

## 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

MARK A. NELSON, M.D.,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0005889**

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Division of Legal Services and Compliance Case No. 16 MED 073

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

Mark A. Nelson, M.D.  
14175 Golf Parkway  
Brookfield, WI 53005

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 Mark A. Nelson, M.D. (DOB July 22, 1955), is licensed by the State of Wisconsin to practice medicine and surgery, having license number 24587-20, first issued on July 1, 1982, with registration current through October 31, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 14175 Golf Parkway, Brookfield, Wisconsin 53005.

2. At all times pertinent to this matter, Respondent practiced anesthesiology at a medical center (Center) located in West Allis, Wisconsin.

3. Case number 16 MED 073 was opened to investigate allegations that on more than one occasion, Respondent wrote prescriptions for people who were not his patients and not create or maintain any medical records for the same.

4. The investigation found Respondent routinely wrote prescriptions for controlled and non-controlled substance medications for people who were not his patients, for whom he did not perform a physical exam, from whom he did not obtain informed consent; and for whom he did not create or maintain a patient health care chart including, but not limited to:

- a. multiple prescriptions for oxycodone-acetaminophen<sup>1</sup> to a former female co-worker, B.S., between January and May 2013;
- b. eight prescriptions for Zolpidem Tartrate to a long-time male friend between August 2013 and April 2015;
- c. one prescription for Guaifenesin-Codeine syrup to female co-worker, S.S. in July 2015;
- d. three prescriptions for Diazepam between March 2014 and October 2015, to a female co-worker M.K.;
- e. one prescription for Acetaminophen with Codeine to an unrelated male, C.Z.; and
- f. multiple prescriptions for antibiotics, Prozac, and beta blockers for his wife, son, daughter and mother.

#### 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 Mark A. Nelson, M.D., 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.

3. By the conduct described in the Findings of Fact, Respondent Mark A. Nelson, M.D., 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.

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<sup>1</sup> Pursuant to Wis. Stat. § 961.01 et seq., Oxycodone, Zolpidem, Vicodin®, Codeine, and Diazepam are controlled substances.

4. By the conduct described in the Findings of Fact, Respondent Mark A. Nelson, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(e) by administering, dispensing, prescribing, supplying, or obtaining a controlled substance as defined in s. 961.01(4), Stats., other than in the course of legitimate professional practice, or as otherwise permitted by law.

5. By the conduct described in the Findings of Fact, Respondent Mark A. Nelson, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(2)(j) by performing an act constituting the practice of medicine and surgery without required informed consent under s. 448.30, Stats.

6. By the conduct described in the Findings of Fact, Respondent Mark A. Nelson, M.D., 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. As a result of the above conduct, Mark A. Nelson, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

#### ORDER

1. The attached Stipulation is accepted.
2. Respondent's license to practice medicine and surgery is suspended for seven (7) consecutive days, commencing 30 days after date the Wisconsin Medical Examining Board signs the Final Decision and Order in this matter.
3. The medicine and surgery license issued to Mark A. Nelson, M.D. (license no. 24587-20) is LIMITED as follows:
  - a. Within nine (9) months of the date of this Order, Respondent shall successfully complete a minimum of eight (8) hours of continuing medical education on the topic of professional 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.
  - c. The Board or its designee may reject any course for which Respondent seeks approval.
  - d. Within 30 days of completion of the course(s), Respondent shall submit proof of successful completion of the ordered education in the form of

verification from the institution providing the education to the Department Monitor at the address stated below.

- 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. Within 90 days from the date of this Order, Mark A. Nelson, M.D., shall pay COSTS of this matter in the amount of \$5,141.55

5. Proof of successful course completion and 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

6. In the event Respondent violates any term of this Order, Respondent's license (no. 24587-20), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

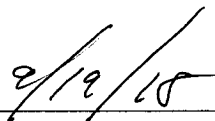
7. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

by:

  
A Member of the Board

Date



STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MARK A. NELSON, M.D.,  
RESPONDENT.

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STIPULATION

000588

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Division of Legal Services and Compliance Case No. 16 MED 073

Respondent Mark A. Nelson, 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. 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

Stipulation  
In the matter of disciplinary proceedings against  
Mark A. Nelson, M.D., Case No. 16 MED 073

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.



Mark A. Nelson, M.D., Respondent  
14175 Golf Parkway  
Brookfield, WI 53005  
License no. 24587-20

8-27-2018

Date



Adam J. Tutaj, Attorney for Respondent  
Melssner Tierney Fisher & Nichols  
111 East Kilbourn Avenue, 19th Floor  
Milwaukee, WI 53202

8/28/18

Date



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

9/4/18

Date