

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
NEDAL S. MEJALLI, M.D., : LS0901237MED
RESPONDENT. :

[Division of Enforcement Case No. 06 MED 029]

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

Nedal S. Mejalli, M.D.
8348 Washington Avenue
Racine, WI 53406

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

This disciplinary proceeding was commenced by the filing and service of a Complaint and Notice of Hearing on January 23, 2009. The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining 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

1. Nedal S. Mejalli, M.D., Respondent, date of birth January 13, 1962, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 35998, which was first granted September 23, 1994.

2. Respondent's last address reported to the Department of Regulation and Licensing is 8348 Washington Avenue, Racine, WI 53406.

3. Respondent's practice specialty listed with the Department is family practice.

4. At the time of the events set out below, Respondent was employed as a physician at Aurora Health Center in Racine, Wisconsin.

5. On October 14, 2003, Patient TC established care with Respondent for treatment of depression and chronic back pain. Respondent prescribed oxycodone and Celexa, an antidepressant.

6. Patient TC remained under Respondent's care from October 2003 through 2008, except for the period between May 2004 and February 2005. Respondent treated Patient TC for chronic back pain, neck pain, gastroesophageal reflux disease, anxiety, migraines, depression and irritable bowel syndrome with constipation.

7. Between October 14, 2003 and May 2004, Respondent prescribed oxycodone to address Patient TC's back pain.

8. Between February 2005 and November 2005, Respondent prescribed medications for Patient TC's depression and anxiety, but prescribed oxycodone only once during that period - on May 20, 2005.

9. Patient TC's medical record reflects that, beginning on July 24, 2005, she was taking methadone, although not prescribed by Respondent.

10. According to Respondent, in December 2005, Patient TC told him she had been receiving methadone through a pain management clinic, but she could no longer afford it. Respondent states that Patient TC asked him to prescribe the methadone for her and he agreed to commence the methadone prescription in January 2006, after her existing prescription ran out.

11. Respondent first prescribed methadone for Patient TC on January 3, 2006 and continued to do so through July 2008. During that time, he discussed his opinion that Patient TC would eventually need to discontinue the methadone, he emphasized the need for Patient TC to continue physical exercises, and at times he required Patient TC to come to his office more frequently than usual.

12. Respondent prescribed methadone for Patient TC without first verifying the source of her original methadone prescription, without verifying the reason methadone was prescribed, without consulting other physicians concerning the source of her pain, without communicating with her pharmacist and without confirming that she had stopped getting the drug from another source. Respondent prescribed methadone for Patient TC without documenting functional treatment goals for the patient, and without documenting progress toward those goals. Additionally, the medical record does not indicate that Respondent referred Patient TC for physical therapy, evaluation for surgery or other alternative treatment.

13. Respondent states that he required Patient TC to complete a narcotics contract in 2006 and 2007, however no contract was present in the medical record. Respondent located a copy of a 2007 contract, but could not produce a copy of the purported 2006 contract. During the time he prescribed methadone for Patient TC, Respondent failed to do any toxicology testing or pill counts to assess her compliance with the contract.

14. Because Respondent did not verify the source of Patient TC's original methadone prescription and/or do toxicology testing, he was unaware that between June 16, 2004 and January 19, 2006, Patient TC received methadone at a narcotic maintenance treatment program for opioid addiction.

15. Pharmacological properties of methadone make misuse of methadone particularly risky; its slow onset and long half-life create the potential for unexpected high blood levels and overdose.

16. Respondent's failure to conduct toxicology testing or use other tools to assess Patient TC's compliance with opioid prescriptions created an unjustifiable risk to the health, safety and welfare of Patient TC and fell below the standard of care.

17. Respondent's failure to verify the source of Patient TC's original methadone prescription created an unjustifiable risk to the health, safety and welfare of Patient TC and the general public, and fell below the standard of care.

18. The Medical Examining Board encourages physicians to view effective pain assessment and management, which may include the use of opioid analgesics, as part of quality medical care for all patients with pain, including patients with a history of drug abuse. Because opioid analgesics are subject to abuse by individuals who seek them for mood altering effects, physicians who prescribe these drugs should be diligent and incorporate established safeguards into their practices to minimize the potential for their diversion and abuse.

19. Respondent has successfully completed the following Category I continuing medical education in appropriate prescribing of controlled substances, which were pre-approved by the Board: *Pain Medicine: A State-of-the-Art Course in Pain Management for the Non-Pain Specialist*, Sponsored by the Mayo School of Continuing Medical Education (March 5-7, 2009); and *Intensive Course in Controlled Substance Management* offered by Case Western Reserve University--Continuing Medical Education (May 21-22, 2009).

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3) and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent's failure to conduct toxicology testing or otherwise objectively assess Patient TC's compliance with the methadone prescription created an unjustifiable risk to the health, safety and welfare of Patient TC and fell below the standard of care. Respondent's failure constitutes unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h), and he is subject to discipline pursuant to Wis. Stat. § 448.02(3).

3. Respondent's failure to verify the source of Patient TC's original methadone prescription created an unjustifiable risk to the health, safety and welfare of Patient TC and the general public, and fell below the standard of care. Respondent's failure constitutes unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h), and he is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Nedal S. Mejalli, M.D., Respondent, is hereby REPRIMANDED for the above conduct.

2. Respondent having completed the relevant continuing education set out in Finding of Fact 19, no further education is required. Respondent is prohibited from applying these educational credits toward satisfaction of the continuing education required during the November 1, 2007 through October 31, 2009 registration biennium or subsequent bienniums.

3. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$2,350.00 pursuant to Wis. Stat. § 440.22(2).

4. Payments required by this Order shall be mailed, faxed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264

5. In the event that Respondent fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

By: Gene Musser
A Member of the Board

6/20/09
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
NEDAL S. MEJALLI, M.D.,	:	<u>LS 0901237 MED</u>
RESPONDENT.	:	

[Division of Enforcement Case No. 06 MED 029]

It is hereby stipulated and agreed, by and between Nedal S. Mejalli, M.D., Respondent; Paul R. Erickson of Gutglass, Erickson, Bonville & Larson, S.C., attorneys for Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement (file 06 MED 029). Respondent consents to the resolution of this matter by stipulation and without a hearing.

2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.

4. Respondent neither admits nor denies the allegations in this matter, but acknowledges that there is evidence from which the Board could make the findings and draw the conclusions set out in the attached Final Decision and Order, and agrees to the adoption of the attached Final Decision and Order by the 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 be returned to the administrative law judge for further proceedings. In the event that this 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 consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case 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 Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Nedal S. Mejalli, M.D.
Respondent
8348 Washington Avenue
Racine, WI 53406

Date

Paul R. Erickson
Gutglass, Erickson, Bonville & Larson, S.C.
Attorneys for Respondent
735 N. Water Street #1400
Milwaukee, WI 53202-4106

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date