

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
KATHLEEN M. LEMKE, R.N., A.P.N.P.,	:	
RESPONDENT.	:	ORDER 00 00985

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Division of Enforcement Case No. 07NUR075

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

Kathleen M. Lemke, A.P.N.P.  
9536 W. Oklahoma Ave.  
West Allis, WI 53227-4302

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

Board of Nursing  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

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 Board of Nursing. 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. Kathleen M. Lemke, A.P.N.P., (DOB 05/21/1949) is duly licensed as a registered nurse and an advanced practice nurse prescriber in the State of Wisconsin (license Nos. 983-33 and 54363-030). Her first license was granted on December 4, 1997, and expires September 30, 2012.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 9536 W. Oklahoma Avenue, West Allis, Wisconsin 53227-4302.

3. At all times relevant to this action, Respondent was employed as an advanced nurse practitioner prescriber in pediatrics. She primarily was assigned to provide patient services at Southeastern Pediatric and Adolescent Medicine clinic at 8532 W. Capitol Drive, Milwaukee, WI 53222 and at 1725 College Ave., South Milwaukee, WI 53172. Respondent's employer and supervisor was Dr. Noemi Prieto.

4. Respondent has no financial interest in Southeastern Pediatric and Adolescent Medicine other than the wages she receives as an employee.

5. In February 2006 Respondent was advised that Dr. Prieto had hired Rafael M. Nunez, M.D. to work for Southeastern Wisconsin Pediatric and Adolescent Medicine. Respondent was advised that Nunez obtained his medical degree in Columbia in 1979 and had completed his residencies in immunology and in pediatrics in Columbia between 1979 and 1983. She was told Nunez had a Master of Science in microbiology-immunology from the University of Iowa and provided clinical medical services at Sloan-Kettering in New York and the University of Illinois Chicago and had taught in the medical school.

6. Respondent was told that Nunez was in the process of applying for and obtaining licensure in Wisconsin and that Dr. Prieto wanted Respondent to provide supervision of Nunez.

7. After Nunez started work at the South Milwaukee clinic on March 5, 2006, Respondent began supervision of Nunez. Initially, Respondent was present throughout Nunez's patient encounters and observed the examinations he conducted and the questions he asked of the patient and the patient's parent or parents and other family members. During the encounter, Respondent asked Nunez questions to evaluate his medical evaluations, diagnoses, proposed treatment and reviewed his charting. After the passage of time she concluded that Nunez was thorough, competent, and correct in his patient encounters and gradually Respondent reduced the amount of time she spent in each encounter but would have Nunez leave the examination room and explain the patient's case with her and his recommended treatment. This continued until Respondent would not be present for the patient encounter but would have Nunez come out and meet her and explain his finding, potential complicating causes and recommended treatment. If Nunez suggested a prescription she would discuss it with Nunez including whether it was available to be prescribed and Respondent would then sign the prescription order and give it to Nunez including what instructions were to be given to the patient and parent and whether the parent would be able to have the prescription filled.

8. On September 8, 2006, Patient AZ was seen by Nunez for acne. After his examination Nunez came to Respondent to discuss his findings including that there was no evidence of any other illness or disease that was causing the acne and his plan for the patient to use Tretinoin and would also recommend a dermatology referral. Respondent agreed that Tretinoin would be the first line therapy that she would prescribe based on the circumstances. The only possibly better treatment would be Differin gel which insurance companies won't pay for. Respondent then signed a prescription order and had Nunez fill out the form and instructed Nunez to give the patient and parent directions on filling and using the prescription. Respondent also reviewed the chart of the patient encounter which Nunez entered and scaled. Because of the computer charting software then being used by Southeastern Pediatric and Adolescent Medicine was using, Respondent was not able to co-sign the chart.

9. Respondent has cooperated with a federal investigation concerning the facts stated above.

10. The act of prescribing medication to treat human health, constitutes the practice of medicine and surgery. Wis. Stat. 448.01(9).

11. Respondent's acts in providing prescriptions for the patients of an unlicensed Wisconsin physician, without personally and directly supervising or providing the patient care, constitutes aiding a violation of Wis. Stat. § 448.03, which, under the facts and circumstances of this case is a law substantially related to the practice of nursing.

#### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 441.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. By her conduct as set forth above, Respondent has aided and abetted a violation of a law substantially related to the practice of professional nursing, which unprofessional conduct as that term is defined at Wis. Admin. Code § N 7.04(1). Respondent is therefore subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

#### ORDER

THEREFORE, IT IS HEREBY ORDERED that Kathleen M. Lemke, RN, APNP, is REPRIMANDED.

IT IS FURTHER ORDERED that for two years from the date of this Order, the license of Kathleen M. Lemke, RN, APNP, to practice nursing in the state of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:

1. Respondent shall, within 180 days of the date of this Order, and at her own expense, complete six (6) hours of pre-approved education in legal aspects of prescribing. Respondent is responsible for finding an appropriate course and submitting the course information to the Board for approval prior to taking the course and in sufficient time to obtain board approval within the 180 day time frame, taking into account the board's meeting schedule. Respondent shall provide proof of completion of the continuing education to the Department Monitor.

2. Respondent shall provide employer(s) with a copy of this Order before engaging in the practice of nursing, in any paid or unpaid capacity.

3. Respondent shall arrange for quarterly reports from her employer(s) reporting the terms and conditions of her employment and evaluating her work performance.

4. Pursuant to Uniform Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation. This requirement may be

waived only upon the prior written authorization of both the Wisconsin Board of Nursing and the regulatory board in the state in which Respondent proposes to practice.

5. Respondent shall notify the Department Monitor of any change of nursing employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.

6. Respondent shall, within ninety (90) days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of four hundred dollars (\$400.00) pursuant to Wis. Stat. § 440.22(2).

7. All petitions, payments, reports and other correspondence shall be mailed 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  
Telephone (608) 267-3817

8. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered, Respondent's 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 this Order.

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

BOARD OF NURSING

By: L. Weiss RN APRN  
Member of the Board

Date 7/2/11