

**BEFORE THE BOARD OF NURSING
FOR THE STATE OF OREGON**

In the Matter of:	)	FINAL ORDER
	)	FOR PROBATION OF
DANIELLE L. BLACKWELL, RN, FNP	)	FAMILY NURSE
	)	PRACTITIONER CERTIFICATE
)	
Certificate No. 200150108NP	)	Case No. 10-387

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including Registered Nurses and Family Nurse Practitioners, in the State of Oregon. Danielle L. Blackwell (Licensee) is a Registered Nurse and a Family Nurse Practitioner in the State of Oregon.

This Matter was considered by the Board on November 17, 2010. Licensee did not appear personally. The issue for the Board was whether to approve the Stipulation for Probation signed by Licensee on November 2, 2010 and so dispense with this Matter pursuant to ORS 183.417(3).

Upon review of the Stipulation and the agency file in this Matter, the Board finds that reasonable factual and legal grounds exist to support approval of the Stipulation. It is hereby

ORDERED that the Stipulation signed by Licensee on November 2, 2010 be approved and by this reference incorporated herein, and it is further

ORDERED that the Board adopt the Stipulation and that the Family Nurse Practitioner certificate of Danielle L. Blackwell be placed on Probation as set forth in the Stipulation.

DATED this _____ day of November 2010

[SIGNATURE & DATED COPY ON FILE IN BOARD OFFICE]

Patricia Markesino, RN
Board President

**BEFORE THE BOARD OF NURSING
FOR THE STATE OF OREGON**

In the Matter of:	)	STIPULATION FOR
	)	PROBATION OF
DANIELLE L. BLACKWELL, RN, FNP	)	FAMILY NURSE
	)	PRACTITIONER CERTIFICATE
)	
Certificate No. 200150108NP	)	Case No. 10-387

I

The Oregon State Board of Nursing, (Board) is the agency responsible for licensing and regulating nurse practitioners in the State of Oregon. Danielle L. Blackwell, hereinafter referred to as "Licensee," is a Family Nurse Practitioner in the State of Oregon. The Board issued Licensee a nurse practitioner certificate on August 17, 2001. Licensee has been in private practice in Oregon City, Oregon since April 2004.

On February 24, 2010 a complaint was made to the Board alleging that Licensee continued to prescribe narcotics for patients after the patients' primary nurse practitioners had fired them for noncompliance with the terms and conditions of their pain contracts. A case was opened and an investigation initiated.

Between March 1, 2010 and June 30, 2010, Board staff conducted several witness interviews. Board staff interviewed Licensee on July 19, 2010. Board staff also reviewed patient medical records in detail to determine if Licensee deviated from the standard of care with regards to her management of chronic pain patients.

Board staff found that Licensee prescribed routine injections of Dilaudid for patients presenting with migraine headaches and allowed these patients to receive injections from the medical assistant, without first being assessed in person by a practitioner. However, the patients' requests were reviewed via telephone.

It was further noted that Licensee did not consistently hold patients to the terms and conditions of their pain contracts and did not refer or transfer care for diagnosis/treatment of substance abuse or dependence. Licensee sought to make decisions on a case-by-case basis and as a result allowed greater lenience in compliance with pain contracts than was prudent.

Licensee did not consistently have a written treatment plan to include objectives to be used to determine treatment success and indication if any further diagnostic evaluation or other treatments were planned. According to the records and Licensee's own statements, she did not explore other treatment modalities or a rehabilitation program for patients, due to limitations on coverage, such as Medicare.

In addition, it was noted that Licensee did not conduct periodic reviews at reasonable intervals based on the patient's individual circumstances, the course of treatment and any new information about the etiology of the pain. If there was not movement toward goals, Licensee did not modify the plan of treatment. Licensee asserts that the regularity of reviews was determined on a case-by-case basis.

II

The above behavior constitutes a violation of the provisions of ORS 678.111 (1) (f); and OAR 851-045-0070 (1) (a), (b), (c), (d), (e) and (n); OAR 851-050-0005(4) (a), (b), (c), (d) and (5) (a), (b), (c),(d),(e),(f),(g),(h), (i),(j),(k) and (l); and OAR 851-056-0016 (1), (2) (h) and (6) (a,) (b) (A) (B) (C), (c) and (d), which reads as follows:

ORS 678.111 Causes for denial, revocation or suspension of license or probation, reprimand or censure of licensee.

