

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RACHEL E. MCCAULEY, R.N., A.P.N.P.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004537

Division of Legal Services and Compliance Case No. 14 NUR 383

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

Rachel E. McCauley, R.N., A.P.N.P.
745 Imperial Ct.
West Bend, WI 53095-4319

Wisconsin Board of Nursing
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 Board of Nursing (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 Rachel E. McCauley, R.N., A.P.N.P., (dob May 14, 1984) is licensed in the State of Wisconsin as a professional nurse, having license number 161389-30, first issued on March 7, 2008 and current through February 29, 2016. Respondent is also certified in the State of Wisconsin as an advanced practice nurse prescriber, having certificate number 5590-33, first issued on November 7, 2013 and current through September 30, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 745 Imperial Court, West Bend, Wisconsin 53095-4319.

2. At all times relevant to this proceeding, Respondent was employed as an advanced practice nurse prescriber at a pain clinic (Clinic) located in Wauwatosa, Wisconsin.

3. Respondent currently holds a Drug Enforcement Agency (DEA) Certificate of Registration (COR) (number MM3080087) to prescribe controlled substances.

4. Between January 2014 and May 2015, Respondent wrote 1,747 prescriptions for oxycodone which was 65% of her total prescriptions.

5. During the same time period, Respondent wrote 259 prescriptions for methadone which was 10% of her total prescriptions.

6. On October 13, 2015, Respondent was interviewed by Department investigators regarding her prescribing practices and admitted the following:

- a. Respondent admitted to not having much experience treating chronic pain patients prior to being employed at the Clinic and was told she would receive additional training at the Clinic.
- b. Respondent admitted to writing prescriptions for patients who she felt were not taking the medication and, in some cases, were selling the medication. Respondent did this because she felt compelled to by Clinic management but understands her prescribing is her responsibility.
- d. Respondent attempted to discharge some of the patients. Respondent admitted to prescribing to these patients after they subsequently came back to the Clinic.
- e. In hindsight, Respondent admitted that she felt approximately 50% of her patients had a legitimate need for pain medication.
- f. In hindsight, Respondent stated that she did not have enough experience as an A.P.N.P. at the time to be confident about what she now knows to be "right."
- g. Respondent admitted to predating prescriptions and acknowledged that, in hindsight, it is "bad practice" to do so.
- h. In hindsight, Respondent admitted to prescribing narcotics to patients without a legitimate medical purpose.
- j. Respondent admitted that she was not 100% comfortable getting informed consent when prescribing methadone to patients.
- l. In hindsight, Respondent admitted to having doubts about whether her prescribing put patients at risk.
- m. Respondent admitted to prescribing benzodiazepine, in addition to opiates, to chronic pain patients because they have "anxiety and depression issues." Respondent also suggested other alternatives.

- n. Respondent acknowledged the dangers of prescribing benzodiazepine and opiates to a patient.
- o. Respondent admitted that she is not comfortable prescribing controlled substances.
- p. During the investigation, Respondent completed 21 hours of education on the topic of opioids, pain management, and addiction through an educator approved by the Board.

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

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 pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Rachel E. McCauley, R.N., A.P.N.P., violated Wis. Admin. Code § N 7.03(b)¹, by an act or omission demonstrating a failure to maintain competency in practice and methods of nursing care.

3. By the conduct described in the Findings of Fact, Rachel E. McCauley, R.N., A.P.N.P., violated Wis. Admin. Code § N 8.06(1), by issuing prescription orders not appropriate to her area of competence, as established by her education, training or experience.

4. By violating Wis. Admin. Code § N 8.06(1), Rachel E. McCauley, R.N., A.P.N.P., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.04(13m)², by violating any provision of s. 441.16, Stats., or ch. N 8.

5. By the conduct described in the Findings of Fact, Rachel E. McCauley, R.N., A.P.N.P., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(6)(a), by failing to perform nursing with reasonable skill and safety.

6. By the conduct described in the Findings of Fact, Rachel E. McCauley, R.N., A.P.N.P., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(6)(c), by departing from or failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety.

7. As a result of the above conduct, Rachel E. McCauley, R.N., A.P.N.P., is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

¹ This reference to Wis. Admin. Code § N 7.03 refers to the Code as it existed before August 1, 2014.

² This reference to Wis. Admin. Code § N 7.04 refers to the Code as it existed before August 1, 2014.

ORDER

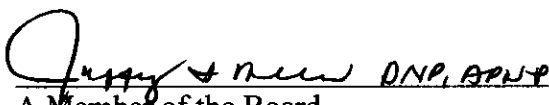
1. The attached Stipulation is accepted.
2. Respondent Rachel E. McCauley, R.N., A.P.N.P., is REPRIMANDED.
3. Within one (1) year from the date of this Order, Rachel E. McCauley, R.N., A.P.N.P., shall pay COSTS of this matter in the amount of \$3,350.00.
4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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

5. 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 Respondent fails to timely submit payment of the costs as ordered, Respondent's nursing license (no. 161389-30) and her prescribing certificate (no. 5590-33) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the payment of costs.

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

WISCONSIN BOARD OF NURSING

by:  DNP, APRN
A Member of the Board

5-11-14
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RACHEL E. MCCAULEY, R.N., A.P.N.P.,
RESPONDENT.

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STIPULATION

0004537

Division of Legal Services and Compliance Case No. 14 NUR 383

Respondent Rachel E. McCauley, R.N., A.P.N.P., 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 Lori Gendelman.


4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (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.

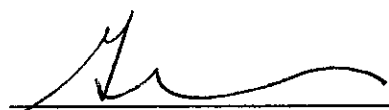
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

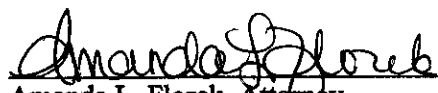
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Rachel E. McCauley, R.N., A.P.N.P., Respondent
745 Imperial Ct.
West Bend, WI 53095-4319
License nos. 161389-30 and 5590-33

1/18/16
Date


Lori Gendelman, Attorney for Respondent
Otjen, Gendelman, Zitzer, Johnson & Weir, S.C.
20935 Swenson Drive, Suite 310
Waukesha, WI 53186

1/18/16
Date


Amanda L. Florek, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison WI 53707-7190

1/19/16
Date