

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 :
: FINAL DECISION AND ORDER
ANDREA D. MACKOWIAK, R.N., :
RESPONDENT. : **0005470**

Division of Legal Services and Compliance Case No. 16 NUR 487

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

Andrea D. Mackowiak, R.N.
N11631 Kratzke Rd.
Clintonville, WI 54929

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 Andrea D. Mackowiak, R.N., (dob March 8, 1972) is licensed in the State of Wisconsin as a professional nurse, having license number 126452-30, first issued on July 2, 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 N11631 Kratzke Road, Clintonville, Wisconsin 54929.

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

3. On June 21, 2016, the Center director of nursing (DON) reviewed Patient A's Controlled Drug Use Record. Patient A had recently passed away. After a patient passes away, their remaining medications must be destroyed and two (2) witnesses sign off that the medication was destroyed.

4. Respondent documented on the Controlled Drug Use Record that she destroyed Patient A's medications. Respondent did not have a witness sign the Controlled Drug Use Record.

5. The Center contacted the Clintonville Police Department regarding the missing controlled substances, which included morphine and oxycodone.

6. On June 28, 2016, a Clintonville police officer interviewed Respondent regarding her possible involvement in the missing medications. Respondent admitted to the police officer that she had diverted oxycodone from Patient B. Respondent denied involvement in the missing morphine.

7. During an interview with the Department, Respondent admitted to diverting a handful of Percocet® from the Center. Respondent explained that if a patient did not want their as needed pain medication, she would document administering the medication and keep it for herself.

8. Respondent explained that she was in a serious car accident in high school that has required eight (8) surgeries since that time. After Respondent's most recent surgery, she was prescribed morphine. Respondent weaned herself off the morphine in May 2016. After weaning herself off the morphine, Respondent began diverting the Percocet® to help with her pain.

9. Respondent did not ingest the medications she diverted at work; she would take them home and ingest them at a later time.

10. Respondent reports that she has found other ways to control her pain.

11. Respondent is not currently working in the nursing field.

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, Andrea D. Mackowiak, R.N., violated 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, Andrea D. Mackowiak, 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 SURRENDER of the license and privilege of Andrea D. Mackowiak, R.N., (license no. 126452-30) to practice nursing in the State of Wisconsin or under another state license pursuant to the Nurse Licensure Compact is hereby accepted.

3. In the event Respondent petitions the Board of Nursing for reinstatement as a nurse in the future, the Board may enter an order denying such application without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license granted shall be in the discretion of the Board.

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

WISCONSIN BOARD OF NURSING

by: Deeyl Kravok
A Member of the Board

10-12-17
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANDREA D. MACKOWIAK, R.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005470

Division of Legal Services and Compliance Case No. 16 NUR 487

Respondent Andrea D. Mackowiak, 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stat. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

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

Andrea D. Mackowiak
Andrea D. Mackowiak, R.N., Respondent
N11631 Kratzke Rd.
Clintonville, WI 54929
License no. 126452-30

10/3/17
Date

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

10/4/17
Date