

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
JAMES M. NOSAL, M.D., :
RESPONDENT. : **ORDER 0007940**

Division of Legal Services and Compliance Case No. 20 MED 444

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

James M. Nosal, M.D.
Sun Prairie, WI 53590

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-f8366

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 James M. Nosal, M.D., (Year of Birth 1957) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 28410-20, first issued on June 19, 1987, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Sun Prairie, Wisconsin 53590.

2. At all times relevant to this proceeding, Respondent practiced medicine at a tribal healthcare facility in Crandon, Wisconsin (Facility).

3. In October 2019, the Facility conducted a chart review of Respondent's prescribing practices and found that in the previous month, Respondent prescribed narcotic pain medications for 32 patients, including seven acute, short-term prescriptions, and 25 long-term prescriptions.

4. Of the 25 long-term prescriptions Respondent issued, six fell outside the Facility's controlled substance prescribing guidelines (Guidelines) – one exceeded 90 morphine milligram equivalents prescribed per day, and five exceeded four short-acting narcotic tablets per day.

5. Of the six long-term prescriptions which violated the Guidelines, Respondent had recently assumed care of four of those patients from a physician who had left the Facility. Respondent agreed to taper their dosages to fall within the Guidelines.

6. On January 28, 2020, the Facility completed a follow-up chart review of the same six patients and an additional four patients. Based on the results of this chart review, the Facility placed Respondent on a Performance Improvement Plan with instructions to bring all patients within the Guidelines within three months.

7. On May 20, 2020, the Facility conducted a third chart review of five of the patients and found that Respondent's prescribing violated the Guidelines. The five patient charts indicated the following:

- a. Patient A, a disabled male born in 1959 with a history of neck surgeries, presented to Respondent with a prior prescription for a fentanyl patch 100 mcg every other day plus morphine sulfate 15mg three times per day as needed. On September 24, 2019, Respondent continued his prescriptions even though his urine drug screen tested negative for opioids.
- b. Patient B, a male born in 1959 with a history of severe left brachial plexus injury and neuropathic pain, was formerly weaned off opioids due to concerns of abuse. Respondent prescribed hydrocodone 5mg-acetaminophen 325 mg and tramadol 50 mg. On September 30, 2019, Respondent continued his prescriptions even though his urine drug screen showed his tramadol level was markedly elevated.
- c. Patient C, a female born in 1961 with a history of multiple sclerosis and back pain, presented to Respondent who prescribed Lorazepam (a benzodiazepine) in addition to hydrocodone-acetaminophen and tramadol without consulting with or referring her to a pain management specialist. On May 15, 2018, Respondent continued these prescriptions even though her urine drug screen was negative except for tramadol.
- d. Patient D, a disabled female born in 1974, tested positive for cannabinoids and benzodiazepines in January 2016, prior to Respondent assuming her care, and was terminated from the Facility's substance contract. On January 2, 2018, Respondent prescribed oxycodone 5mg after she reported an injury to her ankle and foot without consulting with or referring her to a pain management specialist. On October 9, 2018, April 9, 2019, August 27, 2019 and October 29, 2019, Respondent continued her prescription even though her urine drug screens were negative for oxycodone.

- e. Patient E, a male born in 1958 with a history of right shoulder injury, presented to Respondent who prescribed hydrocodone 5mg-acetaminophen 325mg. On November 26, 2019, Respondent continued his prescription even though his urine drug screen was negative.

8. On May 27, 2020, the Facility revoked Respondent's clinical privileges for issuing prescriptions outside of the Guidelines.

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

CONCLUSIONS OF LAW

1. The 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. Based on the Findings of Fact, Respondent 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.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Respondent is REPRIMANDED.
3. Respondent's license and registration to practice medicine and surgery in the state of Wisconsin (license number 28410-20) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent shall at his own expense, successfully complete six hours of education on the topic(s) of Wisconsin Controlled Substance Prescribing Guidelines and the appropriate prescribing of controlled substances offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s).
 - b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department and may not be used in future attempts to upgrade a credential in Wisconsin.
 - c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison

may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

- d. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.

4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,726.00.

5. Any requests for course approval, proof of course completion, payment of costs (made payable to Department of Safety and Professional Services), and any other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (number 28410-20), or Respondent's right to renew his license and registration, 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: *Stephen A. Walker, MD*
A Member of the Board

4/20/2022
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES M. NOSAL, M.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0007940

Division of Legal Services and Compliance Case No. 20 MED 444

Respondent James M. Nosal, 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 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.

James M. Nosal, M.D.
James M. Nosal, M.D., Respondent
Sun Prairie, WI 53590
License No. 28410-20

3/23/22
Date


Julie Zimmer, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

3/23/2022
Date