

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
KATHRYN M. VANDER WOUDE, R.N.,	:	Order <u>0000080</u>
RESPONDENT.	:	

[Division of Enforcement Case # 08 NUR 440]

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

Kathryn M. Vander Woude, R.N.
1015 Katherine Drive
Elm Grove, WI 53122

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. Kathryn M. Vander Woude, R.N., Respondent, date of birth March 26, 1959, is licensed by the Wisconsin Board of Nursing as a registered nurse in the state of Wisconsin pursuant to license number 92952, which was first granted March 26, 1986.
2. Respondent's last address reported to the Department of Regulation and Licensing is 1015 Katherine Drive, Elm Grove, WI 53122.
3. In 2008, Respondent was employed as a registered nurse at Aurora West Allis Medical Center in West Allis, Wisconsin. Respondent worked in the Women's Health Unit and provided post partum care to patients.

4. On September 24, 2008, the Patient Care Manager of the Women's Health Unit received a complaint from a patient stating that on September 21, 2008, the patient's nurse [Respondent] failed to provide pain medication to her after she requested it. The Patient Care Manager checked the patient's medical records and determined that Respondent was the nurse who provided care to the patient on that date and requested the Controlled Substance Coordinator for the Aurora Health Care System to conduct an Accudose audit on Respondent.

5. A check of the Accudose records showed that Respondent had withdrawn and administered two oxycodone 5-325mg tablets for the patient on the date in question. The patient denied ever receiving the medication. Oxycodone is a opioid analgesic and Schedule II controlled substance.

6. The Controlled Substance Coordinator then conducted an Accudose audit of all narcotic Accudose transactions by all staff members of the unit between the dates of June 1, 2008 and August 31, 2008. The audit showed that the total medications dispensed for each narcotic medication that was reviewed indicated normal activity for all users except one. The audit conducted on the medication oxycodone/APAP 5-325mg tablets (brand name Percocet®) showed that Respondent had far exceeded the amount of oxycodone/APAP withdrawn by each of her co-workers. It was also noted that the majority of Respondent's oxycodone/APAP transactions were for two tablets while all other nurses reviewed would often times withdraw only one.

7. It was determined that the Manager of Loss Prevention Services would interview Respondent following her shift on October 8, 2008. An Accudose audit report was run for all activity involving Respondent on that date. The report showed that Respondent withdrew a total of ten doses of oxycodone/APAP 5-325mg tablets for three patients during her shift. The patients were contacted to determine if they had received any pain medication from their nurse prior to discharge. Two of the patients indicated that they received the pain medication but the third patient did not, citing that pain medication, specifically Percocet®, makes her ill and she refused to take it.

8. Because she left her shift early on October 8, Respondent was interviewed on October 10, prior to her scheduled shift. After reviewing an Accudose audit report showing transactions involving oxycodone/APAP 5-325mg tablets, Respondent admitted to being under a great deal of stress and stated that she began taking the oxycodone/APAP to help her cope. Respondent also stated that she never took any other medications for her personal use and never took the oxycodone/APAP while at work. No patient was ever denied their pain medication. Respondent's employment was terminated as a result of her conduct.

9. On October 16, 2008, Respondent was referred by her psychiatrist to Aurora Psychiatric Hospital for an assessment. Respondent's diagnoses included "Acute Alcohol intoxication, Alcohol abuse versus Alcohol dependency syndrome, Sedative/hypnotic dependence, Opiates dependence versus abuse."

10. On October 17, 2008, Respondent was admitted to Aurora Psychiatric Hospital inpatient service due to an increase in depressive symptoms as well as recurrent relapses and for alcohol detox treatment. Respondent was discharged on October 20, 2008 to the adult chemical dependency intensive outpatient program (IOP/CD) with the following diagnoses: "Alcohol dependence and withdrawal; insomnia not otherwise specified; panic disorder without agoraphobia;

major depressive disorder, recurrent, per history; rule out bipolar disorder; history of tetrahydrocannabinol and Cocaine abuse.” Respondent’s prognosis was listed as “Fair.”

11. From October 23 to November 25, 2008, Respondent participated in and successfully completed the IOP/CD Program, with the recommendation that Respondent return to the care of her psychiatrist.

12. Respondent remained abstinent from drugs and alcohol for approximately six weeks following her discharge from the IOP/CD Program, but then relapsed. From March 14, 2009 to April 11, 2009, as a result of an intervention by her siblings, Respondent attended an inpatient AODA treatment program at Hazelden in Center City, Minnesota.

a. Respondent was discharged from treatment after completing her primary chemical dependency program. Her progress in treatment was minimal.

b. It was recommended that Respondent go directly to a halfway house after she completed primary treatment and participate in Alcoholics Anonymous and Narcotics Anonymous meetings regularly.

c. Respondent did not agree to any aftercare recommendations and stated that she planned to continue working with her psychiatrist.

d. Respondent’s discharge diagnoses included “Alcohol dependence with physiological dependence; Percocet dependence with physiological dependence, early full remission; and Sedative/hypnotic dependence with physiological dependence.

13. Respondent represents to the Board that she has been free of any unprescribed controlled substances since 3/7/09, has followed all recommendations of her treating professionals with respect to her recovery, and has been working as a nurse since September, 2009, without incident.

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 pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by obtaining and using a drug other than in the course of legitimate practice and as otherwise prohibited by law, as set out above, has committed misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(2) and is subject to discipline pursuant to Wis. Stat. § 441.07(1)(d).

3. Respondent, by her conduct, has abused substances 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:

SUSPENSION

- A.1. The license of Kathryn M. Vander Woude, R.N., Respondent, to practice as a registered nurse in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. The privilege of Respondent to practice as a registered 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.
- A.3. During the pendency of this Order and any subsequent related orders, Respondent may not practice in another state pursuant to the Nurse Licensure Compact under the authority of the Wisconsin license, unless Respondent receives prior written authorization to do so from both the Wisconsin Board of Nursing and the regulatory authority in the other state.
- A.4. Respondent shall mail or physically deliver all indicia of nursing licensure to the Department Monitor within 14 days of the effective date of this Order.
- A.5. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active nursing for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure.
- A.6. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension shall not be stayed immediately, but shall be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent has been in compliance with the provisions of Sections C and D of this Order for the most recent three (3) consecutive months.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
 - (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than twice per month for the first year. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all specimen screening results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the

practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.

- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of specimens at a frequency of not less than 48 times per year, for the first year of this Order, and, in addition, shall include the testing of at least one hair sample. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the specimens. If any specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional specimens, (b) submit specimens of blood, hair, breath, urine, fingernail, saliva, and any additional tissue or product of the body, the collection of which does not require piercing the skin, (c) furnish any specimen in a directly witnessed manner.

- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

Practice Limitations

- C.19. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.
- C.20. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional approved by the Board or its designee and only in a work setting pre-approved by the Board or its designee. Respondent may not work in a home health care, hospice, pool nursing, or agency setting. Notwithstanding this limitation, Respondent's present agency employment at St. Joseph's Hospital, West Bend, Wisconsin, is approved.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future.
- C.22. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter.
- C.23. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

MISCELLANEOUS

Department Monitor

- D.1. Any requests, petitions, reports 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 Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall

notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Board

D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.5. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

D.5. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

D.6. Respondent shall pay Costs of \$850, to the Department of Regulation and Licensing, before January 5, 2012. In the event Respondent fails to timely submit full payment of Costs, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has paid the costs in full, together with any accrued interest.

Additional Discipline

D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 441.07.

Wisconsin Board of Nursing

By: Marilyn Kaufmann
A Member of the Board

February 25, 2010
Date

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