

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
JENNIFER K. NALE, P.A., : FINAL DECISION AND ORDER  
RESPONDENT. :

0005091

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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:

Jennifer K. Nale, P.A.  
6401 Brendan Circle  
McFarland, WI 53558

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 Jennifer K. Nale, P.A. (DOB April 8, 1975), is licensed in the state of Wisconsin to practice as a physician assistant, having license number 1771-23, first issued on August 6, 2004, 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 6401 Brendan Circle, McFarland, Wisconsin 53558.

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

3. Between July 2013 and May 11, 2015, Respondent wrote dozens of prescriptions for medications to her sister, Amy E. Bernards.

4. Ms. Bernards 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 1628-23).

5. On August 27, 2013, Respondent issued her first prescription to Ms. Bernards for 60 tablets of Fioricet®.

6. Between December 12, 2013 and January 29, 2015, Respondent wrote additional prescriptions for Fioricet® to Ms. Bernards, which Ms. Bernards refilled at least 20 times.

7. Between July 15, 2013 and May 12, 2015, Ms. Bernards filled more than 70 prescriptions written by Respondent.

8. When interviewed by Department staff in July 2015 about her prescribing to Ms. Bernards, Respondent stated she prescribed medications to Ms. Bernards on few occasions for migraines, and possibly antibiotics when Ms. Bernards was changing insurance companies. Respondent's statement was not completely truthful.

9. Respondent stopped prescribing medications to Ms. Bernards in early 2015 after a pharmacist contacted Ms. Bernards to report Respondent's repeated attempts to obtain early refills of Fioricet®.

10. There was no established physician assistant-patient relationship between Respondent and Ms. Bernards, when Respondent prescribed Fioricet® and other prescription medications to Ms. Bernards.

11. Respondent created no healthcare records of her treatment of Ms. Bernards.

12. Respondent did not inform her supervising physician that she was prescribing Fioricet® and other medications to Ms. Bernard. As such, Respondent's care and treatment of Ms. Bernards was not supervised by a licensed physician.

13. Respondent and Ms. Bernards engaged in multiple mutual exchanges of prescriptions for medications.

14. Between October 2013 and December 27, 2014, Respondent obtained 14 prescriptions for Fioricet® from Ms. Bernards.

15. Between October 2013 and February 15, 2015, Respondent refilled these prescriptions at least 30 times.

16. Respondent reported taking up to ten Fioricet® tablets per day, and was having the prescriptions obtained from Ms. Bernards filled almost weekly.

17. Respondent utilized three to four different pharmacies to obtain her prescription medications, and alternated between paying with cash and using her insurance card.

18. Respondent was not an established patient of Ms. Bernards at the time Respondent obtained prescriptions for medications from Ms. Bernards.

19. Respondent stopped obtaining prescriptions for medication from Ms. Bernards at the same time Respondent stopped prescribing medications to Ms. Bernards.

20. Respondent was also obtaining prescriptions from multiple other providers during the time she obtained prescriptions for medication from Ms. Bernards.

21. 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 Jennifer K. Nale, P.A., violated Wis. Admin. Code § Med 8.07(1)<sup>1</sup> by practicing as a physician assistant without the supervision of a licensed physician.

3. By the conduct described in the Findings of Fact, Respondent Jennifer K. Nale, 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 Jennifer K. Nale, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(h) and 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 Jennifer K. Nale, 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 Jennifer K. Nale, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(z) and

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<sup>1</sup> All references to the Wisconsin Administrative Code are to the applicable code provisions in effect at the time of the alleged conduct.

Wis. Admin. Code § Med 10.03(3)(i) by violating or attempting to violate any laws or rules of this state substantially related to the practice of medicine and surgery.

7. By the conduct described in the Findings of Fact, Respondent Jennifer K. Nale, P.A., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(za) and 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.

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

### ORDER

1. The attached Stipulation is accepted.
2. The license issued to Jennifer K. Nale, P.A. (license number 1771-23) to practice as a physician assistant in the state of Wisconsin is **SUSPENDED** for one day, effective seven days from the date of this Order. At the end of the one day, the period of suspension shall end without further order of the Board.
3. Upon the end of the suspension of Respondent's license, Respondent's license shall then be **LIMITED**, as follows:
  - a. Within thirty (30) days of the date of this Order, Respondent shall submit 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 the assessor with information from its investigative files.
    - 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, 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 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.

4. The license to practice as a physician assistant issued to Jennifer K. Nale, P.A., (license number 1771-23) is FURTHER LIMITED as follows:

- a. Within six (6) months of the date of this Order, Respondent shall successfully complete a minimum of ten (10) hours of education on the topic of professional ethics and boundaries.
- b. Respondent shall be responsible for obtaining the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the course(s) from the Wisconsin Medical Examining Board, or its designee, prior to commencement of the course(s).
- 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.

5. Within ninety (90) days from the date of this Order, Jennifer K. Nale, 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

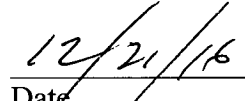
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

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. 1771-23) 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

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JENNIFER K. NALE, P.A.,  
RESPONDENT.

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STIPULATION

0005091

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

Respondent Jennifer K. Nale, 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

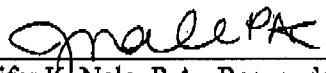


of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

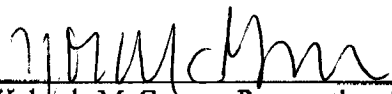
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

  
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Jennifer K. Nale, P.A., Respondent  
6401 Brendan Circle  
McFarland, WI 53558  
License no. 1771-23

11/29/16  
Date

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

11/30/16  
Date