

## 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

WENDY A KLEIBOR, R.N.,  
RESPONDENT.

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:  
: FINAL DECISION AND ORDER  
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:

0003272

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Division of Legal Services and Compliance Case No. 13 NUR 320

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

Wendy A. Kleibor, R.N.  
S85 W19707 Greenhaven Ct.  
Muskego, WI 53150

Wisconsin Board of Nursing  
P.O. Box 8366  
Madison, WI 53708-8366

Division of Legal Services and Compliance  
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 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 Wendy A. Kleibor, R.N., (dob January 11, 1976) is licensed in the State of Wisconsin as a professional nurse, having license number 147653-30, first issued on October 7, 2004 and current through September 9, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is S85 W19707 Greenhaven Court, Muskego, Wisconsin 53150.

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a hospital (Hospital), located in Janesville, Wisconsin.

3. On May 13, 2013, a Pyxis® audit revealed numerous discrepancies between April 13, 2013 and May 13, 2013, for Respondent's narcotic medication withdrawals and Respondent's administration documentation.

4. On April 14, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, two (2) 5/325 mg oxycodone/acetaminophen tablets; three (3) 5 mg zolpidem tablets; four (4) 5/325 mg hydrocodone/acetaminophen tablets; two (2) 1 mg lorazepam tablets; two (2) 2 mg/2 ml lorazepam syringes; and two (2) 1 mg lorazepam tablets.

5. On April 15, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, two (2) 5/325 mg oxycodone/acetaminophen tablets; two (2) 5/325 mg hydrocodone/acetaminophen tablets; and 1 mg lorazepam tablet.

6. On April 18, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, six (6) 5/325 mg oxycodone/acetaminophen tablets.

7. On April 19, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, six (6) 5/325 mg oxycodone/acetaminophen tablets.

8. On April 25, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, six (6) 5/325 mg oxycodone/acetaminophen tablets and four (4) 5 mg oxycodone tablets.

9. On April 29, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, four (4) 5/325 mg oxycodone/acetaminophen tablets and five (5) 5 mg oxycodone tablets.

10. On April 30, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, two (2) 5/325 mg oxycodone/acetaminophen tablets and seven (7) 5 mg oxycodone tablets.

11. On May 1, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, two (2) 5/325 mg oxycodone/acetaminophen tablets and six (6) 5 mg oxycodone tablets.

12. On May 10, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, eighteen (18) 5/325 mg oxycodone/acetaminophen tablets; two (2) 5 mg zolpidem tablets; two (2) 1 mg lorazepam tablets and one (1) 2 mg/2 ml lorazepam syringe.

13. On May 11, 2013, Respondent withdrew from Pyxis®, but failed to document that she administered, four (4) 5/325 mg oxycodone/acetaminophen and two (2) 5 mg zolpidem tablets.

14. On May 14, 2013, Respondent consented to a reasonable suspicion drug screen. The drug screen returned positive for lorazepam.

15. Respondent did not have a prescription for lorazepam and admitted to taking lorazepam that was prescribed to her mother.

16. 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. Pursuant to Wis. Stat. § 961.16(2)(a)11., oxycodone 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. Pursuant to Wis. Stat. § 961.20(2)(p), zolpidem is a schedule IV controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

4. Pursuant to Wis. Stat. § 961.18(5)(d), hydrocodone of not more than 15 mg per dosage unit, is a schedule III controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

5. Pursuant to Wis. Stat. § 961.20(2)(er), lorazepam is a schedule IV controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

6. By the conduct described in the Findings of Fact, Wendy A. Kleibor, R.N., engaged in negligent conduct as defined by Wis. Admin. Code § N 7.03(1)(b), by an act or omission demonstrating a failure to maintain competency in practice and methods of nursing care.

7. By the conduct described in the Findings of Fact, Wendy A. Kleibor, R.N., engaged in unprofessional conduct as defined in Wis. Admin. Code § N 7.04(2), by administering, supplying or obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law.

8. As a result of the above violations, Wendy A. Kleibor, R.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1)(b), (c) and (d).

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent Wendy A. Kleibor, R.N., is REPRIMANDED.

3. The professional nursing license issued to Wendy A. Kleibor (license number 147653-30) 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 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 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 forty-nine (49) 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 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, 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)v.
- 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, 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. Pursuant to Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation. 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.

5. 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.

6. 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.

7. The professional nursing license issued to Wendy A. Kleibor (license number 147653-30) 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. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete four (4) hours of education on

the topic of medication administration and five (5) hours of education on the topic of documentation offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.

- b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- c. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.

8. Within 120 days from the date of this Order, Wendy A. Kleibor, R.N., shall pay COSTS of this matter in the amount of \$700.00.

9. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto: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 the costs or complete education courses as ordered, Respondent's license (no. 147653-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment costs.

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

WISCONSIN BOARD OF NURSING

by:

Julia Nelson, RN  
A Member of the Board

6/12/14  
Date



STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

WENDY A. KLEIBOR, R.N.,  
RESPONDENT.

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STIPULATION

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Division of Legal Services and Compliance Case No. 13 NUR 320

Respondent Wendy A. Kleibor, 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.

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

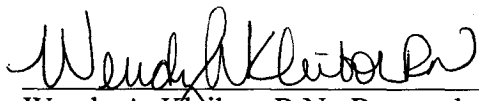
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

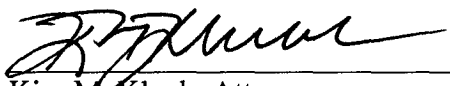
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

  
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Wendy A. Kleibor, R.N., Respondent  
S85 W19707 Greenhaven Court  
Muskego, WI 53150  
License no. 147653-30

5/24/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kim M. Kluck, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison WI 53707-7190

5/27/14  
\_\_\_\_\_  
Date