

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

JAYSON A. DIMODICA, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004188

Division of Legal Services and Compliance Case No. 15 NUR 089

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

Jayson A. DiModica, R.N.
P.O. Box 393
Orangeville, IL 61060

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 Jayson A. DiModica, R.N., (dob June 23, 1972) is licensed in the State of Wisconsin as a professional nurse, having license number 162762-30, first issued on August 1, 2008 and current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is Post Office Box 393, Orangeville, Illinois 61060.

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a medical clinic (Clinic), located in Monroe, Wisconsin.

3. On January 19, 2015, Respondent treated Patient A in the Clinic emergency department for a sinus condition.
4. Respondent gave his personal phone number to Patient A prior to her discharge at 2:30 p.m.
5. On January 21 and 23, after Patient A was discharged, Respondent accessed Patient A's demographic information without entering an encounter or completing any charting on several occasions.
6. On or about January 23, 2015, Respondent sent Patient A text messages from a Google® account trying to initiate a personal relationship. During the conversation Respondent stated that he treated her, disclosed what he treated her for and stated that he looked up her number by her name. Patient A stopped responding after these statements were made.
7. On January 24, 2015, Respondent sent Patient A another text message. After Patient A had not responded for a period of time, Respondent ceased texting her.
8. During a Department investigative interview, Respondent stated he had no medical purpose to access Patient A's demographic information after his shift on January 19, 2015.
9. Respondent admitted to sending text messages and that he initiated the text message conversation. Respondent admitted that his conduct was inappropriate.
10. After the incident, Respondent successfully completed three (3) hours of education on the topic of ethics and professionalism in nursing and three (3) hours of boundaries.
11. 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. By the conduct described in the Findings of Fact, Jayson A. DiModica, R.N., violated Wis. Admin. Code § N 7.03(4)(e)1.a., by failing to establish, maintain, or communicate professional boundaries with the patient.
3. As a result of the above violations, Jayson A. DiModica, 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 Jayson A. DiModica, R.N., is REPRIMANDED.
3. The professional nursing license issued to Respondent Jayson A. DiModica, R.N., (license number 162762-30) and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:
 - a. For a period of at least two (2) years, Respondent shall provide all of his 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, pool position or as a nurse in a correctional setting.
 - c. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall arrange for his nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of his employment and evaluating his work performance.
 - d. Respondent may practice as an agency nurse at Froedtert Hospital only, Respondent must obtain board approval prior to changing jobs.
 - e. 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.
 - f. 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.
 - g. 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.
4. Within 120 days from the date of this Order, Jayson A. DiModica, R.N., shall pay COSTS of this matter in the amount of \$925.00.
5. Work reports and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) and 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 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 the costs as ordered or fails to submit work reports as set forth above, Respondent's license (no. 162762-30) 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 the ordered work reports.

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

WISCONSIN BOARD OF NURSING

by: Jessy A. McLean DNP, RN, FAANP
A Member of the Board

8.13.15
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAYSON A. DIMODICA, R.N.,
RESPONDENT.

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:
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STIPULATION

0004188

Division of Legal Services and Compliance Case No. 15 NUR 089

Respondent Jayson A. DiModica, 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 Arthur K. Thexton.

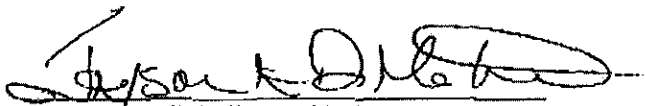
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives 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.

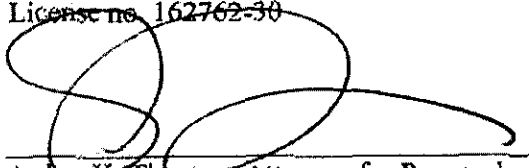
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Jayson A. DiModica, R.N., Respondent
Post Office Box 393
Orangeville, IL 61060
License no. 162762-30

7-16-2015
Date



Arthur K. Theaton, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown, LLP
Two Plaza East, Suite 1170
330 East Kilbourn Avenue
Milwaukee, WI 53202

7/27/15
Date



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

7/28/15
Date