

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

KEVIN J. SPLUDE, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER
FOR REMEDIAL EDUCATION

0005215

Division of Legal Services and Compliance Case No. 15 NUR 581

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

Kevin J. Splude, R.N.
M241 Sugar Bush Lane
Marshfield, WI 54449

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 Kevin J. Splude, R.N., DOB October 20, 1959, is licensed in the state of Wisconsin as a professional nurse, having license number 127043-30, first issued on July 28, 1997 and current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is M241 Sugar Bush Lane, Marshfield, Wisconsin 54449.

2. Respondent is also certified by the Wisconsin Chiropractic Examining Board as a chiropractic technician. His certificate was issued on April 11, 2013, and expired on December 14, 2016. He retains the right to renew the certificate until December 13, 2021.

3. Chiropractic technicians are permitted to perform adjunct services only under the direct, on-premises supervision of a chiropractor. Adequate supervision requires that the chiropractor know what services the chiropractic technician performs.

4. At all times relevant to this proceeding, Respondent was employed in a non-nursing capacity at a chiropractor clinic located in Marshfield, Wisconsin.

5. Respondent's father was a patient at the chiropractic clinic where Respondent worked.

6. On September 26, 2014, Respondent, while working as a billing clerk at the chiropractic clinic, forwarded his father's chiropractic records to an insurance company.

7. Included with the records was an unsigned letter communicating his father's chiropractic diagnoses and treatment information for billing purposes.

8. The letter to the insurance company referenced Respondent's father receiving biofeedback. Specifically " . . . biofeedback is being used to improve cognitive function and decrease confusion."

9. On December 9, 2015, Respondent admitted that he wrote the letter to the insurance company. Respondent stated that he was qualified to write the letter because he is "capable of writing". Respondent also indicated that the letter was "written in his voice" and he believes everything in it was accurate, based upon his understanding of the care provided to his father.

10. During the December 9, 2015 interview, Respondent could not explain what biofeedback was, how biofeedback was being used, or whether and how biofeedback was used to improve cognitive function and decrease confusion.

11. Without a diagnosis by a physician, treatment of cognitive impairment and confusion is not within the scope of practice of a nurse or chiropractic technician.

12. The chiropractor who provided the care to Respondent's father contends that she was unaware of the letter to the insurance company and did not review or approve the correspondence to the insurance company.

13. Neither a chiropractic technician nor a nurse are authorized to diagnose chiropractic issues, nor are they permitted to create treatment plans for a chiropractic issues.

14. Respondent did not represent to the insurance company that he was a nurse nor did he represent that he was a chiropractic technician.

15. The Chiropractic Examining Board has jurisdiction over Respondent's certificate to practice as a chiropractic technician. In resolution of 16 CHI 030, Respondent has stipulated to surrender his certificate to practice as a chiropractic technician.

16. 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).

ORDER

1. The attached Stipulation is accepted.
2. Kevin J. Splude, R.N., (license number 127043-30) is hereby ordered to complete remedial education as follows:
 - a. Within one hundred eighty (180) days of the date of this Order, Respondent shall at his own expense, successfully complete four (4) hours of education on the topic of ethics and four (4) hours of education on the topic of scope of practice and five (5) hours of education on the topic of documentation. The courses shall be offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses. Courses taken without preapproval shall NOT be used to satisfy this provision.
 - 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.
3. Request for approval of courses and proof of successful course completion shall be sent by Respondent to the Department Monitor at the address below:

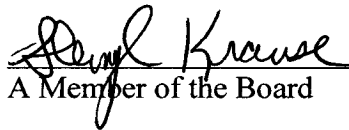
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

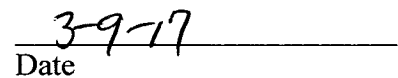
4. In the event Respondent violates any term of this Order, Respondent's license (127043-30) to practice professional nursing in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN BOARD OF NURSING

by:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KEVIN J. SPLUDE, R.N.,
RESPONDENT.

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:
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STIPULATION

0005215

Division of Legal Services and Compliance Case No. 15 NUR 581

Respondent Kevin J. Splude, 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 Linda Meagher.

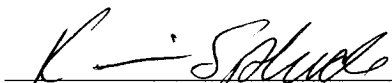
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives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

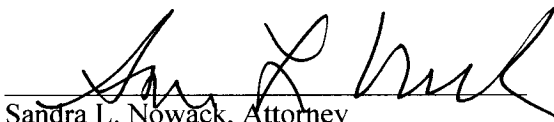
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Kevin J. Splude, R.N., Respondent
M241 Sugar Bush Lane
Marshfield, WI 54449
License no. 127043-30

02/09/2017
Date


Linda Meagher, Attorney for Respondent
Gass, Weber & Mullins, LLC
309 N. Water St., Ste. 700
Milwaukee, WI 53202

2/16/2017
Date


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

2/16/17
Date