- h. Respondent prescribed opioids to patients with fibromyalgia even though opioids are not indicated for that condition.

5. Respondent maintains that she has not started any patients on benzodiazepines but has inherited some patients on that medication from another provider. If she co-prescribes opioids and benzodiazepines, she advises patients as to the appropriate timing and informs their primary care provider. Respondent also states that since her practice group changed electronic charting software, her compliance with checking PDMP is 100% and the group has implemented stricter criteria for prescribing pain medications.

6. In resolution of 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. A practitioner, or a practitioner delegate assisting the practitioner in accordance with the standards of practice for the practitioner's profession, shall review the monitored prescription drug history report about a patient before the practitioner issues a prescription order for the patient, pursuant to Wis. Admin. Code § CSB 4.105(1).

3. 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.

4. 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.

5. Based on the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(3)(i) by violating a law or rule of this state that is 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. Respondent's license and registration to practice medicine and surgery in the state of Wisconsin (license no. 51381-20), is LIMITED as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete the following education offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
 - a. Three (3) hours on the topic of recordkeeping.
 - b. Three (3) hours on the topic of appropriate prescribing of opioids.
 - c. Three (3) hours on the topic of the Wisconsin Medical Examining Board's Opioid Prescribing Guidelines.
 - d. Three (3) hours on the topic of the PDMP.
 - b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution(s) 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 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.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,506.00.

5. 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>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 51381-20), 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

By: Shelton A. Wascara, MD
A Member of the Board

2/15/2023
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ELZBIETA PERRY, M.D.,
RESPONDENT.

STIPULATION

ORDER 00084

Division of Legal Services and Compliance Case No. 22 MED 180

Respondent Elzbieta Perry, 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

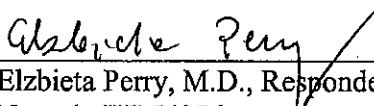
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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. 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.



Elzbieta Perry, M.D., Respondent
Neenah, WI 54956
License No. 51381-20

02/02/23
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

2/3/2023
Date