

# 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
KRISTI ANN FITZGERALD, R.N.,	:	LS0905072NUR
RESPONDENT.	:	

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[Division of Enforcement Case # 07 NUR 389]

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

Kristi Ann Fitzgerald, R.N.  
10813 W. 5<sup>th</sup> Street  
Hewitt, WI 54441

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. Kristi Ann Fitzgerald, R.N., Respondent, date of birth August 30, 1974, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 125922, which was first granted April 2, 1997.

2. Respondent's last address reported to the Department of Regulation and Licensing is 10813 W. 5<sup>th</sup> Street, Hewitt, WI 54441.

3. During the events of this matter, Respondent was employed as a registered nurse (RN) by St. Joseph's Hospital—Ministry Health Care in Marshfield, Wisconsin. Respondent was a casual employee who worked in Newborn Nursery and Post-Partum Unit of the Birth Center.

4. The Post Partum Unit uses a Pyxis automated medication management system for dispensing of controlled substances, including oxycodone, an analgesic schedule II controlled substance.

a. A nurse uses a pin number to access the Pyxis machine and must indicate the patient, controlled substance and the number of doses withdrawn.

b. For purposes of billing the patient, the Pyxis electronically notifies the IDX/Lastword system of the withdrawal and the nurse must confirm in that system that it was administered or infused.

5. All nursing documentation is to be done in a separate electronic system, the Quantitative Sentinel system (QS).

This system is the electronic equivalent of the patient's chart. Among the things the nurse is to note in this system are the assessment of the patient's pain, the dose of drug administered and the result.

6. From August 1 through October 12, 2007, there were 39 instances in which Respondent withdrew oxycodone from the Pyxis and either failed to make any note in the QS system related to its administration to the patient or documented in that system that one tablet was administered when two tablets were withdrawn. One credible patient stated she received no oxycodone, but Respondent documented giving her a total of 4 tablets.

7. Hospital administrators met with Respondent on October 18 and 30, 2007 to discuss Respondent's failure to make notes relating to the administration of oxycodone Respondent withdrew. Respondent's employment was suspended on October 18 and terminated on October 30, 2007.

8. Respondent contends that the documentation errors were the result of her unfamiliarity with QS. Respondent was trained on QS during her orientation in April 2007, when it was already being used on the Labor and Delivery Unit. QS was implemented in the Post Partum Unit and Newborn Nursery in January 2006. Respondent says she requested in-service training with the QS system when she returned from medical leave following surgery in January 2007 and was told to ask the other nurses how to use it. However, the only medication errors Respondent made in QS related to failing to note that she administered oxycodone which she withdrew for patients. Respondent's other documentation in QS was done correctly.

### 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 engaging in the conduct set out above, has violated the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public, which is misconduct or unprofessional conduct as defined by Wis. Adm. Code § N 7.04(intro.), and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Kristi Ann Fitzgerald, R.N., is hereby REPRIMANDED for the above conduct.

2. For two (2) years from the date of this Order, Respondent's license is LIMITED as follows:

a. Respondent shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Respondent works as a nurse or caregiver or provides health care, during the two year period.

b. Respondent shall notify the Department Monitor of each employment as a nurse and the name and contact information for her supervisor at each employment, within 10 days of becoming employed as a nurse.

c. Respondent's supervisors shall provide written reports on Respondent's work performance to the Department Monitor on a quarterly basis, as directed by the Department Monitor. It shall be Respondent's responsibility to insure that the reports are made in a timely manner.

3. Respondent's license is further LIMITED as follows:

a. Within 120 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of nine (9) hours of continuing education in medication management administration and charting, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that she has completed the education, this limitation shall be removed from Respondent's license.

4. Respondent shall, within 180 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$640.00 pursuant to Wis. Stat. § 440.22(2).

5. Any requests, reports, evidence of completion of educational programs and payment 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  
Fax (608) 266-2264  
Telephone (608) 267-3817

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Board of Nursing

By: Marilyn Kaufmann  
A Member of the Board

5/7/09  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
KRISTI ANN FITZGERALD, R.N.,	:	LS _____ NUR
RESPONDENT.	:	

[Division of Enforcement Case # 07 NUR 389]

It is hereby stipulated and agreed, by and between Kristi Ann Fitzgerald, R.N., Respondent; Theresa R. Gabriel o Cullen, Weston, Pines & Bach LLP, attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Departmer 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 o Enforcement. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a forme 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 preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses o her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any propose decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition fo rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, th 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 th Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or conser 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 o this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that thi 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 close 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.

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. 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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Kristi Ann Fitzgerald, R.N.  
Respondent  
10813 W. 5<sup>th</sup> Street  
Hewitt, WI 54441

\_\_\_\_\_  
Date

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Theresa R. Gabriel  
Cullen, Weston, Pines & Bach LLP  
Attorneys for Respondent  
122 W. Washington Avenue, Suite 900  
Madison, WI 53703

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date