

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
DALE E. BAUWENS, M.D., :
RESPONDENT. :

ORDER 0008551

Division of Legal Services and Compliance Case No. 22 MED 176

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

Dale E. Bauwens, M.D.
Wauwatosa, WI 53226

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 Dale E. Bauwens, M.D., (Year of Birth 1953) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 22964-20, first issued on July 11, 1980, 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 Wauwatosa, Wisconsin 53226.

PRIOR DISCIPLINE

1. On February 15, 2012, the Board ordered that Respondent complete continuing education on the topics of prescribing controlled substances, and physician-patient boundaries and ethics, in Order No. 0001361 (Division of Legal Services and Compliance Case No. 09 MED 108).

The Board's action was based in part on Respondent's conduct of prescribing and refilling controlled substances to a patient for several years via telephone, without seeing the patient in his office or examining the patient.

CURRENT CASE

2. At all times relevant to this proceeding, Respondent practiced as a physician with a specialty in orthopedic surgery at a facility located in Glendale, Wisconsin (Facility).

3. The case at hand was opened based on data from the Wisconsin Prescription Drug Monitoring Program (PDMP) which identified Respondent as a top opiate prescriber by volume among all Wisconsin physicians during the fourth quarter of 2021.

4. The Department's investigation involved reviewing medical records and PDMP reports regarding patients treated by Respondent from January 1, 2021, through December 31, 2021.

Patient A (AC)

5. Between June 25 and November 8, 2021, Respondent prescribed Oxycodone HCl 20mg tablets (Qty 120 for 30 day supply) to Patient A (born in 1962).

6. For the prescription dated August 6, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

7. The total morphine milligram equivalent (MME) prescribed to Patient A was 120 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines¹.

Patient B (AW)

8. Between January 4 and December 26, 2021, Respondent prescribed Oxycodone 10mg tablets (Qty 100 for a 16 or 17 day supply) to Patient B (born in 1989).

9. For prescriptions dated February 1, February 17, March 5, April 21, September 8 and November 22, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

10. The total MME prescribed to Patient B was 93 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient C (EH)

¹ All references in this document to the Board's Opioid Prescribing Guidelines refer to the Guidelines published on the Department's website and effective January 16, 2019.

11. Between January 11 and December 20, 2021, Respondent prescribed the following to Patient C (born in 1964): Oxycodone HCl 30mg extended-release tablet (Qty 138 for a 23 day supply) and Morphine Sulfate 30mg tablets (Qty 90 for a 30 day supply).

12. For prescriptions dated March 19, May 18, August 11, August 31, September 27 and November 19, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

13. The total MME prescribed to Patient C was 300 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient D (MB)

14. Between January 11 and December 22, 2021, Respondent prescribed Oxycodone HCl 200mg tablets (Qty 50 for a 8 or 9 day supply) to Patient D (born in 1983).

15. For prescriptions dated January 11, January 22, February 24, March 5, March 18, April 23, May 3, May 24, June 4, August 4, August 16, August 30, September 10, September 30, October 12, October 26, November 5, December 1 and December 13, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

16. The total MME prescribed to Patient D was 166.5 – 187.5 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient E (PP)

17. Between January 20 and December 17, 2021, Respondent prescribed the following to Patient E (born in 1951): Oxycodone 30mg tablets (Qty 100 for a 25 or 30 day supply) and Morphine Sulfate 30mg tablets ER (Qty 60 for a 30 day supply).

18. For prescriptions dated January 22, February 17, March 24, April 23, May 11, May 21, August 18, September 20, October 20, November 19 and December 17, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

19. The total MME prescribed to Patient E was 240 - 324 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient F (PC)

20. Between January 13 and December 24, 2021, Respondent prescribed Oxycodone HCl 30mg tablets (Qty 100 for a 17 to 25 day supply) to Patient F (born in 1967).

21. For prescriptions dated September 1, September 17 and October 22, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

22. The total MME prescribed to Patient F was 180 - 264 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient G (RW)

23. Between January 20 and December 28, 2021, Respondent prescribed Oxycodone 20mg tablets (Qty 50 for a 9 day supply) to Patient G (born in 1969). On September 27, 2021, Respondent prescribed Morphine Sulphate 15mg tablets (Qty 28 for a 14 day supply).

