

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

KIM A. URBEN, L.P.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004361

Division of Legal Services and Compliance Case No. 15 NUR 380

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

Kim A. Urben, L.P.N.
1514 Cardinal Dr.
Hartford, WI 53027-2768

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 Kim A. Urben, L.P.N., (dob October 29, 1961) is licensed in the State of Wisconsin as a practical nurse, having license number 303114-31, first issued on April 25, 2001 and current through April 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1514 Cardinal Drive, Hartford, Wisconsin 53027-2768.

2. At all times relevant to this proceeding, Respondent was employed as a practical nurse at a nursing and rehabilitation center (Center), located in Neenah, Wisconsin.

3. On June 27, 2015, the Center became aware that oxycodone was being diverted from two (2) patients.

4. An internal investigation revealed that Patient A had 267 oxycodone 5 mg tablets missing.

5. On July 3, 2015, Respondent was interviewed by a City of Neenah police officer regarding to diversion of controlled substances from the Center.

6. During the interview, Respondent admitted the following:

- a. In March 2015, Respondent began diverting oxycodone 5 mg tablets from Patient A for personal use.
- b. Respondent diverted five to six (5-6) tablets at a time by removing them from the bubble pack, putting them in her pocket and taking them home to build up a supply because she could not afford to pay for her prescriptions of oxycodone.
- c. In June 2015, Respondent began diverting five to six (5-6) tablets of oxycodone 10 mg from Patient B.
- d. Patient B typically had two (2) cards of oxycodone in the medication cart and Respondent diverted the remaining tablets from one (1) of the medication cards and used the oxycodone from the other card to administer to Patient B.
- e. When Respondent diverted oxycodone from Patient B's medication card, she would reorder a new card and discard the empty card and corresponding narcotic count sheet from the binder and put them in the garbage so the missing controlled substances would be difficult to track.
- f. On June 26, 2015, Respondent diverted ten (10) oxycodone tablets. This was the last time Respondent diverted.

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)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. By the conduct described in the Findings of Fact, Kim A. Urben, L.P.N., engaged in unprofessional conduct as defined in Wis. Admin. Code § N 7.03(8)(e), by obtaining, possessing or attempting to obtain or possess a drug without lawful authority.

4. As a result of the above conduct, Kim A. Urben, L.P.N., is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Kim A. Urben, L.P.N., is REPRIMANDED.

3. The practical nursing license issued to Kim A. Urben, L.P.N., (license number 303114-31) 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 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.

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 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.

- 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)iv.
- 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.
- viii. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- ix. Respondent shall provide her nursing employer with a copy of this Order before engaging in any nursing employment.
- x. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.

- xi. Respondent, at her own expense, shall obtain an AODA assessment with an evaluator, pre-approved by the Board or its designee, who has experience conducting these assessments. Respondent shall comply with all requirements of the AODA assessment.

4. Pursuant to Uniform 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 any other limitations contained in this Order. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit. 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.

7. Within 120 days from the date of this Order, Kim A. Urben, L.P.N., shall pay COSTS of this matter in the amount of \$650.00.

8. 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

9. 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 enroll in an approved drug and alcohol monitoring program, fails to comply with requirements of the drug and alcohol monitoring program, fails to obtain an AODA assessment, fails to comply with any requirements of the AODA assessment, or fails to timely submit payment of the costs as ordered, Respondent's license (no. 303114-31)

may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has enrolled in an approved drug and alcohol monitoring program, complied with the requirements of the drug and alcohol monitoring program, obtained an AODA assessment, complied with any requirements of the AODA assessment and has submitted payment of costs.

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

WISCONSIN BOARD OF NURSING

by: *Jessie New 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

KIM A. URBEN, L.P.N.,
RESPONDENT.

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STIPULATION

0004361

Division of Legal Services and Compliance Case No. 15 NUR 380

Respondent Kim A. Urben, L.P.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.

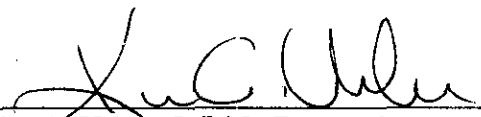
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not
be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

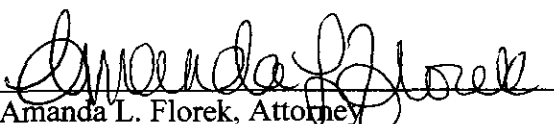
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Kim A. Urban, L.P.N., Respondent
1514 Cardinal Dr.
Hartford, WI 53027-2768
License no. 303114-31

10/15/15

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

10/22/15

Date