

1 **WO**

NOT FOR PUBLICATION

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Alice Minch,

No. CV-17-2525-PHX-JJT

10 Plaintiff,

ORDER

11 v.

12 Arizona State Board of Nursing, *et al.*,13 Defendants.
14

15 At issue is *pro se* Plaintiff Alice Minch's Amended Complaint (Doc. 9, Am.
16 Compl.). Upon screening Plaintiff's Amended Complaint, pursuant to 28 U.S.C.
17 § 1915(e)(2), the Court finds that Plaintiff fails to state a plausible claim for the following
18 reasons.

19 **I. LEGAL STANDARD**20 **A. 28 U.S.C. § 1915(e)(2)**

21 For cases in which a party is permitted to proceed *in forma pauperis*, Congress
22 provides that a district court "shall dismiss the case at any time if the court determines" that
23 the "allegation of poverty is untrue," or that the "action or appeal" is "frivolous or
24 malicious," or "fails to state a claim on which relief may be granted," or "seeks monetary
25 relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2).
26 Section 1915(e) applies to all *in forma pauperis* proceedings. *Lopez v. Smith*, 203 F.3d
27 1122, 1129 (9th Cir. 2000). "It is also clear that section 1915(e) not only permits but
28 requires a district court to dismiss an *in forma pauperis* complaint that fails to state a

1 claim.” *Id.* at 1127. “The standard for determining whether a plaintiff has failed to state a
2 claim upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal
3 Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*,
4 668 F.3d 1108, 1112 (9th Cir. 2012).

5 **B. Sufficiency of a Claim**

6 A complaint must include “a short and plain statement of the claim showing that
7 the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The complaint must contain
8 “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on
9 its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v.*
10 *Twombly*, 550 U.S. 544, 570 (2007)). The Court is to construe a *pro se* plaintiff’s
11 complaint “liberally” and afford the plaintiff “the benefit of any doubt.” *Watison*, 668
12 F.3d at 1112 (citation omitted).

13 **II. ANALYSIS**

14 Upon reviewing Plaintiff’s Amended Complaint, the Court finds that Plaintiff fails
15 to comply with the Federal Rules of Civil Procedure 8. Plaintiff alleges in her Amended
16 Complaint that she was deprived her of her nursing license without due process, naming
17 as Defendants the Arizona State Board of Nursing (“SBN”) and several unnamed
18 members and employees. (Am. Compl. ¶¶ 1–3, 22, 24.) For her alleged injury, Plaintiff
19 requests solely monetary damages. (Am. Compl. ¶ 26.) Thus, to the extent Plaintiff’s
20 claims lie against the Arizona State Board of Nursing, Plaintiff fails to state a claim. SBN
21 is an arm of the State of Arizona and cannot be held liable for monetary damages under
22 § 1983. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 64 (1989).

23 Turning to Plaintiff’s individualized allegations, Plaintiff’s Amended Complaint
24 fails to satisfy the federal pleading requirements because Plaintiff fails to both name
25 specific defendants and allege specific actions by those defendants. A plaintiff may not
26 collectively accuse multiple defendants of committing misdeeds through the expedience
27 of the title “Defendants.” Such group pleading fails to comply with Rule 8(a)(2) because it
28 does not give fair notice of the claims against each Defendant with the requisite specificity.

1 *Riehle v. Bank of America, N. A.*, No. CV-12-00251-PHX-NVW, 2013 WL 1694442, at *2
2 (D. Ariz. Apr. 18, 2013). Plaintiff broadly claims that “each of defendants are members
3 employees, and former members and former employees of the SBN.” (Am. Compl. ¶ 3.)
4 Yet, Plaintiff fails to make clear in the Amended Complaint precisely who these
5 Defendants are and what actions by which Defendant give rise to liability under § 1983.
6 Although Plaintiff discusses Administrative Law Judges (“ALJ”) Tully, Mihalsky, and
7 Douglas in her Amended Complaint, it is unclear whether these allegations serve to name
8 the ALJs as Defendants or merely serve as portions of Plaintiff’s allegations against the
9 SBN. Nevertheless, such allegations fail to put any individual Defendant on notice of a
10 claim that would entitle Plaintiff to relief. Therefore, Plaintiff’s Amended Complaint is
11 dismissed as it pertains to any individual Defendant.

12 **III. CONCLUSION**

13 If a defective complaint can be cured, the plaintiff is entitled to amend the complaint
14 before the action is dismissed. *See Lopez*, 203 F.3d at 1127–30. Here, the Court will give
15 the Plaintiff an opportunity to amend her complaint, but any Amended Complaint must
16 meet the requirements of the Federal Rules of Civil Procedure.

17 **IT IS THEREFORE ORDERED** dismissing Plaintiff’s Amended Complaint
18 (Doc. 9).

19 **IT IS FURTHER ORDERED** that Plaintiff may file a Second Amended
20 Complaint that complies with the Federal Rules of Civil Procedure no later than 21 days
21 from the date of this order. If no Amended Complaint is timely filed, the Clerk shall
22 dismiss this action without further Order of the Court.

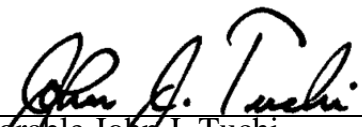
23 **IT IS FURTHER ORDERED** that if Plaintiff elects to file her Second Amended
24 Complaint, it may not be served on Defendants until and unless the Court screens the
25 Amended Complaint pursuant to 28 U.S.C. § 1915(e)(2). If and when the Court gives

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff leave to serve a Second Amended Complaint, Plaintiff shall be responsible for service and may do so by request for waiver under Federal Rule of Civil Procedure 4.

Dated this 16th day of November, 2017.



Honorable John J. Tuchi
United States District Judge