

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

SHARON STEIN,
RESPONDENT.

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ADMINISTRATIVE INJUNCTION

ORDER 0008415

Division of Legal Services and Compliance Case No. 22 UNL 094 (NUR and RAD)

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

Sharon Stein
Milwaukee Pain Treatment Services
5400 N. 118th Court
Milwaukee, WI 53225

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin 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 Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Sharon Stein (Respondent), (Year of Birth: 1962) is not and has never been licensed as a licensed practical nurse, registered nurse, credentialed as an advanced practice nurse prescriber, or licensed as a radiographer or limited x-ray machine operator, in the state of Wisconsin, or in any other state or territory.

2. At all times relevant to this proceeding, Respondent worked as an office manager for a pain management and treatment clinic located in Milwaukee, Wisconsin (Clinic).

3. The Clinic is owned by Respondent and her husband, Dr. David Stein. Respondent's husband is licensed as a physician in Wisconsin, and practices medicine at the Clinic.

4. On November 30, 2020, the United States Drug Enforcement Administration (DEA) suspended Dr. Stein's DEA Certificate of Registration (COR). Via a Memorandum of Agreement between the DEA and Dr. Stein, Dr. Stein agreed not to apply for a DEA COR for the remainder of his lifetime. As such, as of November 30, 2020, Dr. Stein could no longer prescribe controlled substances in Wisconsin.

5. Following the suspension and then permanent absence of Dr. Stein's DEA COR, advanced practice nurse prescribers (APNP), licensed in Wisconsin, were employed by, or contracted with the Clinic, to treat Clinic patients and prescribe controlled substances. Dr. Stein acts and/or acted as the collaborating physician for the APNPs.

6. Several of the APNPs who worked at the Clinic in 2020 and 2021 stated to the Department that Respondent performed the following acts:

- a. Respondent would prefill prescriptions for Clinic patients with the name of the controlled substance medication, strength, and dosage information, and then provide the prescription to the APNP for the APNP's signature. The APNPs did not ask Respondent to prefill prescriptions. Such prescriptions were many times prepared by Respondent prior to the APNP's patient visit.
- b. Respondent asked one or more APNPs to sign blank pre-authorization and/or prescription forms in which Respondent would then fill in the details and submit them to pharmacies.
- c. Respondent would fill out patient notes and then ask the APNP to sign the note even though the APNP did not visit with the patient or have firsthand knowledge of what Respondent wrote in the note.
- d. Respondent verbally told one or more APNPs what prescription medication to prescribe to a Clinic patient, including strength and dosage.
- e. Respondent verbally told one or more APNPs when and how often to conduct a drug test on a patient.
- f. Respondent verbally represented herself as a nurse to one or more APNPs and patients.
- g. On one or more occasions, when an APNP had a question for Dr. Stein as the collaborating physician, Respondent would interject and provide the APNP with an answer in place of Dr. Stein.
- h. Respondent recommended to one or more APNPs that they prescribe suboxone to a patient.
- i. Respondent took an x-ray of a patient using a clinic x-ray machine. Respondent asked an APNP to write an order for an x-ray even though the APNP had not seen the patient.

7. Aside from the activities delineated in paragraph 6, Respondent also performs non-nursing duties that include but are not limited to scheduling appointments, answering phones and emails, medical assistant duties, training nurses on office and administrative procedures, HIPPA compliance, and handling billing and insurance matters.

8. The actions detailed in paragraph 6 constitute the practice of professional nursing, as well as the practice of an advanced practice nurse prescriber, and require a credential prior to performing such actions.

9. The actions detailed in paragraph 6, subparagraph i. constitute the practice of radiography and require a credential prior to performing such actions.

10. Respondent denies performing any of the actions detailed in paragraph 6 and has not reviewed the Division of Legal Services and Compliance Case file associated with Case Number 22 UNL 094; however, in the interests of resolving this matter consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21 and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Wisconsin Stat. § 441.001(4) defines professional nursing as:

“Professional nursing” means the performance for compensation of any act in the observation or care of the ill, injured, or infirm, or for the maintenance of health or prevention of illness of others, that requires substantial nursing skill, knowledge, or training, or application of nursing principles based on biological, physical, and social sciences. Professional nursing includes any of the following:

(a) The observation and recording of symptoms and reactions.

(b) The execution of procedures and techniques in the treatment of the sick under the general or special supervision or direction of a physician, podiatrist licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed under ch. 447, or optometrist licensed under ch. 449, or under an order of a person who is licensed to practice medicine, podiatry, chiropractic, dentistry, or optometry in another state if the person making the order prepared the order after examining the patient in that other state and directs that the order be carried out in this state.

(c) The execution of general nursing procedures and techniques.

(d) Except as provided in s. 50.04 (2) (b), the supervision of a patient and the supervision and direction of licensed practical nurses and less skilled assistants.

3. The conduct described in paragraph 6 of the Findings of Fact constitutes the unlicensed practice of professional nursing, both as a registered nurse and advanced practice nurse prescriber, contrary to Wis. Stat. § 441.001(4) and 441.06(4).

4. The conduct described in paragraph 6, subparagraph i. of the Findings of Fact constitutes the unlicensed practice of radiography, contrary to Wis. Stat. § 462.02(1)(a).

ORDER

1. The attached stipulation is accepted.

2. Unless and until Respondent is properly licensed as a registered nurse and/or credentialed as an advanced practice nurse prescriber by the Wisconsin Board of Nursing, Respondent is enjoined and prohibited from the practice of professional nursing, including the prescribing of prescription medication, in the state of Wisconsin.

3. Unless and until Respondent is properly licensed as a radiographer or holds a limited x-ray machine operator permit issued by the Wisconsin Radiographers and Limited X-ray Machine Operators Board, Respondent is enjoined and prohibited from the practice of radiography in the state of Wisconsin.

4. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

5. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: Aloysius Rohmeyer
Aloysius Rohmeyer, Chief Legal Counsel
On behalf of the Department

2/21/2023
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF

SHARON STEIN,
RESPONDENT.

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STIPULATION

ORDER 0008415

Division of Legal Services and Compliance Case No. 22 UNL 094 (NUR AND RAD)

Sharon Stein (Respondent), and the Division of Legal Services and Compliance (Division), Department of Safety and Professional Services (Department), stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division. 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. Respondent is represented by Attorney Stacie Rosenzweig.

4. Respondent agrees to the adoption of the attached Administrative Injunction by the Department. The parties to the Stipulation consent to the entry of the attached Administrative Injunction without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Administrative Injunction, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division for further proceedings. In the event that the Stipulation is not accepted by the

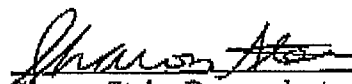
Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney for the Department may appear before the Department for the purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on this Stipulation.

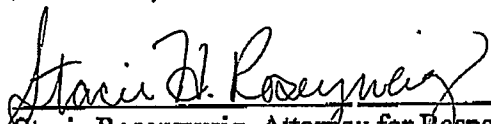
7. Respondent is informed that should the Department adopt this Stipulation; the Department's Administrative Injunction is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Department adopt this Stipulation, the Department's Administrative Injunction will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.


9. The Division joins Respondent in recommending the Department adopt this Stipulation and issue the attached Administrative Injunction.


Sharon Stein, Respondent
Milwaukee, WI 53225

2-20-23
Date


Stacie Rosenzweig, Attorney for Respondent
Halling & Cayo S.C.
Milwaukee, WI 53202

2/20/2023
Date


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

February 21, 2023
Date