

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JAMES J. FINK, R.N.,	:	
RESPONDENT.	:	ORDER 0001320

Division of Enforcement Case No. 11NUR508

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

James J. Fink, R.N.
1128 Valley View Road
Green Bay, WI 54304

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. James J. Fink, R.N., (DOB 06/10/1968) is licensed as a professional nurse in the State of Wisconsin (license no. 151642-30). This license was first granted on June 24, 2005. Respondent is also licensed as a chiropractor in the State of Wisconsin (license no. 3339-12). This license was first granted on April 12, 1996.

2. Respondent's most recent address on file with the Wisconsin Board of Nursing is 1128 Valley View Road, Green Bay, WI 54304.

3. On October 12, 2011, Respondent was questioned by Ashwaubenon Public Safety about Nubain, a prescription drug he had in his home.

4. During the interview, Respondent admitted the following:

- a. He had two bottles of Nubain in his dresser drawer and a partial vial in his basement;
- b. Respondent did not have a prescription for Nubain;
- c. Respondent's late wife obtained the Nubain through the internet without a prescription. She used it to help with pain associated with brain cancer;
- d. Respondent sporadically injected himself with Nubain to help with his colitis and knee pain;
- e. Respondent last injected himself with Nubain the night before;
- f. Respondent injected his 12-year-old daughter with Nubain to help her with stomach pain and pain associated with an ATV accident;
- g. Over the last six weeks, Respondent injected his daughter a minimum of six times ranging from one to two times per week;
- h. On one occasion, Respondent injected Nubain to his girlfriend to help with menstrual cramp pain.

5. On October 14, 2011, Respondent was charged in Brown County with five counts of Manufacture or Deliver Prescription Drug, a class H felony, and one count of Possess/Illegally Obtained Prescription, a class U misdemeanor.

6. Respondent neither admits nor denies the above allegations, but agrees that the facts as set forth above are legally sufficient to support the Conclusions of Law and Order below. Respondent has fully cooperated with the Department's investigation of this matter, and his cooperation and stipulation to this Order are evidence of his good faith and commitment to ensure that his practice and judgment will comply with acceptable professional standards.

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 in paragraphs 4 and 5 above constitutes a violation of Wisconsin Administrative Code §§ N 7.04(2) and (4) and subjects Respondent to discipline pursuant to Wis. Stat. § 441.07(1)(d).

ORDER

IT IS ORDERED:

1. The license of James J. Fink, R.N., to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Multi-State Nursing Compact, are indefinitely **SUSPENDED**. Respondent may petition for reinstatement of his license after undergoing a fit for duty evaluation, at his own expense.

- (a) The evaluator 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.
- (b) The Division shall provide the evaluator 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 evaluator with any information Respondent believes will be of assistance in performing the evaluation and shall immediately provide copies of that information to the Division.
- (c) Respondent shall authorize the evaluator 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 evaluator.
- (d) If the evaluator shows, to the Board's satisfaction, that Respondent is safe to practice nursing, the Board shall lift the suspension. However, the Board may 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.
- (e) Prior to the end of the suspension, Respondent, at his own expense, shall have completed eight (8) hours of pre-approved continuing education in ethics; and eight hours of pre-approved continuing education in safe medication practice. Respondent is responsible for finding appropriate courses and submitting the course information to the Board for approval prior to taking the courses.

2. Respondent shall, within one hundred twenty (120) days from the date of this Order, pay costs of this proceeding in the amount of Four Hundred Dollars (\$400.00).


3. All petitions, payments, reports and other correspondence shall be directed to the Department Monitor, as follows:

Department Monitor
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

4. 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 timely submit payment of the costs as ordered, Respondent's license (no. 151642-30 may, in the discretion of the Board or its designee, be or remain SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Board of Nursing

By: 
A Member of the Board

1/26/12
Date