

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

KIMBERLY A. SHERFINSKI, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

0004755

Division of Legal Services and Compliance Case No. 16 NUR 076

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

Kimberly A. Sherfinski, R.N.
8494 – 65th Avenue
Pleasant Prairie, WI 53158

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 Kimberly A. Sherfinski, R.N., (dob September 12, 1985) is licensed in the State of Wisconsin as a professional nurse, having license number 198817-30, first issued on February 6, 2014 and current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 8494 – 65th Avenue, Pleasant Prairie, Wisconsin 53158.

2. On September 28, 2015, Respondent was hired at a home health agency.

Prior Discipline

3. On January 14, 2016, the Board issued a Final Decision and Order (Order) suspending Respondent's nursing license (order number 4472, case number 15 NUR 256). The Board also placed limitations on her license, including but not limited to, the following:

- a. Respondent could not work in home health care, hospice, pool nursing, assisted living, agency, or as a nurse in a correctional setting; and
- b. Respondent was required to show a copy of the Order and all subsequent orders immediately to supervisory personnel at all settings where she worked as a nurse or caregiver or provided health care, currently and in the future.

4. The Order was based on the following facts:

- a. Respondent tested positive for lorazepam, oxycodone and morphine in two separate drug tests conducted by her employer; and
- b. Respondent diverted narcotic medication from her employer.

5. Respondent continued to work even after receiving the January 14, 2016 Order.

6. On February 2, 2016, Respondent called the Department monitor requesting clarification on whether she could continue to work in her current job at the home health agency while her license was suspended. The regulatory specialist informed Respondent that her professional nursing license was suspended; therefore, she was unable to be employed in a nursing position.

7. That same day, Respondent's supervisor went on to the Department's website to renew her own professional nursing license. The supervisor asked Respondent if she had renewed her license yet. Respondent indicated "no."

8. Respondent's supervisor went to verify Respondent's license information and found that Respondent's professional nursing license was suspended.

9. Respondent's supervisor showed Respondent the Order suspending her license. Respondent stated "I was going to tell you but me and my mom thought it was best that I tell you after I find out if the state accepted the conditions or not."

10. At no time did Respondent initiate a conversation or show her supervisor the Order as directed in the January 14, 2016 Order.

11. During the Department investigation, Respondent stated that she did not understand all of the terms of the Order. Respondent understands that she violated the Board

Order and should have sought immediate clarification before continuing to practice. Therefore, Respondent takes accountability for the violation but is adamant that it was unintentional.

12. 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, Kimberly A. Sherfinski, R.N., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(1)(d), by practicing without an active license.

3. By the conduct described in the Findings of Fact, Kimberly A. Sherfinski, R.N., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(1)(g), by violating any term, provision, or condition of any order of the board.

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

ORDER

1. The attached Stipulation is accepted.

2. The license of Kimberly A. Sherfinski, R.N., (license number 198817-30) to practice nursing in the State of Wisconsin, and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are SUSPENDED for fourteen (14) days from the date of this Order and to run concurrent with Order number 4472.

3. All conditions and limitations listed under the Order Section in order number 4472, case number 15 NUR 256, are still in effect.

4. Within one (1) year from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$400.00.

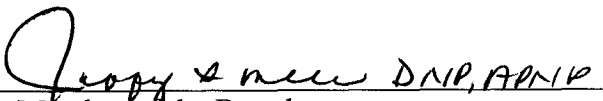
5. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

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 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 as set forth above, Respondent's license (no. 198817-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

WISCONSIN BOARD OF NURSING

by:  Jeany & me DNP, APRN
A Member of the Board

6.9.16
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KIMBERLY A. SHERFINSKI, R.N.,
RESPONDENT.

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STIPULATION

0004755

Division of Legal Services and Compliance Case No. 16 NUR 076

Respondent Kimberly A. Sherfinski, 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 Stacie H. Rosenzweig.

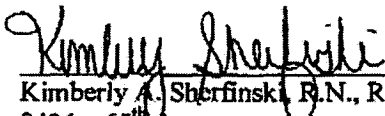
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives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

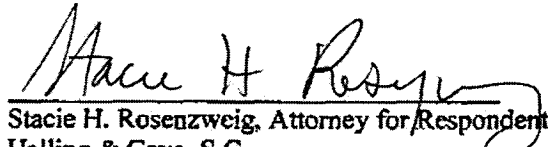
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.


Kimberly A. Sherfinski, R.N., Respondent
8494 - 65th Avenue
Pleasant Prairie, WI 53158
License no. 198817-30

05/25/16
Date


Stacie H. Rosenzweig, Attorney for Respondent
Halling & Cayo, S.C.
320 E. Buffalo Street, Suite 700
Milwaukee, WI 53202

5/25/16
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

5/26/16
Date