

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

KRISTIN K. HEWITT, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0002876

Division of Legal Services and Compliance¹ Case No. 12 NUR 331

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

Kristin K. Hewitt, R.N.
701 Merryturn Road
Madison, WI 53714

Wisconsin Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
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 disposition of this matter, subject to the approval of the Wisconsin Board of Nursing (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Kristin K. Hewitt, R.N., (dob June 24, 1971) is licensed in the State of Wisconsin as a professional nurse, having license number 132621-30, first issued on July 23, 1999 and current through February 28, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 701 Merryturn Road, Madison, Wisconsin 53714.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a hospital clinic in Madison, Wisconsin.

3. On June 14, 2012, Respondent was found unresponsive in her vehicle in her employer's parking garage. Police were called and an officer conducted a field sobriety test on the Respondent. Respondent was arrested and charged with Operating a Motor Vehicle While Impaired.

4. As part of the arrest, police searched Respondent's vehicle and found multiple empty syringes labeled with a variety of controlled substances. Respondent was drug tested and tested positive for diphenhydramine.

5. On June 18, 2012, the vice president of hospital surgery centers interviewed Respondent regarding possible drug diversion, and the events of June 14, 2012. Respondent admitted removing the medications from the clinic, in violation of the hospital's policies and regulations.

6. On June 26, 2012, Respondent's employment at the clinic was terminated.

7. On September 25, 2012, the Department of Safety and Professional Services (Department) received a response from Respondent regarding the allegations above. In her response, Respondent admitted to attempting to commit suicide and she admitted to taking Dilaudid® from her employer, that she was supposed to waste.

8. On August 2, 2013, Respondent submitted to a hair test by a pre-approved provider. Respondent tested negative for all fourteen (14) drugs tested.

9. On or about August 13, 2013, Respondent participated in an alcohol and other drug abuse assessment as well as a fitness to practice assessment. The treater found Respondent had a drug abuse history but did not meet criteria for drug or alcohol abuse or dependence. The treater found Respondent was fit to practice and did not believe any practice restrictions were required.

10. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 pursuant to Wis. Stat. § 227.44(5).

2. Dilaudid® is a brand name for hydromorphone. Pursuant to Wis. Stat. § 961.16(2)(a)8., hydromorphone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

3. By the conduct described in the Findings of Fact, Kristin K. Hewitt, R.N., engaged in unprofessional conduct as defined in Wis. Admin. Code § N 7.04(2) by obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law.

4. As a result of the above conduct, Kristin K. Hewitt, R.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Kristin K. Hewitt, R.N., is REPRIMANDED.

3. The professional nursing license issued to Kristin K. Hewitt, R.N., (license number 132621-30) to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is LIMITED as follows:

a. For a period of at least two (2) years from the date of this Order:

i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program).

ii. 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:

1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.

2. 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.

3. The Approved Program shall require the testing of specimens at a frequency of not less than ten (10) times per year, for the first year of this Order. 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.

- iii. 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, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- iv. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- v. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)iv.
- vi. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- vii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

4. The professional nursing license issued to Kristin K. Hewitt, R.N., (license number 132621-30) to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, is further LIMITED as follows:

- a. For a period of at least two (2) years, Respondent shall provide her nursing employers with a copy of this Order before engaging in any nursing employment.
- b. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a home health, assisted living, agency or pool position.
- c. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall arrange for her nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of her employment and evaluating her work performance.
- d. Respondent shall notify the Department Monitor of any change of nursing employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
- e. After two (2) years of working at least half-time as a nurse, 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.

5. Pursuant to Uniform Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of the above limitations. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and the regulatory board in the state in which Respondent proposes to practice.

6. The Board or its designee may, without hearing, suspend Respondent's nursing license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision.

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

8. Within 120 days from the date of this Order, Kristin K. Hewitt, R.N., shall pay COSTS of this matter in the amount of \$925.00.

9. Respondent shall send payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) to the Department Monitor at the address below. Work reports and all petitions shall also be sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

10. 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 Respondent fails to timely submit payment of costs as ordered or fails to submit work reports as set forth above, Respondent's license (no. 132621-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs and submitted all required work reports.

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

WISCONSIN BOARD OF NURSING

by:

Julia Nelson, RN
A Member of the Board

12/19/13
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KRISTIN K. HEWITT, R.N.,
RESPONDENT.

STIPULATION

0002876

Division of Legal Services and Compliance¹ Case No. 12 NUR 331

Respondent Kristin K. Hewitt, R.N., and the Division of Legal Services and Compliance,
Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the
Division of Legal Services and Compliance. Respondent consents to the resolution of this
investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily
and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by
subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution,
the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code,
and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has
been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent
is represented by Attorney Mario Mendoza.

4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Wisconsin Board of Nursing (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

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

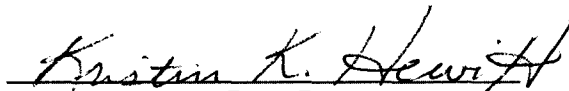
the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

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 then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the 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.

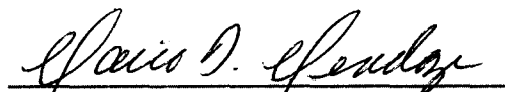
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such 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 Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Kristin K. Hewitt, R.N., Respondent
701 Merryturn Road
Madison, WI 53714
License no. 132621-30

12-4-13
Date


Mario Mendoza, Attorney for Respondent
Murphy Desmond S.C.
33 East Main Street, Suite 500
Madison, WI 53701-2038

12-6-13
Date


Amanda L. Fiorek, Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

12/6/13
Date