

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
JENNIFER M. KIRKPATRICK, R.N., : LS0810028NUR
RESPONDENT. :

[Division of Enforcement Case # 08 NUR 211]

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

Jennifer M. Kirkpatrick, R.N.
W8773 S and D Town Line Road
Darien, WI 53114-1324

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. Jennifer M. Kirkpatrick, R.N., Respondent, date of birth January 14, 1977, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 137229, which was first granted February 2, 2001.

2. Respondent's last address reported to the Department of Regulation and Licensing is W8773 S and D Town Line Road, Darien, WI 53114-1324.

3. During the events of this matter, Respondent was employed as a registered nurse (RN) in the Emergency Department at Aurora Lakeland Medical Center (ALMC) in Elkhorn, Wisconsin.

4. On May 6, 2008, the Nursing Manager for the Emergency Department discovered that Respondent was making suspicious withdrawals of Demerol (meperidine) and Dilaudid (hydromorphone), injectable narcotic analgesics which are Schedule II controlled substances, from the emergency room (ER) Pyxis machine.

5. Supervisory personnel conducted an investigation. Respondent initially denied taking or using any of the drugs for illicit purposes. After being confronted with the findings of the investigation, Respondent admitted to stealing the drugs for her own use. She admitted that she would remove vials of Demerol or Dilaudid from Pyxis and inject the medication into a storage vial she carried with her. She said she would then use saline to fill the medication vial she had removed from Pyxis and

then have another staff person witness her wasting that fluid.

6. Respondent's employment was immediately terminated and she has not practiced nursing since May 6, 2008. Respondent entered a detoxification facility and then residential treatment. She continues in treatment and is being treated with a medication that reduces the symptoms of opioid dependence. Respondent does not intend to return to clinical nursing within the next few years.

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 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, which is misconduct and unprofessional conduct as defined by Wis. Adm. Code § N 7.04(2), and which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by her conduct, has abused drugs to an extent that such use impairs her ability to safely or reliably practice, as defined by Wis. Admin. Code § N 7.03(2), which subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(c).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

1. The license of Jennifer M. Kirkpatrick, R.N., Respondent, to practice as a registered nurse in the State of Wisconsin is **SUSPENDED** for an indefinite period.

2. The privilege of Respondent to practice as a nurse in the State of Wisconsin under the authority of another state license pursuant to the Nurse Licensure Compact is also **SUSPENDED** for an indefinite period.

3. Respondent may petition the Board for a stay of the suspension at any time, but any request for a stay shall include evidence of all treatment, monitoring and rehabilitation Respondent has engaged in since May 6, 2008.

4. It shall be within the Board's sole discretion whether or not to grant the stay. The Board may impose conditions and requirements with which Respondent must comply in order to receive a stay or have the stay continued.

5. Prior to any stay of the suspension, Respondent shall pay costs of \$310.00 to the Department of Regulation and Licensing.

6. Any requests, petitions, reports, payments and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

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

By: Marilyn Kaufmann
A Member of the Board

10/2/08
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JENNIFER M. KIRKPATRICK, R.N.,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

LS _____ NUR

[Division of Enforcement Case # 08 NUR 211]

It is hereby stipulated and agreed, by and between Jennifer M. Kirkpatrick, R.N., 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 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 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 accepts the Stipulation, upon issuance of an Order, Respondent's license may be reissued pursuant to the terms of the Order. If the Board does not accept this Stipulation, Respondent's certificates shall be returned to the 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, 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.

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 that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Jennifer M. Kirkpatrick, R.N.

Date

Respondent

W8773 S and D Town Line Road
Darien, WI 53114-1324

John R. Zwieg

Attorney for Complainant

Division of Enforcement

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708-8935

Date