

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
DAVID W. ANDREWS, P.A., :
RESPONDENT. :

0004658

Division of Legal Services and Compliance Case No. 14 MED 331

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

David W. Andrews, P.A.
230 Prospect Avenue
De Pere, WI 54115

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 W. Andrews, P.A., (DOB February 13, 1968), is licensed in the state of Wisconsin to practice as a physician assistant, having license number 1064-23, first issued on January 8, 1999, and current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 230 Prospect Avenue, De Pere, Wisconsin 54115.

2. Between February 12, 2007 and April 6, 2007, Patient A, a female born in 1965, was treated for wrist pain by Physician A at a medical facility in Green Bay, Wisconsin, (the Clinic).

3. Physician A diagnosed Patient A with a potential ganglion cyst and tendinitis at the wrist, and ordered a splint and work restrictions. Patient A's condition improved with the use of the splint and she returned to work without restrictions in April 2007.

4. On September 10, 2007, Patient A presented to the Clinic for recurrent wrist pain and was seen only by Respondent. Respondent charted that Patient A appeared to have a superficial ganglion cyst forming over the flexor pollicis tendon which was secondary to repetitive motion. Respondent recommended follow-up in one week and did not order any work restrictions. Respondent's charting of the visit was incomplete as follows:

If we _____ some of the inflammation, then she will ultimately need the cyst excised, and should avoid trauma.

5. Physician A did not see Patient A on September 10, 2007, but cosigned Respondent's note of the visit.

6. On September 17, 2007, Patient A returned to the Clinic for a wrist recheck. Respondent performed a physical exam of Patient A's wrist and charted the following:

... Musculoskeletal, inspection of the right wrist revealed some cystic fullness over the dorsal radial aspect of the right wrist suspicious for a ganglion cyst. However, it has not been confirmed by a biopsy. Normal range of motion and normal sensation. The cyst is not pulsatile. ...

7. Respondent recommended and that same day performed a cyst excision, charting:

... A very small tangentially-oriented incision was made with a #15 blade. Blunt dissection used to try to remove this cystic material, which appeared to be more of a fibrofatty tissue than ganglion pulsatile mass. Much of the cystic material was removed. All done in a careful fashion. No pulsatile bleeding, though she had a modest amount of bleeding, which was controlled ... The fibro fatty tissue area, which was excised, will be sent for analysis. No objective evidence of a ganglion cyst.

8. Respondent's charting for the September 17, 2007 procedure was signed by Respondent. No physician was present for the procedure; however, Physician B subsequently cosigned Respondent's note.

9. Pathology analysis of the tissue removed by Respondent on September 17, 2007, did not identify any cyst material.

10. Patient A was subsequently seen by Physician C at another facility after she complained of a pins and needles sensation. Physician C determined that Patient A suffered nerve damage as a result of the September 17, 2007 procedure performed by Respondent.

11. On February 5, 2008, Physician C performed ganglion cyst removal procedure on Patient A because Respondent had not successfully removed the cyst on September 17, 2007.

12. Performing the excision of a ganglion cyst is outside the scope of practice of a physician assistant. By performing a procedure for which he was unqualified to perform, Respondent's practice fell below the standard minimal competence and subjected Patient A to a higher risk of complications, including injury to nerves, arteries, tendons, and/or the joint itself.

13. A minimally competent physician assistant would not have performed the procedure as it was not emergent or even urgent and time for referral back to a physician was well within reason.

14. During the investigation by the Department, Respondent failed to timely comply with the Department's request for information regarding his care and treatment of Patient A.

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

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining 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. By the conduct described in the Findings of Fact, Respondent David W. Andrews, P.A., violated Wis. Admin. Code § Med 8.07(2) (Jan. 2000) by practicing outside the scope of medical care a physician assistant may provide.

3. By the conduct described in the Findings of Fact, Respondent David W. Andrews, P.A., engaged in unprofessional conduct as defined by Wis. Stat. § 10.03(3)(g) by failing to cooperate in a timely manner with the board's investigation.

4. As a result of the above conduct, David W. Andrews, P.A., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent David W. Andrews, P.A., is REPRIMANDED.
3. Within 90 days from the date of this Order, David W. Andrews, P.A., shall pay COSTS of this matter in the amount of \$798.00.
4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent 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

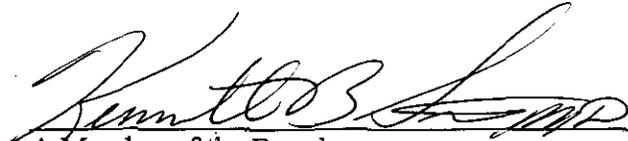
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

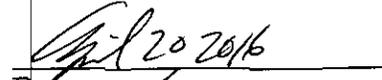
5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (1064-23) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

6. 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 DISCIPLINARY
PROCEEDINGS AGAINST

DAVID W. ANDREWS, P.A.,
RESPONDENT.

STIPULATION

0004658

Division of Legal Services and Compliance Case No. 14 MED 331

Respondent David W. Andrews, P.A., 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.

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.

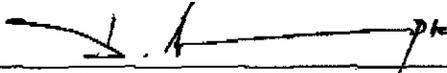
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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, 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.

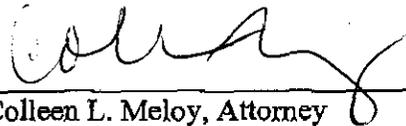
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David W. Andrews, P.A., Respondent
2110 River Point Court
De Pere, WI 54115
License no. 1064-23

3/13/16

Date



Colleen L. Meloy, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4/11/16

Date