

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :

STEVEN D. NICHOLS, M.D. :

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:
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FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION

0004076

Division of Legal Services and Compliance Case No. 14 MED 131

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

Steven D. Nichols, M.D.
212 Sturgeon Eddy Road
Wausau, WI 54403

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 Wisconsin 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. Licensee Steven D. Nichols, M.D., (dob December 15, 1960) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 29492-20, first issued on July 1, 1988, with registration current through October 31, 2015. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 212 Sturgeon Eddy Road, Wausau, Wisconsin 54403.

2. At all times pertinent to this matter, Licensee practiced family medicine at a clinic, located in Wausau, Wisconsin.

3. Patient A asserts that Licensee obtained bodily fluids (urine and blood) from her under false pretenses and further, performed drug screens on her without her knowledge and consent.

4. Licensee began providing prenatal care to Patient A, a 22-year old female, on or about July 15, 2013. At the time, Patient A was being concurrently treated at a pain clinic in Wausau for chronic back pain/scoliosis, and was prescribed oxycodone. Given her pregnancy, Licensee discontinued the oxycodone and began prescribing Vicodin®.

5. On October 17, 2013, Patient A sought treatment from Licensee for substance abuse based upon her admission that she was addicted to heroin. She was requesting a refill of her Vicodin®, which she claimed to have lost. Licensee, in consultation with the pain clinic, refilled the Vicodin®.

6. On October 23, 2013, Patient A again contacted Licensee requesting a refill of her medication, which she claimed had been stolen. Licensee required her to provide a urine sample for drug screening prior to obtaining a refill. Patient A provided the urine sample, the results of which were negative. Licensee authorized a refill of the Vicodin®.

7. On October 29, 2013, Licensee saw Patient A for a routine OB exam. Licensee obtained a urine sample for drug screening. The results were negative. Licensee refilled Patient A's Vicodin® prescription.

8. On November 13, 2013, Licensee saw Patient A for a routine OB exam. Patient A requested a Vicodin® refill. Licensee authorized the refill, but noted that she did not provide a urine test so "we have no idea whether or not she is taking in this or not."

9. On December 5, 2013, Licensee saw Patient A for her routine OB exam. Licensee notes that Patient A had not followed up with the pain clinic as he had requested and also noted her failure to bring in a urine sample for them to test. Licensee specifically notes that "I believe she is aware that I am checking these for drug screen at this time given her narcotic use." On that date, Licensee arranged for Patient A's blood to be drawn for a glucose tolerance test and hemogram. He also ordered that it be screened for drugs.

10. There is no indication in the record that Licensee informed Patient A that her blood would be screened for drugs. Patient A's December 5, 2013 blood sample tested positive for methamphetamine and opiates. Licensee conveyed that information to county social services agency per their October 29, 2013 request.

11. On December 11, 2013, and again on December 30, 2013, Licensee authorized a refill of Patient A's Vicodin® prescription.

12. On January 2, 2014, Licensee saw Patient A for her routine OB exam. She informed Licensee and his staff that she would never give the doctor urine or blood sample again because of the drug screens. Patient did not request, but was given a partial refill of Vicodin®.

13. On January 9, 2014, Licensee saw Patient A for a routine OB exam. Licensee was aware at that time that Patient A had tested positive the week before for oxycodone, opiates, methadone, methamphetamine and marijuana. Licensee authorized a partial Vicodin[®] refill on that date, and again on January 13, 2014.

14. On January 21, 2014, Licensee saw Patient A for her routine OB exam. He notes that Patient A continued to follow up with the methadone clinic through which she was getting her drug screens. He further notes “[s]he did give us a urine today but almost dared us to do a drug screen on it.” Licensee re-filled Patient A’s Vicodin[®] prescription, and again on January 31st.

15. On February 3, 2014, Patient A requested an early refill of Vicodin[®], alleging that her medication had been stolen. Notwithstanding a police officer indicating that Patient A’s report of the theft was incredible and that Patient A seemed “out of it,” Licensee refilled the narcotics prescription.

16. On March 7, 2014, Patient A called to terminate Licensee’s services as her physician.

17. Licensee routinely prescribed and refilled Vicodin[®] to treat Patient A’s scoliosis from July of 2013 until her self-discharge from his care on or about February 7, 2014.

18. There is no consent for treatment, drug contract or other such documentation in Patient A’s medical records.

19. During the pendency of this proceeding, Licensee completed a 1 credit course on safe and competent opioid prescription; and a 1 credit course on the changing nature of informed consent.

20. In resolution of this matter, Licensee consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. The Board recognizes the aforementioned continuing education courses as the equivalent of the education the Board would have otherwise required. The courses attended may not be used in satisfaction of the statutory continuing education requirements for licensure.

3. Within 6 months of the date of this Order, Steven D. Nichols, M.D., shall at Licensee’s own expense, take and successfully complete an additional education as follows:

- a. A minimum of three (3) hours of continuing education on the topic of informed consent.
 - b. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
 - c. The Board or its designee may reject any course(s) and may accept a course(s) for less than the number of hours of which Licensee seeks approval.
 - d. Licensee shall submit proof of successful completion of the education in the form of verification from the institution 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 education requirements that have been or may be instituted by the Board or Department.
4. Within 90 days from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$1392.00.
5. Request of approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Licensee to the Department Monitor at the address below:

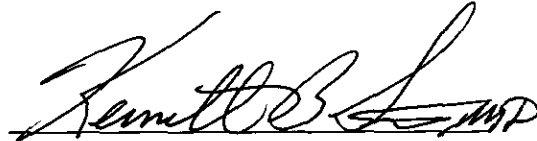
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

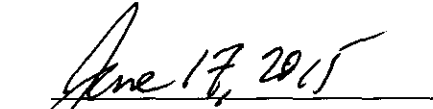
6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Licensee's license. The Board in its discretion may in the alternative impose additional conditions and limitations for a violation of any of the terms of this Order. In the event Licensee fails to timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Licensee's license (no. 29492-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Licensee has complied with payment of the costs and completion of the education.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
: STIPULATION
STEVEN D. NICHOLS, M.D. :
:

0004076

Division of Legal Services and Compliance Case No. 14 MED 131

Licensee Steven D. Nichols, 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. Licensee consents to the resolution of this
investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and
knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by
subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the
Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and
other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation. Licensee is
represented by Attorney Paul Erickson of Gutglass, Erickson, Bonville, Seibel, and Falkner, S.C.

4. Licensee agrees to the adoption of the attached Final Decision and Order for
Remedial Education by the Wisconsin Medical Examining Board (Board). The parties to the
Stipulation consent to the entry of the attached Final Decision and Order for Remedial Education
without further notice, pleading, appearance or consent of the parties. Licensee 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


Stipulation
In the matter of the License of
Steven D. Nichols, M.D., Case no. 14 MED 131

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 Licensee, 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 for Remedial Education.

7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order for Remedial Education.


Steven D. Nichols, M.D., Licensee
212 Sturgeon Eddy Road
Wausau, WI 54403
License No. 29492-20

5/29/2015
Date


Paul Erickson, Attorney for Respondent
Gutglass, Erickson, Bonville, Seibel, & Falkner, S.C.
735 N. Water Street #1400
Milwaukee, WI 53092

6/9/2015
Date


Yolanda Y. McGowan, Prosecuting Attorney
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

6/10/15
Date