

## 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/wscca>

- 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](mailto:DSPS@wisconsin.gov)

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
DAVID M. MARTIN, A.A.-C., :  
RESPONDENT. :  
**ORDER 0008694**

---

Division of Legal Services and Compliance Case No. 23 MED 110

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

David M. Martin, A.A.-C.  
Waterloo, WI 53594

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 David M. Martin, A.A.-C., (Year of Birth 1984) is licensed in the state of Wisconsin as an anesthesiologist assistant, having license number 19-17, first issued on November 1, 2012, and current through September 30, 2024. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Waterloo, Wisconsin 53594.

2. At all times relevant to this proceeding, Respondent practiced as an anesthesiologist assistant at a hospital located in Madison, Wisconsin (Facility).

3. On January 17, 2023, security staff at the Facility discovered an empty vial of ketorolac and prefilled syringes of ketamine, as well as used needles, in the men's locker room

bathroom. The Facility reviewed the ketamine dispensing history for January 17, 2023, and it was determined that Respondent was the only male to dispense ketamine on that date. A review of Respondent's security card access showed that after he dispensed the ketamine, his badge was used to enter the men's locker room.

4. On January 20, 2023, the Facility interviewed Respondent. Respondent admitted to diverting waste ketamine and waste fentanyl on January 17, 2023, from the Facility for his own personal use. Respondent claimed this was the first and only date on which he had done so. Respondent consented to a urine drug screen (UDS) which was positive for marijuana.

5. On March 3, 2023, the Facility terminated Respondent's employment.

6. In a statement to the Department, Respondent admitted to diverting waste ketamine and waste fentanyl for his own personal use on January 17, 2023, and using it in the locker room after his shift ended. Respondent claims he did this because he suffers from depression and anxiety due to a medical condition. He also explained that his positive UDS result was a result of him taking Delta-8 CBD gummies in an effort to sleep better.

7. Respondent maintains that since this incident he has been prescribed medications for depression and started counseling to address the depression and anxiety caused by his medical condition.

8. On March 15, 2023, Respondent completed an alcohol and other drug abuse assessment, which determined that Respondent does not meet the DMS-5 criteria for a substance use disorder and recommended that Respondent continue therapy to address his mental health needs as well as complete substance use education.

9. 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. 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.

3. Based on the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(e) by administering, dispensing, prescribing, supplying, or obtaining a controlled substance as defined in s. 961.01(4), Stats., other than in the course of legitimate professional practice, or as otherwise permitted by law.

4. As a result of the above violations, 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 to practice as an anesthesiologist assistant in the state of Wisconsin (license number 19-17) is LIMITED as follows:
  - a. For a period of at least two (2) years from the date of this Order:
    - i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
    - ii. 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 substantial violation of this Order. The requirements shall include:
      1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
      2. 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.
      3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (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.
    - iii. Respondent shall abstain from all personal use of alcohol.
    - iv. 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, 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.

- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within twenty-four (24) hours of ingestion or administration 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.
- vi. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that he 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 alcohol, create false positive screening results, or otherwise interfere with Respondent's test results, treatment, or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph 3(a)v. 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.
- vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- viii. 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.
- ix. Respondent shall practice only in a work setting pre-approved by the Board or its designee.

- x. Respondent shall provide his or her employer with a copy of this Order and any subsequent order modifying this Order before engaging in any employment. Respondent shall provide the Department Monitor with written acknowledgment from each employer that a copy of this Order and any subsequent order modifying this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order and any subsequent order modifying this Order for employment current as of the date of this Order.
- xi. Respondent shall not work as an anesthesiologist assistant or other health care provider in a setting in which Respondent has unsupervised access to controlled substances. However, Respondent may have access to controlled substances only in the pre-operative area or procedure room and in connection to a procedure may procure and administer medications under the supervision of another health care provider. Respondent shall provide the Department Monitor with written acknowledgment from each employer that Respondent does not have unsupervised access to controlled substances. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each employer.

4. A violation of this Order includes a positive drug or alcohol screen.

5. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

6. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$479.00.

7. 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://dspsmonitoring.wi.gov>.

8. In the event Respondent violates any term of this Order, Respondent's license to practice as an anesthesiologist assistant in the state of Wisconsin (number 19-17), 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.

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

WISCONSIN MEDICAL EXAMINING BOARD

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

8/16/2023  
Date

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DAVID M. MARTIN, A.A.-C.,  
RESPONDENT.

:  
:  
:  
:  
:  
:

STIPULATION

ORDER 0008694

---

Division of Legal Services and Compliance Case No. 23 MED 110

Respondent David M. Martin, A.A.-C., 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 Mario Mendoza.

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



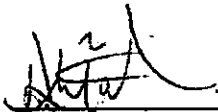
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.



\_\_\_\_\_  
David M. Martin, A.A.-C., Respondent  
Waterloo, WI 53594  
License No. 19-17

7.19.23

\_\_\_\_\_  
Date



\_\_\_\_\_  
Mario Mendoza, Attorney for Respondent  
Murphy Desmond, S.C.  
33 E. Main St., Ste. 500  
Madison, WI 53703

7-21-23

\_\_\_\_\_  
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

07/26/2023

\_\_\_\_\_  
Date