

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JOHN E. WEYKER, R.N.,	:	LS # 0606292NUR
RESPONDENT.	:	

Division of Enforcement Case # 06 NUR 222

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

John E. Weyker, R.N.
2106 Sylvan Way No. 6
West Bend, WI 53095

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

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

PROCEDURAL HISTORY

A Notice of Hearing and Complaint were filed and served on June 29, 2006. On July 12, 2006, the Board approved a stipulation for an Interim Order whereby Respondent agreed to an indefinite suspension of his temporary nursing license. Respondent's temporary nursing license expired on September 3, 2006.

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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. John E. Weyker, R.N., (DOB 12/14/1961) applied for a license to practice as a registered nurse in Wisconsin on or about May 17, 2006. He was issued a temporary license to practice as a registered nurse in the state of Wisconsin (license #30-154888) on June 5, 2006. His temporary license expired on September 3, 2006, but he is eligible to renew that license pursuant to Wis. Stat. §§ 441.08 and 440.08(3).

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 2106 Sylvan Way, #6, West Bend, Wisconsin, 53095.

3. At all times relevant to this action, Respondent was working as a nurse technician, under the direct supervision of a registered nurse, at Synergy Health; St. Joseph's Hospital in West Bend, Wisconsin.

4. On or about June 4, 2006, Respondent was working in the emergency room of St. Joseph's Hospital. Patient K.L.L. came to the emergency room that day after being involved in a motorcycle accident and injuring her leg. Respondent attended to her while she was being treated in the emergency room.

5. Respondent was aware that patient K.L.L. was under the influence of alcohol at the time of the incident, he believed her blood alcohol level was .24, and he knew that K.L.L. had been given morphine for pain.

6. K.L.L. states that while Respondent was alone with her in the examining room, while she was being undressed and prepared for surgery, Respondent touched and rubbed her clitoris with his finger for approximately thirty seconds, approximately two separate times. He also licked K.L.L.'s clitoris with his tongue. At one point, Respondent exposed his penis and testicles, stating that he had large testicles and asking K.L.L. to "suck his cock."

7. Respondent admitted to law enforcement officers that he had treated K.L.L. at St. Joseph's Hospital on June 4, 2006, and that he had flirted with her and made sexual comments that led to sexual contact between them. He admitted that he exposed his penis to her, that she showed him her nipples, that he licked her vagina with his tongue, and that he French kissed her. He admitted that the sexual contact was for personal thrill and not medical treatment. He admitted that K.L.L. never touched his body.

8. Respondent claimed that the contact was consensual. K.L.L. states that she did not give Respondent permission to have sexual contact with her and that she was "out of it" at the time that he touched her.

9. A criminal complaint containing these allegations was approved for filing by the Washington County District Attorney on June 15, 2006. On September 25, 2006, Respondent pled no contest to the allegations.

CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to Wis. Stat. § 441.07 and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraphs 4 - 9 above constitutes a violation of Wisconsin Administrative Code § N 7.04(11), N 7.04(4), and N 7.04(1), and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.

2. The Board of Nursing accepts the surrender of John E. Weyker, R.N.'s right to renew his temporary license (license number 30-154888) to practice as a nurse in the State of Wisconsin, and the surrender of Mr. Weyker's privilege to practice in Wisconsin pursuant to the Multi-state Nursing Licensure Compact.

3. In the event that Respondent applies for Wisconsin licensure as a nurse in the future, the Board will enter an order denying such application without further notice or hearing.

4. This Order constitutes a finding of an agency pursuant to Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHFS-licensed facility, he will need to pass a Rehabilitation Review through DHFS prior to commencement of such employment.

5. Respondent shall pay costs of One Thousand Two Hundred Dollars (\$1,200.00) to the Department of Regulatory Licensing, within ninety (90) days of this Order.

6. This Order shall become effective upon the date of its signing.

Dated at Madison, Wisconsin this 12th day of October, 2006.

Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
JOHN E. WEYKER, R.N.	:	LS# 0606292NUR
RESPONDENT.	:	

Division of Enforcement Case # 06 NUR 222

John E. Weyker, R.N., personally on his own behalf and by his attorney Michael G. Penkwitz; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 06 NUR 222). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him 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 obtained the advice of legal counsel prior to signing this stipulation.
4. Respondent agrees to voluntarily surrender his right, pursuant to Wis. Stat. §§ 441.08 and 440.08(3), to renew his temporary license to practice nursing in the state of Wisconsin. He further agrees to voluntarily surrender his privilege to practice nursing in Wisconsin pursuant to the Multi-state Nurse Licensing Compact. Respondent agrees that he will not apply for Wisconsin licensure as a nurse at any time in the future. In the event that Respondent does in fact apply for Wisconsin licensure as a nurse, the Board may deny that application based upon this stipulation, without further notice or hearing, and Respondent hereby expressly waives all rights to a hearing on any such denial.
5. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. 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.
6. 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 Division of Enforcement 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 consideration of this attempted resolution.
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board of Nursing ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, 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 Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
8. 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.

9. 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, he will need to pass a Rehabilitation Review through DHFS prior to commencement of such employment.

10. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

<hr/> John E. Weyker, R.N. 2106 Sylvan Way No. 6 West Bend, WI 53095	<hr/> Date
--	------------

<hr/> Michael G. Penkwitz Attorney for John E. Weyker, R.N. 440 W. Grand Avenue Port Washington, WI 53074	<hr/> Date
--	------------

<hr/> Jeanette Lytle, Attorney Division of Enforcement Wisconsin Department of Regulation and Licensing P.O. Box 8935 Madison, WI 53708-8935	<hr/> Date
--	------------