24. For prescriptions dated February 3, March 8, March 17, April 1, April 23, May 5, June 1, July 21, July 28, August 31, September 8, September 27, October 19 and October 26, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

25. The total MME prescribed to Patient G was 166 – 196.5 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient H (SH)

26. Between January 8 and December 8, 2021, Respondent prescribed Oxycodone/Acetaminophen 10-325mg tablets (Qty 150 for a 13 day supply) to Patient H (born in 1953).

27. For prescriptions dated January 21, January 29, March 16, March 29, May 18, July 12, September 1, September 5, October 13, October 15, November 1 and December 8, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

28. The total MME prescribed to Patient H was 172.5 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

Patient I (WF)

29. Between April 5 and December 15, 2021, Respondent prescribed Hydrocodone-Acetaminophen 10-325mg tablets (Qty 180 for a 30 day supply) to Patient I (born in 1951). Respondent also prescribed Carisoprodol 350mg tablets (Qty 120 for a 30 day supply) to Patient I between April 16 and November 23, 2021.

30. For prescriptions dated April 16, June 28, August 24, September 22, October 18, November 19, November 23 and December 15, 2021, Respondent or his delegates failed to check the PDMP database prior to prescribing.

31. The total MME prescribed to Patient I was 120 MME/day, which exceeds the maximum amount recommended by the Board's Opioid Prescribing Guidelines.

32. The Board's Opioid Guidelines advise that there is no evidence base to support efficacy of opioid doses over 90 MME and there are dramatically increased risks with such dosing;

therefore, dosing above this level is strongly discouraged, and appropriate documentation to support such dosing should be present in the chart.

33. In general, the records reviewed reflect that Respondent prescribed high doses of opioids to Patients A, B, C, D, E, F, G, H and I without sufficient documentation to support such dosing. Specifically, Respondent failed to document physical exams that reflected the need for high dose opioids, did not use an opioid risk tool or assessment, and failed to document pain scores or functional improvement or benefit of opioids sufficient to warrant continued prescribing.

34. Respondent prescribed Carisoprodol to Patient I despite the fact that Carisoprodol is not recommended in combination with opioids as it is metabolized to meprobamate (a Schedule IV drug with potential for abuse) similar to benzodiazepines.

35. 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. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct 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, within the meaning of Wis. Admin. Code § Med 10.03(2)(c).

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct 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., within the meaning of Wis. Admin. Code § Med 10.03(2)(b).

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 (license no. 22964-20) is LIMITED as follows:

- a. Within six (6) months from the date of this Order, Respondent shall at his own expense take and successfully complete the *Intensive Course in Controlled Substance Prescribing* Continuing Medical Education (CME) course offered by

Case Western Reserve University School of Medicine for a total of 23.50 AMA PRA Category 1 Credits.

- 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. 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.
- c. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed 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 \$1,237.00.

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

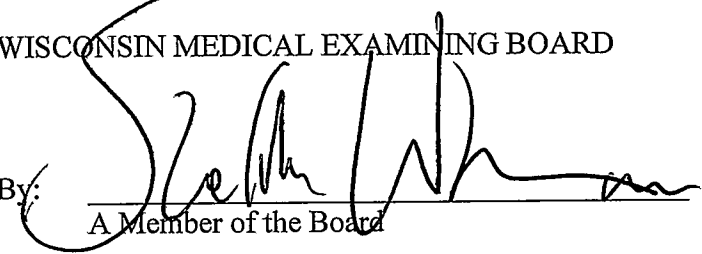
Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 22964-20), or Respondent's right to renew his 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:


A Member of the Board

5/17/23
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DALE E. BAUWENS, M.D.,
RESPONDENT.

STIPULATION

ORDER 0008551

Division of Legal Services and Compliance Case No. 22 MED 176

Respondent Dale E. Bauwens, 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 Paul Erickson.

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.

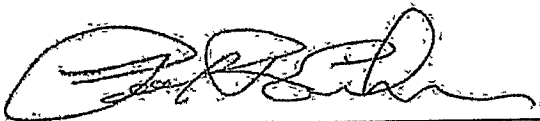
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Dale E. Bauwens, M.D., Respondent
Wauwatosa, WI 53226
License No. 22964-20

4/29/2023

Date



Paul Erickson, Attorney for Respondent
Gutglass Erickson Larson and Schneider SC
735 N Water Street, Ste 1400
Milwaukee, WI 53202

5/1/2023

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

05/02/2023

Date