In the manner prescribed in ORS chapter 183 for a contested case:

- (1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:
 - (f) Conduct derogatory to the standards of nursing.

OAR 851-045-0070

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

- (1) Conduct related to the client's safety and integrity:
 - (a) Developing, modifying, or implementing standards of nursing practice/care which jeopardize patient safety.
 - (b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment.
 - (c) Failing to develop, implement and/or follow through with the plan of care.
 - (d) Failing to modify, or failing to attempt to modify the plan of care as needed based on nursing assessment and judgment, either directly or through proper channels.
 - (e) Assigning persons to perform functions for which they are not prepared or which are beyond their scope of practice/scope of duties.
 - (n) Failing to maintain professional boundaries with a client.

Nurse Practitioner Scope of Practice

OAR 851-050-0005

(4) Within his or her specialty, the nurse practitioner is responsible for managing health problems encountered by the client and is accountable for health outcomes. This process includes:

- (a) Assessment;
- (b) Diagnosis;
- (c) Development of a plan;
- (d) Intervention;
- (e) Evaluation.

(5) The nurse practitioner is independently responsible and accountable for the continuous and comprehensive management of a broad range of health care, which may include:

- (a) Promotion and maintenance of health;
- (b) Prevention of illness and disability;
- (c) Assessment of clients, synthesis and analysis of data and application of nursing principles and therapeutic modalities;
- (d) Management of health care during acute and chronic phases of illness;
- (e) Admission of his/her clients to hospitals and/or health services including but not limited to home health, hospice, long term care and drug and alcohol treatment;
- (f) Counseling;
- (g) Consultation and/or collaboration with other health care providers and community resources;
- (h) Referral to other health care providers and community resources;
- (i) Management and coordination of care;
- (j) Use of research skills;
- (k) Diagnosis of health/illness status;
- (l) Prescribing, dispensing, and administration of therapeutic devices and measures, including legend drugs and controlled substances as provided in Division 56 of the Oregon Nurse Practice Act, consistent with the definition of the practitioner's specialty category and scope of practice.

Conduct Derogatory to the Standards for Prescriptive or Dispensing Authority

OAR 851-056-0016

- (1) The Board may deny, suspend or revoke the authority to write prescriptions and/or dispense drugs for the causes identified in ORS 678.111(1) or with proof that the authority has been abused.
- (2) The abuse of the prescriptive or dispensing authority constitutes conduct derogatory to nursing standards and is defined as:
 - (h) Failure to properly assess and document client assessment when prescribing, dispensing, administering, or distributing drugs.
- (6) Intractable or chronic pain management:
 - (a) Nurse practitioners and clinical nurse specialists may prescribe or administer controlled substances to a person in the course of their treatment for a diagnosed condition causing pain, defined in OAR 851-056-0000(13).
 - (b) The diagnosis and treatment of intractable or chronic pain requires documentation of the following:
 - (A) A recent diagnosis of the condition (if acute or unstable), or past diagnosis (if chronic and stable) causing pain, by one or more licensed practitioners specializing in the treatment of the body area, system, or organ perceived as the source of pain; and
 - (B) A written material risks notice specific to the patient's condition and treatment; and
 - (C) A consultation and review of the pain treatment plan where clinically indicated if the patient shows limited or no improvement.

(c) Nurse practitioners and clinical nurse specialists must have a complete discussion with the patient or person authorized to make health care decisions for the patient regarding the diagnosis, as well as the risk, benefits, alternatives, side effects, and potential for addiction and withdrawal of the controlled substance, along with any other applicable precautions. These discussions must be documented in the patient record. Documentation must include a plan for periodic review of patient response and follow-up.

(d) Nurse practitioners and clinical nurse specialists shall document patient use of controlled substances for chronic or intractable pain, including history and assessment to rule out substance abuse. Evidence of patient addiction or abuse requires referral and/or transfer of care for further diagnosis and treatment.

