

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

ERICKA L. DANFORTH, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003299

Division of Legal Services and Compliance Case Nos. 13 NUR 185 and 14 NUR 132

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

Ericka L. Danforth, R.N.
2602 W. College Avenue
Milwaukee, WI 53221

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 Ericka L. Danforth, R.N., (dob April 4, 1974) is licensed in the State of Wisconsin as a professional nurse, having license number 160555-30, first issued on September 20, 2007 and current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2602 West College Avenue, Milwaukee, Wisconsin 53221.

13 NUR 185

2. At all times relevant to this case, Respondent was employed as a professional nurse at a mental health facility (Facility), located in Milwaukee, Wisconsin

3. On April 2, 2013, Facility pharmacists reported Respondent dispensed twelve (12) controlled medications from Pyxis® without a physician's order.

4. A review of seven (7) patient Medical Administration Records revealed Respondent dispensed the following medications from Pyxis® without a physician's order:

- a. On March 26, 2013, at 1646, three (3) lorazepam 2 mg tablets;
- b. On March 27, 2013, at 1552, one (1) lorazepam 2 mg/ml vial;
- c. On March 27, 2013, at 2003, two (2) oxycodone/APAP 10/325 mg tablets;
- d. On March 29, 2013, at 1716, three (3) oxycodone 15 mg tablets;
- e. On March 29, 2013, 1719, three (3) oxycodone 10 mg tablets;
- f. On March 31, 2013, at 1334, three (3) oxycodone/APAP 10/325 mg tablets;
- g. On March 31, 2013, at 1421, two (2) oxycodone 10 mg tablets;
- h. On March 31, 2013, at 1953, three (3) zolpidem 10 mg tablets;
- i. On April 1, 2013, at 1022, four (4) oxycodone 40 mg tablets;
- j. On April 1, 2013, at 1040, four (4) zolpidem 10 mg tablets;
- k. On April 1, 2013, at 1708, two (2) zolpidem 12.5 mg tablets; and,
- l. On April 1, 2013, at 1709, two (2) Lunesta® 3 mg tablets.

5. Respondent failed to provide an explanation for the discrepancies during an investigative interview and immediately resigned.

14 NUR 132

6. At all times relevant to this case, Respondent was employed as a professional nurse at a nursing home (Home), located in Milwaukee, Wisconsin

7. After Resident A's admission to Home, Resident A's family brought in two bags of medication. Resident A was receiving all her medications from the Home's pharmacy and, therefore, the two bags of medication were placed in the medication room until the family could return to retrieve the medication.

8. On March 1, 2014, Respondent observed two (2) bubble packs of Vicodin® in the bags of medication that belonged to Resident A. These two bags were unsecured on the counter in the Home's medication room.

9. On March 1, 2014, Respondent informed Nurse A about the unsecured Vicodin®. Nurse A counted the pills in the bubble packs. The bubble packs contained a total of thirty-three (33) Vicodin® pills. Nurse A placed the bubble packs of Vicodin® in a zip lock bag, wrote the pill count (33) on the zip lock bag and placed them in the locked narcotic contingency box in the medication room. Per policy, the pills are to be counted by two (2) nurses at every shift change and recorded on the narcotic box tag inventory sheet.

10. On March 6, 2014, at 0615, Respondent and Nurse B conducted the narcotic count and the two (2) Vicodin® bubble packs were accounted for.

11. On March 7, 2014, at 0850, one (1) Vicodin® bubble pack (21 pills), was missing.

12. Upon investigation it was discovered that the last time the Vicodin® was fully accounted for was March 6, 2014, at 0615.

13. Respondent was one (1) of four (4) nurses to have the keys to the narcotic contingency box between 0615 on March 6, 2014 and 0850 on March 7, 2014.

14. The narcotic box tag inventory sheet and surveillance video were also reviewed.

15. All four (4) nurses were immediately suspended and ordered to take a reasonable suspicion drug screen. The three other nurses tests were negative. Respondent's test came back with a temperature range that was well beyond acceptable parameters, indicating the sample did not come from Respondent.

16. Respondent was offered to take a witnessed drug screen. Respondent refused and left the Home. As Respondent left the Home, she told human resources, "it was nice working with you; I will drop my badge off next week."

17. 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. § 961.20(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).

3. 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).

4. 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).

5. Vicodin® contains less than 15 milligrams of hydrocodone, pursuant to Wis. Stat. § 961.18(c), hydrocodone is a schedule III 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, Ericka L. Danforth, 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.

7. As a result of the above conduct, Ericka L. Danforth, 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 Ericka L. Danforth, R.N., is REPRIMANDED.

3. The professional nursing license issued to Ericka L. Danforth, R.N., (license number 160555-30) 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 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 alcohol.
 - iv. 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.
 - v. 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.
 - vi. 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)v.
 - vii. 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.

- viii. 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 Ericka L. Danforth, R.N., (license number 160555-30) 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 sixty (60) days from the date of this order, Respondent shall, at her own expense undergo an AODA assessment with a pre-approved treater.
- b. Prior to assessment, Respondent shall provide a copy of this Final Decision and Order to the treater.
- c. Respondent shall provide and keep on file with treater current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Safety and Professional Services, Division of Legal Services and Compliance to obtain a copy of the assessment. Copies of these releases shall immediately be filed with the Department Monitor.
- d. Respondent shall comply with treater's recommendations.

5. Pursuant to Uniform Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of these 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 or alcohol 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 limitation. 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, Ericka L. Danforth, R.N., shall pay COSTS of this matter in the amount of \$1,200.00.

9. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services), approval of treater, and releases 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

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, as ordered; or, fails to submit to an AODA assessment, as ordered above, Respondent's license (no. 160555-30) 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.

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

WISCONSIN BOARD OF NURSING

by: Judy J. McLean PNP, APRN
A Member of the Board

7-10-14
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERICKA L. DANFORTH, R.N.,
RESPONDENT.

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STIPULATION

00032 99

Division of Legal Services and Compliance Case Nos. 13 NUR 185 and 14 NUR 132

Respondent Ericka L. Danforth, 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.

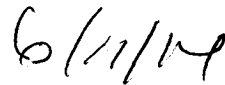
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stat. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

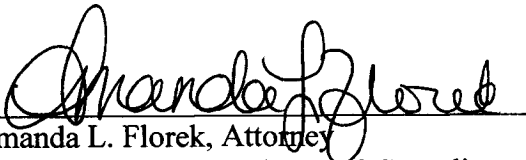
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



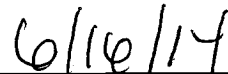
Ericka L. Danforth, R.N., Respondent
2602 W. College Avenue
Milwaukee, WI 53221
License no. 160555-30



Date



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



Date