

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
AMY E. BERNARDS, P.A., :
RESPONDENT. :

0005090

Division of Legal Services and Compliance Case No. 15 MED 081

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

Amy E. Bernards, P.A.
4997 Meadow Side Lane
Waunakee, WI 53597

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 Amy E. Bernards, P.A. (DOB April 8, 1975), is licensed in the state of Wisconsin to practice as a physician assistant, having license number 1628-23, first issued on July 7, 2003, with registration current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4997 Meadow Side Lane, Waunakee, Wisconsin 53597.

2. At all times relevant to this matter, Respondent was employed as a physician assistant in the dermatology unit at a medical center, located in Reedsburg, Wisconsin (the Center).

3. On October 30, 2013, Respondent wrote a prescription for 60 tablets of Fioricet[®] to her sister, Jennifer K. Nale.

4. Ms. Nale is also a named respondent in this matter, and at all times relevant hereto, practiced with Respondent at the Center as a licensed physician assistant (license number 1771-23).

5. Between October 2013 and December 27, 2014, Respondent wrote 14 prescriptions for Fioricet[®] to Ms. Nale.

6. Between October 2013 and February 15, 2015, Ms. Nale refilled these prescriptions over 30 times.

7. When interviewed by Department staff in July 2015 about her prescribing to Ms. Nale, Respondent stated she prescribed Fioricet[®] to Ms. Nale about two years ago because Ms. Nale could not see her primary care physician. Respondent's statement was not completely truthful.

8. Respondent stopped prescribing Fioricet[®] to Ms. Nale in early 2015 after Respondent received a call from a pharmacist who reported Ms. Nale's repeated attempt to obtain early refills of Fioricet[®].

9. There was no established physician assistant-patient relationship between Respondent and Ms. Nale, when Respondent prescribed Fioricet[®] to Ms. Nale.

10. No healthcare records of Respondent's treatment of Ms. Nale were created.

11. Respondent did not inform her supervising physician or employer that she was prescribing Fioricet[®] to her sister. Therefore, Respondent's care and treatment of Ms. Nale was not supervised by a licensed physician.

12. Respondent and Ms. Nale engaged in multiple mutual exchanges of prescriptions for medication.

13. Between July 15, 2013 and May 11, 2015, Respondent obtained dozens of prescriptions from Ms. Nale for multiple medications.

14. On August 27, 2013, Respondent obtained her first Fioricet[®] prescription from Ms. Nale.

15. Respondent obtained additional Fioricet[®] prescriptions from Ms. Nale, which Respondent filled/refilled at least 20 times between December 12, 2013 and January 29, 2015.

16. Respondent filled prescriptions for medication written by Ms. Nale over 70 times between July 15, 2013 and May 12, 2015.

17. Respondent was not an established patient of Ms. Nale, at the time Respondent obtained prescriptions for medications from Ms. Nale.

18. Respondent stopped obtaining prescriptions for medication from Ms. Nale at the same time she stopped prescribing medications to Ms. Nale.

19. 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 Amy E. Bernards, P.A., violated Wis. Admin. Code § Med 8.07(1)¹ by practicing as a physician assistant without the supervision of one or more licensed physicians or physicians exempt from licensure requirements pursuant to s. 448.03(2)(b), Stats.

3. By the conduct described in the Findings of Fact, Respondent Amy E. Bernards, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(1)(f) by engaging in any act of fraud, deceit, or misrepresentation, including acts of omission to the board or any person acting on the board's behalf.

4. By the conduct described in the Findings of Fact, Respondent Amy E. Bernards, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(b) by departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

5. By the conduct described in the Findings of Fact, Respondent Amy E. Bernards, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(c) by prescribing, ordering, dispensing, administering, supplying, selling, giving, or obtaining any prescription medication in any manner that is inconsistent with the standard of minimal competence.

6. By the conduct described in the Findings of Fact, Respondent Amy E. Bernards, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(e) by failing to establish and maintain timely patient health care records, including records of prescription orders, under s. Med 21.03, or as otherwise required by law.

