

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KORBY J. KRUEGER, R.C.P.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003416

Division of Legal Services and Compliance Case No. 13 MED 393

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

Korby J. Krueger, R.C.P.
615 Smalley Street
Shawano, WI 54166

Wisconsin Medical Examining Board
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 Medical Examining Board (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 Korby J. Krueger, R.C.P., (dob March 14, 1957), is licensed in the State of Wisconsin to practice as a respiratory care practitioner, having license number 3189-28, first issued on April 13, 2005, and current through June 30, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 615 Smalley Street, Shawano, Wisconsin 54166.

2. Respondent was previously disciplined in Florida on February 24, 2005, for the following: on October 14, 2003, a seventy-one year-old patient was connected to a neurodiagnostic machine, which recorded brain wave activity, video images, and sound. A few hours after the test began, Respondent disconnected the machine's audio cables. Respondent

concealed her action until she was confronted with the evidence. Respondent admitted to sabotaging the machine while it was performing the test on the patient. Respondent indicated that she unplugged the equipment in an attempt to discredit another employee, whom she blamed for damaging Respondent's long term friendship with a co-worker. When asked if she knew what might be the impact of disconnecting the cables on the device, Respondent stated that she did not know the function of the cables. Respondent was suspended, reprimanded, ordered to pay a \$1,000 administrative penalty, and to pay costs. Respondent disclosed this discipline on her application for Wisconsin licensure.

3. On October 16, 2013, Respondent was convicted in the Circuit Court for Shawano County, on her plea of no contest, of three counts of possession of drug paraphernalia (Wis. Stat. § 961.573(1)), and was sentenced to pay a fine, costs, and fees totaling \$1,326.

4. The circumstances of the conviction were that Respondent's brother was found to be growing marijuana in the house which he and Respondent shared. Respondent denied any knowledge of this activity.

5. A sheriff's detective interviewed Respondent at the time law enforcement discovered the marijuana (on March 18, 2013, pursuant to a search warrant), at which time Respondent denied any knowledge of the marijuana, stating that her sense of smell was very poor.

6. The sheriff's detective stated to the Board's investigator that the house "reeked" of marijuana plant odor, that marijuana was located in Respondent's room, that Respondent admitted to him that she smoked marijuana on a regular basis including with the brother, and that she had some in her car (where a marijuana pipe and residue were then found). He said that Respondent had a coffee grinder right on her desk in her bedroom for grinding up marijuana, and that marijuana seeds and stems were found lying about her jewelry station and in the catch basin of a small upright vacuum cleaner in her room. Respondent states that she told the detective that she smoked marijuana only "very rarely."

7. When interviewed by Board investigators on December 18, 2013, Respondent made a false statement about a side issue. When confronted with the evidence that her statement was false, Respondent stated: "I lied to you because I wanted you to know how much of an inconvenience this meeting was for me." Respondent stated that she did not use the vacuum cleaner, that any marijuana or paraphernalia in her car belonged to her brother, and that she smoked marijuana only once in the past five years, at a St. Patrick's Day party the day before the police executed the search warrant.

8. When a Board investigator asked Respondent what she believed would be an appropriate action by the Medical Examining Board in this circumstance, she stated, unequivocally, that no action or discipline should be taken whatsoever, as the incident happened outside of the workplace. Respondent was asked if she could understand why the Department was taking the allegations in the police report seriously; she replied that she could not understand at all how the Department could read the reports and be concerned.

9. On June 15, 2014, Respondent successfully completed a three hour continuing respiratory care education course sponsored by the American Association for Respiratory Care, entitled: "2014 Law and Professional Ethics Course."

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

Note: All references to Wis. Admin. Code § Med 10.02(2) refer to the Code as it existed before October 1, 2013.

2. By the conduct described in the Findings of Fact, Respondent Korby J. Krueger, R.C.P., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(p) and (z) by obtaining controlled substances as defined in Wis. Stat. § 961.01(4), otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law, and by violating a law or administrative rule or regulation, *to wit.*: Wis. Stat. § 961.573(1), the circumstances of which substantially relate to the circumstances of the practice of respiratory therapy.

3. By the conduct described in the Findings of Fact, Respondent Korby J. Krueger, R.C.P., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.03(3)(i), by being convicted of a crime which relates to the practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in Wis. Stat. § 961.01(4).

4. By the conduct described in the Findings of Fact, Respondent Korby J. Krueger, R.C.P., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.03(3)(i), by being convicted of violating a law of this state that is substantially related to the practice of respiratory therapy.

5. By the conduct described in the Findings of Fact, Respondent Korby J. Krueger, R.C.P., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.03(1)(f).

6. As a result of the above conduct, Korby J. Krueger, R.C.P., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Korby J. Krueger, R.C.P., is REPRIMANDED.

3. The respiratory care practitioner license issued to Korby J. Krueger, R.C.P., (license number 3189-28) is SUSPENDED for 20 days, effective September 22, 2014, at 12:01 AM, through October 11, 2014, at 11:59 PM.

4. Korby J. Krueger, R.C.P., shall pay the COSTS of this matter in the amount of \$1,400, at the rate of not less than \$250/month; the first payment is due on September 30, 2014.

5. Proof of successful course completion and 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:

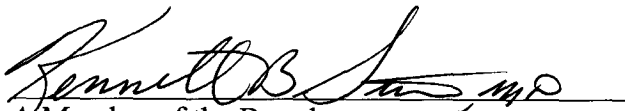
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. 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 proof of successful completion of the ordered education as set forth above, Respondent's license (no. 3189-28) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs and completion of the education.

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

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board

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September 17, 2014
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KORBY J. KRUEGER, R.C.P.,
RESPONDENT.

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:
:

STIPULATION

0003416

Division of Legal Services and Compliance Case No. 13 MED 393

Respondent Korby J. Krueger, R.C.P., 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 Medical Examining Board (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.

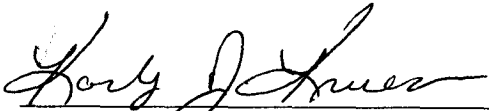
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

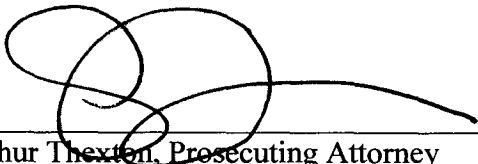
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Korby J. Krueger, R.C.P., Respondent
615 Smalley Street
Shawano, WI 54166
License no. 3189-28

8-13-14
Date



Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

8/15/14
Date