

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

HEATHER J. EFFERTZ, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004911

Division of Legal Services and Compliance Case No. 15 NUR 485

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

Heather J. Effertz, R.N.
1080 25th 1/8th Street
Cameron, WI 54822

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 Heather J. Effertz, R.N., (dob September 15, 1985) is licensed in the State of Wisconsin as a professional nurse, having license number 168568-30, first issued on July 15, 2009 and current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1080 25th 1/8th Street, Cameron, Wisconsin 54822.

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a home health care agency (Agency), located in Ladysmith, Wisconsin.

3. On August 25, 2015, Respondent ingested several tablets of lorazepam and several tablets of Ambien® in attempt to commit suicide. Respondent then failed to show up for a scheduled home health visit with a patient that same day and failed to notify appropriate supervisory personnel.

4. On that date, the sheriff's department was dispatched to perform a welfare check on Respondent and found her in an impaired condition, with constricted pupils and difficulty with coordination. One of the officers called emergency medical services and Respondent was transported to the hospital emergency room for evaluation and treatment of the attempted overdose.

5. At the hospital, Respondent underwent a crisis assessment and disclosed that she also had a recent history of methamphetamine use.

6. Respondent began inpatient drug and mental health counseling while at the hospital and continued outpatient therapy following discharge.

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. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.03(6)(d), by failing to report to or leaving a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by 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, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Heather J. Effertz, R.N., is REPRIMANDED.

3. The professional nursing license issued to Heather J. Effertz, R.N., (license number 168568-30) and her 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 her own expense, successfully complete three (3) hours of education on the topic of patient's rights and three (3) hours on the topic of ethics in nursing 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. The professional nursing license issued to Heather J. Effertz, R.N., (license number 168568-30) 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. Respondent shall have, at her own expense, undergone a fitness to practice evaluation with a pre-approved psychiatrist or psychologist experienced in evaluating health care practitioners' fitness for duty:
 - i. The provider performing the evaluation must not have treated Respondent and shall have been approved by the Board or its designee, with the opportunity for the Division of Legal Services and Compliance to make its recommendation, prior to the evaluation being performed; and
 - ii. Within fifteen (15) days of the completion of the assessment, a written report regarding the results of the assessment shall be submitted to the Department Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with his or her ability to practice safely and, if so, shall provide any recommended limitations for safe practice.
- b. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the health care provider.
- c. Respondent shall execute necessary documents authorizing the Division to obtain records of the evaluation, and to discuss Respondent and her case with the evaluator. Respondent shall execute all releases necessary to permit disclosure of the final evaluation report to the Board or its

designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Board.

- d. Respondent shall identify and provide the evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
- e. Respondent shall comply with any and all reasonable requests by the evaluator for purposes of scheduling and completing the evaluation, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Board.
- g. Respondent is responsible for timely payment of the costs of the examination. Payment shall be made directly to the evaluator.
- h. Respondent must provide proof sufficient to convince the Board that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
- i. If the Board determines that Respondent is fit to practice, the Board may nonetheless limit Respondent's license in a manner to address any concerns the Board has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the assessment, including, but not limited to:
 - i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with periodic reports to the Board by the therapist.
 - ii. Additional professional education in any identified areas of deficiency.
 - iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- j. If the Board determines that Respondent is not fit to practice, the Board may suspend Respondent's license until Respondent provides proof sufficient to convince the Board that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner. In the alternative, the Board may limit Respondent's license in a manner to address any concerns the Board has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the assessment, including, but not limited to:

- i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with quarterly reports to the Board by the therapist.
- ii. Additional professional education in any identified areas of deficiency.
- iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.

5. The professional nursing license issued to Heather J. Effertz, R.N., (license number 168568-30) 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. 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). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
 - 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 at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
 - 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 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 5(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. Respondent

shall provide the Department Monitor with written acknowledgment from each nursing employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

- x. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances. Respondent shall provide the Department Monitor with written acknowledgment from each nursing employer that Respondent does not have access to controlled substances. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each nursing employer.

6. 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.

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. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

9. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$650.00.

10. 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

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

by: Jessy Y. Allen DNP, APRN
A Member of the Board

8

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

HEATHER J. EFFERTZ, R.N.,
RESPONDENT.

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STIPULATION

0004911

Division of Legal Services and Compliance Case No. 15 NUR 485

Respondent Heather J. Effertz, 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.

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.

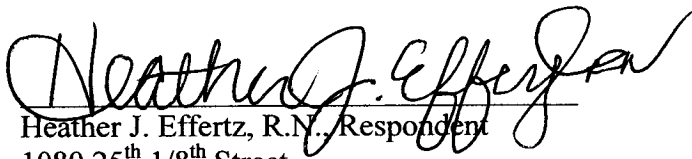
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.



Heather J. Effertz, R.N., Respondent
1080 25th 1/8th Street
Cameron, WI 54822
License no. 168568-30

8/1/16
Date



Kim M. Kluck, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison WI 53707-7190

8/8/16
Date