

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DIANE F. WHITE, R.N.,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0004428**

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Division of Legal Services and Compliance Case No. 15 NUR 318

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

Diane F. White, R.N.  
N5345 County Road SS  
Beaver Dam, WI 53916-9667

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 Diane F. White, R.N., (dob February 26, 1976) is licensed in the State of Wisconsin as a professional nurse, having license number 172352-30, first issued on May 26, 2010 and current through February 29, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N5345 County Road SS, Beaver Dam, Wisconsin 53916-9667.

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

3. On June 12, 2015, the Home's administrator (Administrator) received a telephone call regarding Respondent. The caller provided information that Respondent was diverting controlled substances belonging to residents for personal use and engaging in intimate activities on the Home's grounds with the male pharmacy delivery driver while on duty.

4. Based on the information from the caller, the Administrator arranged to have two (2) medication blister packs delivered to the facility during Respondent's shift to find out if Respondent would divert the medication<sup>1</sup>.

5. On the evening of June 12, 2015, the Administrator parked in the back of the Home's parking lot to monitor Respondent's actions when the pharmacy delivery driver arrived.

6. The Administrator witnessed Respondent come outside and meet with the pharmacy delivery driver for approximately 25 minutes.

7. Respondent was the only nurse on duty at the time the pharmacy delivery driver arrived.

8. Respondent was observed engaging in intimate activity with the pharmacy delivery driver while the residents were left unattended.

9. On June 15, 2015, Respondent was interviewed by the Administrator and admitted to developing a romantic relationship with the pharmacy delivery driver, but denied diverting controlled medication from patients for personal use or for the use of others. Respondent also denied using illegal drugs or engaging inappropriate sexual conduct on the Home's grounds.

10. After Respondent was informed she would be subjected to a reasonable suspicion drug screen, she admitted the test would come back positive as she uses marijuana one to two (1-2) times per week for "no justifiable reason."

11. Respondent's drug screen came back negative for narcotics.

12. When Respondent arrived back at the Home, Columbia County sheriff detectives interviewed her and a drug dog indicated drugs were in Respondent's vehicle.

13. A search of the vehicle revealed an empty blister of gabapentin belonging to Resident A (a dementia patient), a marijuana pipe was found in her purse and six (6) gabapentin tablets were found in the pocket of the shirt Respondent was wearing.

14. Respondent admitted to diverting two (2) blister packs of gabapentin from Resident A for personal use.

15. Respondent's employment was terminated.

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<sup>1</sup> The Administrator did not witness Respondent diverting these two (2) blister packs.

16. Respondent was charged in Columbia County Circuit Court case number 2015CF313 with possession of THC, in violation of Wis. Stat. § 961.41(3g)(e); possession of drug paraphernalia, in violation of Wis. Stat. § 961.573(1); and theft of movable property < = \$2,500, in violation of Wis. Stat. § 943.20(1)(a).

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. By the conduct described in the Findings of Fact, Diane F. White, R.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.

3. As a result of the above conduct, Diane F. White, 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 Diane F. White, R.N., is REPRIMANDED.

3. The professional nursing license issued to Diane F. White, R.N., (license number 172352-30) to practice nursing in the State of Wisconsin, and her 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 from the date of this Order:

i. Respondent shall enroll and participate in a drug 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.

4. The professional nursing license issued to Diane F. White, R.N., (license number 172352-30) to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are further LIMITED as follows

- a. Within sixty (60) days from the date of this Order, 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.
- b. Respondent shall provide a copy of this Order to the evaluator.
- c. Respondent shall comply with all requirements of the AODA assessment and the evaluator's recommendations.

5. The professional nursing license issued to Diane F. White, R.N., (license number 172352-30) to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are further LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete three (3) hours of education on the topic of ethics and professionalism in nursing and four (4) hours of education on the topic of patient abandonment 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.

6. 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.

7. 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.

8. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee.

9. 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.

10. Within 120 days from the date of this Order, Diane F. White, R.N., shall pay COSTS of this matter in the amount of \$900.00.

11. Requests for approval of any program and evaluator, any reports, requests 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](mailto:DSPSMonitoring@wisconsin.gov)

12. 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 and participate in drug monitoring program, fails to comply with the requirements of the drug monitoring program, fails to timely obtain an AODA assessment, fails to show this Order to the evaluator, fails to comply with the evaluator's recommendations, fails to comply with the requirements of the AODA assessment, 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. 172352-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has enrolled and participated in a drug monitoring program, complied with all requirements of the drug monitoring program, obtained an AODA assessment, complied with the evaluator's recommendations, complied with the requirements of the AODA assessment, submitted proof of successful completion of the ordered education and complied with payment costs.

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

WISCONSIN BOARD OF NURSING

by:

  
A Member of the Board

12-10-15  
Date



STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DIANE F. WHITE, R.N.,  
RESPONDENT.

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STIPULATION

0004428

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Division of Legal Services and Compliance Case No. 15 NUR 318

Respondent Diane R. White, 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 Sydne French.


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.

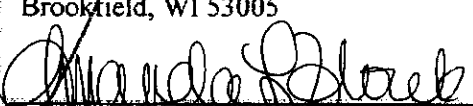
  
Diane F. White, Respondent  
N5345 County Rd. SS  
Beaver Dam, WI 53916-9667  
License no. 172352-80

11/26/2015  
Date

  
Sydne French, Attorney for Respondent

The Law Offices of Sydne French  
200 South Executive Drive, Suite 101  
Brookfield, WI 53005

11/27/2015  
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

11/30/15  
Date