

# 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
JOANN J. KOEHLER, R.N.,	:	LS0807246NUR
RESPONDENT.	:	

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[Division of Enforcement Case # 06 NUR 296]

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

Joann J. Koehler, R.N.  
E4747 Lake Road  
Kewaunee, WI 54216

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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Joann J. Koehler, R.N., Respondent, date of birth October 21, 1957, is licensed by the Wisconsin Board of Nursing as a registered nurse (RN) in the state of Wisconsin pursuant to license number 123337, which was first granted July 3, 1996.

2. From May 29, 1981 to April 30, 1997, Respondent had been licensed by the Board as a licensed practical nurse (LPN), license number 23869, but she did not renew it when it expired after she was licensed as an RN. Because Respondent's LPN license has been expired for more than 5 years, if Respondent attempted to renew that license, the Board may require her to show competence in nursing before granting the renewal. [Wis. Adm. Code § N 5.08(1)]

3. Respondent's last address reported to the Department of Regulation and Licensing is E4747 Lake Road, Kewaunee, WI 54216.

4. From 1996 to 1998, Respondent participated in and successfully completed the Department of Regulation and Licensing's Impaired Professionals Procedure (IPP). The IPP is a non-disciplinary monitoring program that may be offered to credential holders with alcohol and/or drug issues, which allows participants to obtain treatment and ongoing aftercare while returning to safe practice.

5. Beginning November 25, 1996, Respondent was employed as a registered nurse at Aurora Medical Center of

Manitowoc County (AMC), in Two Rivers, Wisconsin. From December 2002 to August 4, 2006, when her employment was terminated by her employer, Respondent worked in the Emergency Department.

6. On July 26, 2006, Ms. A was admitted to the emergency room (ER) at AMC for treatment of severe back pain. Respondent provided nursing services to Ms. A.

a. Ms. A's doctor told her to bring all of her medications to the hospital in case she was admitted. The medications included cyclobenzaprine (brand name Flexeril®), a muscle relaxant, and Vicodin, which contains hydrocodone, a Schedule II controlled substance.

b. Just prior to Ms. A's discharge from the ER, Respondent told Ms. A that she wanted to verify her medications and show them to the doctor on duty and took the two bottles containing Vicodin and cyclobenzaprine.

c. Within a few minutes, Respondent returned to Ms. A's room and said the doctor said there was no need for the Vicodin. Respondent asked Ms. A if she would like the Respondent to destroy the Vicodin. Ms. A said she needed the Vicodin and did not want it destroyed. Respondent then put the bottle containing the cyclobenzaprine on the sink and processed Ms. A's discharge, without returning the Vicodin. As Ms. A was leaving, she asked Respondent for her Vicodin. Respondent took the bottle of Vicodin out of her pocket and Ms. A took it with her when she left the hospital.

d. Ms. A had filled her prescription for 50 units of Vicodin on July 25 and had only taken two tablets. When Ms. A arrived home, she noticed that the bottle appeared to be half-empty.

e. Ms. A called the ER and spoke with Respondent. Ms. A explained that she was missing some pills. Respondent whispered that she did not know what could have happened to the pills and said she would call back to Ms. A. Approximately five minutes later, Respondent called Ms. A and said she had found the pills and she would put them in an envelope at the front counter for Ms. A to pick up.

f. Ms. A returned to the hospital and spoke with the physician on duty, who told her Respondent had never showed the physician Ms. A's medications as Respondent had indicated. The physician gave the envelope of pills to Ms. A. After Ms. A returned home, she noticed that three of the pills were larger than the other pills and were stamped with a different number. They were later identified as acetaminophen.

g. Respondent attempted to divert Ms. A's 16 tablets of Vicodin for Respondent's own use, without the order of a practitioner. Respondent did divert 3 tablets of Vicodin by substituting tablets of acetaminophen.

7. Because of the July 26, 2006 events, the hospital conducted an investigation. On August 2, 2006, Respondent eventually admitted diverting some of Ms. A's Vicodin and also admitted that since late June 2006, she had been diverting Vicodin from the hospital's AcuDose system. Respondent attempted to resign from her employment, but was involuntarily terminated from employment by her employer on August 4, 2006.

8. On March 23, 2007, as a result of her conduct on July 26, 2006, Respondent was charged in Manitowoc County Wisconsin Circuit Court case number 2007CM000220 with misdemeanor possession/illegally obtained prescription, in violation of Wis. Stat. § 450.11(7)(h), and misdemeanor theft, in violation of Wis. Stat. § 943.20(1)(a). On June 26, 2007, Respondent pled no contest and was found guilty of the two charges. Entry of a judgment of conviction was withheld pursuant to a Deferred Judgment Agreement for a 24-month period.

9. Since August 2006, Respondent has been enrolled in drug and alcohol counseling and attends weekly NA support groups. Respondent completed an AODA assessment and completed outpatient treatment on October 8, 2007. Respondent has not undertaken a program of random monitored drug testing.

10. Respondent is not currently working in the nursing field.

### 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 diverting controlled substances from her place of employment, has obtained drugs other than

in the course of legitimate practice and as otherwise prohibited by law and violated laws substantially related to practice under her license. This is misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(1)(2), which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Joann J. Koehler, R.N., of her license as a registered nurse in the state of Wisconsin is hereby ACCEPTED, effective immediately.
2. If Respondent ever applies to the Board for licensure or relicensure:
  - a. Respondent shall meet all requirements which are then required by statute and administrative rule for that license.
  - b. Respondent shall have paid the costs of this proceeding in the amount of \$650.00 to the Department of Regulation and Licensing, pursuant to Wis. Stat. § 441.22(2).
  - c. It shall be in the sole discretion of the Board whether to grant Respondent any license, with or without limitations.
3. All requests, notices and payments required by this Order shall be mailed, faxed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone: (608) 267-3817  
Fax: (608) 266-2264
4. This Order is effective on the date of its signing.

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

7/24/08  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JOANN J. KOEHLER, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 06 NUR 296]

It is hereby stipulated and agreed, by and between Joann J. Koehler, R.N., Respondent; Steven G. Richards of Everson, Richards & Burdon, LLP, 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. 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 the 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. 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. 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.

10. 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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Joann J. Koehler, R.N.  
Respondent  
E4747 Lake Road  
Kewaunee, WI 54216

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven G. Richards  
Everson, Richards & Burdon, LLP  
Attorneys for Respondent  
P.O. Box 8  
Casco, WI 54205

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date