

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION INVOLVING :
: ADMINISTRATIVE INJUNCTION
VIVIAN DEGRAVE, :
RESPONDENT. : 0002984

Division of Legal Services and Compliance Case No. 13 UNL 009

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

Vivian DeGrave
2825 Highway V
Franksville, WI 53126

Wisconsin Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Vivian J. DeGrave was licensed in the State of Wisconsin as a professional nurse, license number 90020-30. This license was first granted on March 27, 1985 and expired on February 28, 2006.
2. Upon information and belief, Respondent's current address is 2825 Highway V, Franksville, Wisconsin 53126.

3. At all times relevant to this proceeding, Respondent owned and operated a community based residential facility (CBRF). CBRF was an eight (8) bed facility.

4. On January 3, 2006, the Department received a renewal application from Respondent.

5. On July 5, 2006, the Department sent Respondent a Notice of Denial of Renewal Application due to a revenue hold from the Department of Revenue (DOR) for delinquent taxes.

6. On August 15, 2006, the Department sent Respondent a notice that her license to practice nursing in the State of Wisconsin had expired due to her failure to either respond to the denial or provide a release from the DOR.

7. On February 28, 2011, Respondent's five year right of renewal expired.

8. On February 14, 2013, the Department received a complaint indicating Respondent was providing nursing services at the CBRF without a current nursing license.

9. Respondent admitted that she was the only one working at the CBRF and that she, for compensation, reviewed and managed all patient medications. This included carrying out physician's orders.

10. Respondent, for compensation, kept records regarding patient symptoms, reactions, medications and consultations with the patients' physicians.

11. Respondent, for compensation, provided care for four elderly patients, including supervising activities of daily living, assessing patients and administering patient medications.

12. During investigation, Respondent told the investigator that she had a license to practice nursing but that it was "on hold." Respondent was aware she did not hold a current license to practice nursing.

13. The Wisconsin Department of Health Services required Respondent to close the CBRF.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21, and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Wis. Stat. § 441.001(4), defines the practice of professional nursing to include "the observation and recording of symptoms and reactions" and "the execution of procedures and techniques in treatment of the sick under the general or special supervision of a physician..." when such acts are taken for compensation.

3. Pursuant to Wis. Stat. § 441.06(4) no person may practice or attempt to practice professional nursing, nor use the title, letters, or anything else to indicate that he or she is a registered or professional nurse unless he or she is licensed under this section

3. The conduct described above constitutes the unlicensed practice of nursing, contrary to Wis. Stat. § 441.10(3)(c).

ORDER

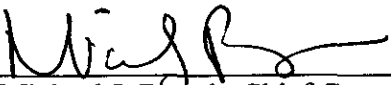
1. The attached stipulation is accepted.

2. Unless and until Respondent is properly licensed as a professional nurse by the Wisconsin Board of Nursing, Respondent is enjoined and prohibited from the practice of nursing in the State of Wisconsin. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

3. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Issued at Madison, Wisconsin, this 6th day of February, 2014.

By: 
Michael J. Berndt, Chief Counsel
On behalf of the Department

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION INVOLVING :
: STIPULATION
VIVIAN DEGRAVE, :
RESPONDENT. : 0002984

Division of Legal Services and Compliance Case No. 13UNL009

Respondent Vivian DeGrave 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.

4. Respondent agrees to the adoption of the attached Administrative Injunction by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Administrative Injunction without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Injunction, if adopted in the form as attached.

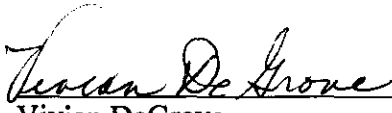
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

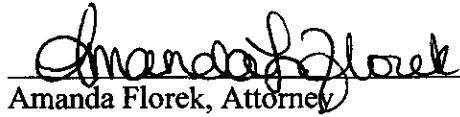
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Administrative Injunction 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 that the Department adopt this Stipulation and issue the attached Administrative Injunction.


Vivian DeGrave
2825 Highway V
Franksville, WI 53126

1/23/2014
Date


Amanda Florek, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

1/30/14
Date