

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
BRIANA L. FOLEY, R.N., :  
RESPONDENT. : ORDER 0001062

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Division of Enforcement Case No. 11NUR248

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

Briana L. Foley, R.N.  
2401 Pecan Street  
Green Bay, WI 54311

Division of Enforcement  
Department of Safety and Professional Services  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Board of Nursing  
Department of Safety and Professional Services  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Briana L. Foley, R.N., (DOB 12/18/1979) is duly licensed as a professional nurse in the State of Wisconsin (license No. 138694-30). This license was first granted on August 3, 2001.
2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 2401 Pecan Street, Green Bay, WI 54311.

3. During the events of this matter, Respondent was employed as a registered nurse (“RN”) at St. Vincent Hospital in Green Bay, Wisconsin.

4. On April 13, 2011, a patient reported to the night shift RN that she did not recall receiving any medication during the day. Documentation showed the patient was given medication at 1400 and two Percocet pills were dispensed from the Pyxis medication dispensing system.

5. Upon investigation, it was discovered that Respondent took two Percocet pills from the Pyxis on three occasions during the day shift. The medications were documented as given to the patient in the FAMIS computer charting system, but corresponding documentation did not warrant pain medication administration. Documentation revealed that the patient was receiving two Percocet every three hours consistently for pain documented at a 0-3 level out of 10 on the pain scale.

6. Other nurses caring for the patient documented giving the patient one tablet of Percocet at 12-hour intervals.

7. Further investigation of Respondent’s patients revealed that on several occasions, narcotics were dispensed from the Pyxis but not documented in the medical records and/or there was no corresponding pain assessment.

8. Respondent underwent a urine drug screen and tested positive for Oxycodone. At the time, Respondent had a prescription for Oxycodone 15 mg q8h prn. According to Respondent, she was referred to long-term management of chronic pain and had been under and compliant with a signed narcotic contract, including regular urine drug screens.

9. On April 28, 2011, Respondent’s employment was terminated for diversion of narcotics as Respondent’s documentation of her assessments and intervention did not meet the standard of care.

#### CONCLUSIONS OF LAW

1. The Wisconsin Board of Nursing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 441.07, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above constitutes a violation of Wisconsin Administrative Code §§ N 7.03(1) and N 7.04(2), and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(c) and (d).

ORDER

IT IS ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED that:

1. Respondent, Briana L. Foley , R.N., is REPRIMANDED.
2. The license of Briana L. Foley, R.N., to practice nursing in the state of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:
  - (a) Within sixty (60) days of the date of this Order, Respondent, at her own expense, shall undergo a Fitness to Practice evaluation by an independent pain management specialist.
    - i. The evaluating pain management specialist must not have treated Respondent at any time and shall have been approved by the Board, with an opportunity for the Division to make its recommendation, prior to the evaluation being performed.
    - ii. The Division shall provide the evaluating pain management specialist and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the evaluation. Respondent may provide the evaluating pain management specialist with any information Respondent believes will be of assistance in performing the evaluation and shall immediately provide copies of that information to the Division.
    - iii. Respondent shall authorize the evaluating pain management specialist to provide the Board, or its designee, and the Division with the evaluation report and all materials used in performing the evaluation and shall provide the Board, or its designee, and the Division with the opportunity to discuss the evaluation and findings with the evaluating pain management specialist.
    - iv. If the evaluating pain management specialist shows, to the Board's satisfaction, that Respondent is safe to practice nursing, the Board shall lift this limitation. However, the Board may further limit Respondent's license in any manner it sees fit to address the facts above and any recommendations resulting from the assessment, including but not limited to direct supervision and quarterly employer work reports.
  - (b) For a period of at least two (2) years from the date of this Order, Respondent shall enroll and begin participation in a drug and alcohol

monitoring program which is approved by the Department (“Approved Program”).

- i. 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:
- ii. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
- iii. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- iv. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year. After the first year, Respondent may petition the Board on an annual basis for a modification of the frequency of tests. The board may adjust the frequency of testing on its own initiative at any time.

(c) For a period of at least two (2) years from the date of this Order, Respondent shall arrange for quarterly reports from her nursing employer(s) reporting the terms and conditions of her employment and evaluating her work performance.

3. After two (2) years from the date of this Order, Respondent may petition the board for the modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

4. Respondent shall, within 90 days of the date of this Order, pay to the Department of Safety and Professional Services costs of this proceeding in the amount of Three Hundred Dollars (\$300.00), pursuant to Wis. Stat. § 440.22(2).

5. Any requests, petitions, reports, or payments shall be mailed, faxed or delivered to:

Department of Safety and Professional Services  
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 submit payment of the costs as ordered, Respondent's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

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

Dated at Madison, Wisconsin this 1 day of Sept, 2011.

Board of Nursing

By: Leah Meyer WDA, APRN  
A Member of the Board