

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
KERRITH SUSAN KERN, R.N., : LS0710049NUR
RESPONDENT. :

[Division of Enforcement Case # 06 NUR 300]

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

Kerrith Susan Kern, R.N.
E9434 Cty Rd SS
Viroqua, WI 54665

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Board of Nursing
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board of Nursing. 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

1. Kerrith Susan Kern, R.N., Respondent, date of birth March 11, 1956, is licensed by the Wisconsin Board of Nursing as a registered nurse in the State of Wisconsin pursuant to license number 87692, which was first granted June 21, 1984.
2. Respondent's address of record with the Department of Regulation and Licensing is E9434 Cty Rd SS, Viroqua, WI 54665.
3. On July 28, 2006, the Vernon County Department of Human Services substantiated maltreatment of two of Respondent's eight adopted special needs children, while the children were in Respondent's care.
4. Petitions for children in need of protection (CHIPS) were filed, and on September 5, 2006, a Vernon County court adjudicated four of Respondent's children in need of protection and services. Respondent entered into consent decree concerning the other four children.
5. Respondent completed required treatment and programming. Three of four children removed from Respondent's care were returned by October 13, 2006; the fourth returned on June 29, 2007.
6. Respondent reports that she no longer uses physical discipline.

7. Substantiation of child maltreatment by the Vernon County Department of Human Services constitutes a governmental finding of substantiated abuse, per Wis. Admin. Code § HFS 12.07(1)(c).

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction over this matter pursuant to Wis. Stat. § 441.07 and authority to enter into this stipulated resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct set out above, has committed misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(1)(intro), which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

1. Respondent, Kerrith Susan Kern, R.N., is hereby REPRIMANDED for the above conduct.

2. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$775.00, pursuant to Wis. Stat. § 440.22(2).

3. Payment shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

4. Respondent shall advise her employer(s) of the existence of this Order prior to commencing employment as a nurse, whether paid or unpaid.

5. In the event that Respondent fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

10/4/07
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
KERRITH SUSAN KERN, R.N., : LS _____ NUR
RESPONDENT. :

[Division of Enforcement Case # 06 NUR 300]

It is hereby stipulated and agreed, by and between Kerrith Susan Kern, R.N., Respondent; and Sandra L. Nowack attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (files 06 NUR 300). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 be returned to the Administrative Law Judge for further proceedings. In the event that this 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 Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or her attorney, if any, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHFS-licensed facility, she will need to pass a Rehabilitation Review through DHFS prior to commencement of such employment.

9. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the

attached Final Decision and Order.

Kerrith Susan Kern, R.N.
Respondent
E9434 Cty Rd SS
Viroqua, WI 54665

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date