

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
MARY L. KUCABA, R.N., : LS0703014NUR  
RESPONDENT. :

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[Division of Enforcement Case # 06 NUR 414]

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

Mary L. Kucaba, R.N.  
10009 Second Avenue S  
Bloomington, MN 55420

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. Mary L. Kucaba, R.N., Respondent, date of birth August 12, 1958, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 125293, which was first granted February 11, 1997.
2. Respondent's last address reported to the Department of Regulation and Licensing is 10009 Second Avenue S, Bloomington, MN 55420.

### Prior Wisconsin Discipline

3. On November 4, 2004, the Board issued a Final Decision and Order in the Disciplinary Proceedings against Mary L. Kucaba, R.N., case number LS 0411043 NUR.

a. The Board found Respondent violated Wis. Adm. Code § N 7.04 (intro) and (11) by having a sexual relationship with a 74-year-old male patient while she provided him home care nursing services from January 2000 until his death on March 17, 2001.

b. The Board ordered Respondent's license suspended for at least one year. The suspension would then end if Respondent completed six hours of continuing education in professional/patient boundaries and had a mental health assessment which said she was safe to practice with patients.

c. Respondent completed the education and had the evaluation which said she did not have any disorder requiring treatment and that Respondent could safely practice nursing with certain restrictions.

d. On November 21, 2005, the Board issued an Order reinstating Respondent's license with the limitations that for two years, she submit satisfactory quarterly work reports from her employer and that she not be employed in a home health care setting.

### Minnesota discipline

4. On June 2, 2005, the Minnesota Board of Nursing issued a Stipulation and Consent Order ("2005 Consent Order") suspending Respondent's license to practice professional nursing in Minnesota. The action was based on the November 4, 2004 discipline by the Wisconsin Board of Nursing and the terms of the 2005 Consent Order permitted Respondent to petition for reinstatement of her Minnesota nursing license upon reinstatement of her Wisconsin nursing license.

5. On December 1, 2005, Respondent petitioned the Minnesota Board for reinstatement of her Minnesota license. The Minnesota Board became aware of additional instances of Respondent having boundary issues with patients, first with patient CY and then with patient TF.

a. Respondent's relationship with patient CY began in February 2003 while Respondent was a registered nurse at Richfield Health Center (RHC) in Richfield, Minnesota and he was a patient. After CY was transferred to a nursing home, CY's son contacted Respondent at home and requested that she visit CY. Respondent visited CY twice weekly to take him on walks with his former wife.

b. On January 19, 2006, Respondent met again with the assessor whose assessment allowed her to regain her Wisconsin license. The assessor addressed issues with Respondent, including that she needed to explain to the patient's guardians what her boundary issues were relative to their requests. The assessor determined Respondent's behavior resulted from Respondent's:

- 1) Lack of clarity about boundaries in the home care nursing role.
- 2) Lack of understanding about transference and countertransference.
- 3) Emotional needs to seek approval and validation from others.
- 4) Failure to seek help for her own distress.
- 5) Failure to examine her motivations and needs.

c. Respondent's relationship with patient TF began in September 2003 while Respondent was a nurse at RHC and he was a patient. Respondent provided nursing care to TF at RHC until December 24, 2003, when she resigned her employment at RHC and became a nurse at Chateau Health Center.

- 1) After Respondent's resignation from RHC, TF began calling Respondent at home and Respondent visited TF at RHC.
- 2) In January 2004, TF was hospitalized with an infection and subsequently transferred to a transitional care facility. Respondent visited him at least twice weekly.
- 3) Prior to TF's discharge home in March 2004, Respondent informed staff at the facility that she was a nurse and would be able to administer his IV antibiotics after his discharge home. TF invited Respondent to stay in his home for free room and board and she did so in June 2004. Respondent did not receive payment for her services, which included:
  - a) Administering IV antibiotics in March and April 2004 and again in January and February 2006.

- b) Providing medication management, including assistance with filling prescriptions, setting up oral medications, drawing up daily doses of insulin, and occasionally administering insulin injections.
- c) Providing IV site care, wound care, and dressing changes.

d. Respondent did not disclose her relationship with TF at a conference with the Review Panel on January 23, 2006 because Respondent was afraid the Review Panel would inform her she needed to move from TF's home and end the relationship and she did not intend to end her relationship.

6. On October 12, 2006, as a result of Respondent's conduct, the Minnesota Board of Nursing took disciplinary action against Respondent:

a. Limitations were placed on her license which prohibit her from working in home care and prohibit her from being employed by a temporary staffing agency.

b. Conditions were imposed requiring one-on-one counseling on boundaries and the filing of work reports.

c. A \$900.00 civil penalty was assessed against her for practicing nursing in the State of Minnesota while her license was suspended.

7. Respondent desires to surrender her Wisconsin license as a registered nurse.

#### CONCLUSIONS OF LAW

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

2. Respondent, by having disciplinary action taken against her registered nurse license by the Minnesota Board of Nursing, has committed misconduct or unprofessional conduct as defined by Wis. Adm. Code § N 7.04(7), which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Mary L. Kucaba, R.N., Respondent, of her license as a registered nurse in the state of Wisconsin is hereby ACCEPTED, effective immediately.

2. Respondent shall not have multistate licensure privileges, pursuant to the Nurse Licensure Compact, to practice in Wisconsin under any "home state" license.

3. If Respondent ever makes application to the Board for any license, limited or unlimited, Respondent shall, prior to becoming licensed, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$350.00 pursuant to Wis. Stat. § 440.22(2).

4. Payment of costs 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  
Telephone: (608) 267-3817  
Fax: (608) 266-2264

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

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

3/1/07  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : STIPULATION  
MARY L. KUCABA, R.N., : LS \_\_\_\_\_ NUR  
RESPONDENT. :

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[Division of Enforcement Case # 06 NUR 414]

It is hereby stipulated and agreed, by and between Mary L. Kucaba, R.N., Respondent; Nancy E. Lamo of McCollur Crowley, Moschet & Miller, Ltd., attorneys for Respondent; and John R. Zwieg, 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 (file 06 NUR 414). 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 obtained 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 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 the consideration of this attempted resolution.

6. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. If the Board does not accept this Stipulation, Respondent's certificates shall be returned to Respondent with a notice of the Board's decision not to accept the Stipulation.

7. 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, 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.

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

attached Final Decision and Order.

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Mary L. Kucaba, R.N.  
Respondent  
10009 Second Avenue S  
Bloomington MN 55420

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Date

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Nancy E. Lamo  
McCollum, Crowley, Moschet  
& Miller, Ltd.  
Attorneys for Respondent  
700 Wells Fargo Plaza  
7900 Xerxes Avenue South  
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Date

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John R. Zwieg  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date