III

The following will be proposed to the Board and is agreed to by Licensee:

The Family Nurse Practitioner certificate of Danielle L. Blackwell shall be placed on Probation with the following conditions:

1. Licensee's Family Nurse Practitioner Certificate will be supervised by a qualified supervising practitioner, with expertise in managing patients with chronic pain, for twelve (12) months. Licensee and the supervising practitioner shall enter into a supervising agreement approved by the Board and signed by both Licensee and supervising practitioner. Licensee shall provide the Board with the signed agreement.
2. The required twelve (12) months of probation is defined as working 80 practice hours in each of the twelve (12) months.
3. Licensee shall provide the supervising practitioner with a copy of the Stipulation and Final Order.
4. Licensee shall be financially responsible for any costs incurred as a result of compliance with the terms and conditions of this stipulated agreement.
5. Licensee, at any time during the period of probation, shall fully cooperate with the Board or its authorized agents in their supervision and investigation of compliance with the terms of the Stipulation.
6. Licensee shall report to designated Board staff each month regarding her monitored practice.
7. Licensee and the supervising practitioner, or the supervisor's delegate (MD or NP) , shall

meet with each other in person once each week for the first six (6) months for the purpose of consultation and client review. After the first six (6) months, at the discretion of the supervising practitioner and based on the supervising practitioner's assessment of Licensee's performance, the frequency of the consultation and client review meetings may be reduced, with the Board's advanced approval, to meetings no less frequently than two (2) times per month.

8. The supervising practitioner shall be available to intervene and/or confer with Licensee during business hours.
9. The supervising practitioner shall perform a random audit of 10% of Licensee's client records each month for the first six months, and once every three months thereafter. The audit shall focus on an evaluation of Licensee's practice with regards to managing chronic pain patients and patients with nonmalignant intractable pain. All audits shall be part of the supervising practitioner's report referred to in condition 10 below.
10. The supervising practitioner shall submit a written report to the Board at the end of the first month and at the end of the third, sixth, ninth and twelfth months. The report shall include an evaluation of Licensee's practice and documentation. The evaluation shall address the issues outlined in paragraphs 4, 5, 6 and 7 of this Stipulation.
11. The supervising practitioner shall immediately notify the Board in the event that the supervising practitioner has any significant concerns about Licensee's practice or her clinical judgment.
12. Licensee and supervising practitioner shall immediately notify the Board if the supervising agreement is terminated for any reason. Licensee shall cease practicing until such time as a new supervising agreement is established.
13. Upon successful completion of the twelve (12) month period of monitored practice, the Board shall reinstate Licensee's Family Nurse Practitioner Certificate to full unencumbered status.

IV

Licensee understands that in the event she engages in conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against her license, up to and including revocation of her Family Nurse Practitioner certificate and Registered Nurse license.

Licensee understands that this Stipulation will be submitted to the Board of Nursing for their approval and is subject to the Board's acceptance. Licensee understands that if this Stipulation is accepted, it will be issued as a Final Order based thereon. Licensee understands that this Stipulation will become a matter of public record at such time as the Board issues the Final Order adopting it.

Licensee understands that by signing this Stipulation and upon its approval by the Board she waives any and all rights to Notice and contested case hearing under the Oregon Administrative Procedures Act (ORS Chapter 138), and any and all rights to appeal or otherwise challenge this Stipulation. She acknowledges that no promises or representations have been made or used to induce her to sign this Stipulation.

Licensee has fully read this Stipulation, understands this Stipulation completely and freely and voluntarily signs this Stipulation. Licensee has consulted with an attorney in regard to this matter.

Dated this _____ day of _____, 2010.

[SIGNATURE & DATED COPY ON FILE IN BOARD OFFICE]

Danielle L. Blackwell, RN, FNP

FOR THE BOARD OF NURSING OF THE STATE OF OREGON

[SIGNATURES & DATED COPY ON FILE IN BOARD OFFICE]

Marilyn L. Hudson, RN, MSN, CNS, FRE
Investigations Manager
Investigations Department