7. By the conduct described in the Findings of Fact, Respondent Amy E. Bernards, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(i) by violating any laws or rules of this state that is substantially related to the practice of medicine and surgery.

¹ All references to the Wisconsin Administrative Code are to the applicable provisions of the Code in effect at the time of the alleged conduct.

8. As a result of the above conduct, Amy E. Bernards, P.A., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Amy E. Bernards, P.A., is REPRIMANDED.
3. The physician assistant license issued to Amy E. Bernards, P.A., (license number 1628-23) is LIMITED as follows:
 - a. Within nine (9) months of the date of this Order, Respondent shall successfully complete ten (10) hours of education on the topic of professional ethics and boundaries.
 - b. Respondent shall be responsible for obtaining the courses required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the courses from the Wisconsin Medical Examining Board, or its designee, prior to commencement of the courses.
 - c. The Board or its designee may reject any course and may accept a course for less than the number of hours for which Respondent seeks approval.
 - d. Within thirty (30) days of completion of each educational component, Respondent shall file an affidavit with the Department Monitor stating under oath that she has attended, in its entirety, the course(s) approved for satisfaction of this requirement along with supporting documentation of attendance from the sponsoring organizations.
 - e. Respondent is responsible for all costs associated with compliance with this educational requirement.
 - f. None of the education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.
4. The physician assistant license issued to Amy E. Bernards, P.A., (license number 1628-23) is FURTHER LIMITED as follows:
 - a. Respondent shall submit, within forty-five (45) days of the date of this Order, to an alcohol and other drug (AODA) assessment as follows:
 - i. Respondent shall obtain an AODA assessment by a pre-approved AODA assessor, at a facility acceptable to the Board.
 - ii. Respondent shall provide a copy of this Final Decision and Order to the assessor, and shall ensure that the assessor contacts the Department to

allow the Department to provide any information from its investigative files deemed relevant.

- iii. Respondent shall execute an authorization for release of confidential information sufficient to allow the Department and the Board's representative to provide any information and materials to the assessor and subsequent treater that may be relevant, including but not limited to this Order and any other materials in the Department's investigative file. Respondent shall authorize the assessor and treater(s) if any, to communicate directly with the Board's representative, whether orally or in writing.
- iv. Respondent shall authorize the release of the assessor's report, and her complete patient health care record from the assessing or treating facility, directly to the Department Monitor as the Board's designee.
- v. Respondent shall participate in, cooperate with, and follow any and all treatment recommended by the facility. Provided that Respondent is compliant with all recommended treatment, this requirement will be deemed satisfied before treatment is complete if, in the sole discretion of the Board's designee, Respondent will be able to practice as a physician assistant with reasonable skill and safety during the treatment process.
- vi. The Board may, based on the results of the required assessment, impose additional limitations, as it deems advisable to the terms and conditions of this Order.

5. Within ninety (90) days from the date of this Order, Amy E. Bernards, P.A., shall pay COSTS of this matter in the amount of \$984.50.

6. Assessor's reports, treater(s) reports if any, proof of compliance with all treatment recommendations, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be 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

7. 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, fails to comply with the requirement for AODA assessment, or fails to submit proof of successful

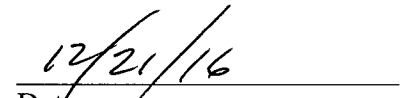
completion of the ordered education as set forth above, Respondent's license (no. 1628-23) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs, AODA assessment, and completion of the education.

8. 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

AMY E. BERNARDS, P.A.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005090

Division of Legal Services and Compliance Case No. 15 MED 081

Respondent Amy E. Bernards, 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.

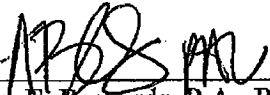
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

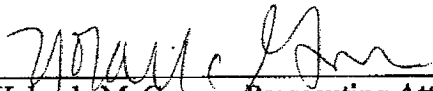
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Amy E. Bernards, P.A., Respondent
4997 Meadow Side Lane
Waunakee, WI 53597
License no. 1628-23

7.11.16

Date



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

7.18.16

Date