

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

MICHAEL J. FINN, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004355

Division of Legal Services and Compliance Case No. 14 NUR 482

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

Michael J. Finn, R.N.
2328 S. 98th St.
Milwaukee, Wisconsin 53227

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 Michael J. Finn, R.N., (dob September 29, 1968) is licensed in the State of Wisconsin as a professional nurse, having license number 137191-30, first issued on February 15, 2001 and current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2328 South 98th Street, Milwaukee, Wisconsin 53227.

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

3. On June 24, 2014, the Hospital conducted a random pharmacy audit of Respondent's Pyxis® controlled substance withdrawals and discovered the following discrepancies:

- a. On April 4, 2014, at 11:57 a.m., Respondent withdrew two (2) hydrocodone 5/325 mg tablets for Patient A. Respondent documented administration of one (1) hydrocodone tablet, but did not document the return or waste of the other hydrocodone tablet.
- b. On April 4, 2014, at 2:05 p.m., Respondent withdrew two (2) oxycodone 5-10 mg tablets for Patient A. Respondent documented administration of one (1) oxycodone tablet, but did not document the return or waste of the other oxycodone tablet.
- c. On April 5, 2014, at 12:59 p.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient B. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the return or waste of the other oxycodone/APAP tablet.
- d. On April 11, 2014, at 1:50 p.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient C. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the return or waste of the other oxycodone/APAP tablet.
- e. On April 14, 2014, at 1:22 p.m., Respondent withdrew 1 mg/ml hydromorphone for Patient D. Respondent documented administration of 0.4 mg of hydromorphone, but did not document the waste of the remaining 0.6 mg.
- f. On April 16, 2014, at 8:52 a.m., Respondent withdrew one (1) hydrocodone/APAP 5/325 mg tablet for Patient E. Respondent did not document administration, return or waste of the hydrocodone tablet.
- g. On April 16, 2014, at 9:00 a.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient F. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the waste or return of the other oxycodone/APAP tablet.
- h. On May 5, 2014, at 11:34 a.m., Respondent withdrew 1 mg/ml hydromorphone for Patient G. Respondent documented administration of 0.4 mg of hydromorphone, but did not document the waste of the remaining 0.6 mg.
- i. On May 7, 2014, 9:15 a.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets for Patient H. Respondent did not document the administration, return or waste of the hydrocodone/APAP tablets.

- j. On May 16, 2014, at 1:26 p.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient I. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the waste or return of the other oxycodone/APAP tablet.
- k. On May 22, 2015, at 8:32 a.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets. Respondent documented administration of one (1) hydrocodone/APAP tablet to Patient J, but did not document the waste or return of the other hydrocodone/APAP tablet.
- l. On May 22, 2015, at 2:51 p.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets. Respondent documented administration of one (1) hydrocodone/APAP tablet to Patient K, but did not document the waste or return of the other hydrocodone/APAP tablet.
- m. On May 23, 2015, at 11:07 a.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets. Respondent documented administration of one (1) hydrocodone/APAP tablet to Patient J, but did not document the waste or return of the other hydrocodone/APAP tablet.
- n. On June 19, 2014, at 8:58 a.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient L. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the waste or return of the other oxycodone/APAP tablet.
- o. On June 19, 2014, at 12:13 p.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets for Patient M. Respondent documented administration of one (1) hydrocodone/APAP tablet, but did not document the waste or return of the other hydrocodone/APAP tablet.
- p. On June 19, 2014, at 1:10 p.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient L. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the waste or return of the other oxycodone/APAP tablet.
- q. On June 20, 2014, at 12:10 p.m., Respondent withdrew two (2) hydrocodone/APAP 5/325 mg tablets for Patient N. Respondent documented administration of one (1) hydrocodone/APAP tablet, but did not document the waste or return of the other hydrocodone/APAP tablet.
- r. On June 20, 2014, at 1:28 p.m., Respondent withdrew two (2) oxycodone/APAP 5/325 mg tablets for Patient O. Respondent documented administration of one (1) oxycodone/APAP tablet, but did not document the waste or return of the other oxycodone/APAP tablet.

4. On July 1, 2014, Respondent submitted to a drug screen, which was negative for all controlled substances.

5. Respondent acknowledged that his process was flawed regarding dispensing medication, scanning the patient and failing to scan the full amount administered.

6. In September 2014, Respondent tested negative for all controlled substances during a pre-employment drug screen for another employer.

7. 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)7., hydrocodone 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. § 961.16(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. § 961.16(2)(a)8., hydromorphone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

5. By the conduct described in the Findings of Fact, Michael J. Finn, R.N., violated Wis. Admin. Code § N 7.03(1)(b)¹, by an act of omission demonstrating a failure to maintain competency in practice and methods of nursing care.

6. As a result of the above conduct, Michael J. Finn, R.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Michael J. Finn, R.N., is REPRIMANDED.

3. The professional nursing license issued to Michael J. Finn, R.N., (license number 137191-30) and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:

a. Within ninety (90) days of the date of this Order, Respondent shall at his own expense, successfully complete five (5) hours of education on the

¹ All references to Wis. Admin. Code refer to the Code as it existed prior to August 1, 2014.

topic of documentation and four (4) hours of education on the topic of medication administration 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.

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. Within 120 days from the date of this Order, Michael J. Finn, R.N., shall pay COSTS of this matter in the amount of \$575.00.

6. Request for approval of courses, 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

7. 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 proof of successful completion of the ordered education as set forth above, Respondent's license (no. 137191-30) 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 has submitted proof of successful completion of the ordered education.

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

WISCONSIN BOARD OF NURSING

by: Jenny M. Meehan DNP, APRN
A Member of the Board

11-12-15
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL J. FINN, R.N.,
RESPONDENT.

:
:
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:
:

STIPULATION

0004355

Division of Legal Services and Compliance Case No. 14 NUR 482

Respondent Michael J. Finn, 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 Patrick Knight.

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 or Respondent's attorney, 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.

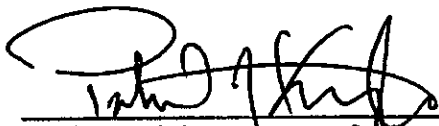
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



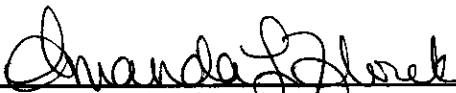
Michael J. Finn, R.N., Respondent
2328 S. 98th St.
Milwaukee, Wisconsin 53227
License no. 137191-30

10/21/15
Date



Patrick Knight, Attorney for Respondent
Gimbel, Reilly, Guerin, Brown, LLP
Two Plaza East, Ste. 1170
330 E. Kilbourn Ave.
Milwaukee, WI 53202

10/21/15
Date



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

11/2/15
Date