

## 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

KEVIN J. FITZGERALD, R.N.,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0005587**

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Division of Legal Services and Compliance Case No. 16 NUR 471

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

Kevin J. Fitzgerald, R.N.  
7608 Livingston Avenue  
Wauwatosa, WI 53213

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. Fitzgerald, R.N., (dob: December 18, 1957) is licensed in the State of Wisconsin as a professional nurse, having license number 119108-30, first issued on March 8, 1995 and current through February 28, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 7608 Livingston Avenue, Wauwatosa, Wisconsin 53213.

2. On August 22, 2016, the Department received a complaint against Respondent.

3. On September 9, 2016, a Department investigator mailed a letter to the Respondent's address on file with the Department. The letter requested Respondent to contact



the Department investigator no later than September 23, 2016, and provide a response to the complaint.

4. Respondent failed to respond to the investigator's letter.

5. On September 28, 2016, the Department investigator mailed a second letter to the Respondent at the address on file with the Department. The Department investigator requested a response from Respondent by October 11, 2016.

6. Respondent failed to respond to the investigator's second letter.

7. On March 13, 2017, the Department investigator sent an email to the email address on file with the Department which came back undeliverable.

8. On March 13, 2017, the Department investigator sent a certified letter to the Respondent at the address on file with the Department. The Department investigator requested a response from Respondent by March 23, 2017.

9. On March 20, 2017, the letter was signed for but the signature of the receiver is illegible.

10. Respondent failed to provide a response to the Department's requests for information.

11. 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, Kevin J. Fitzgerald, R.N., violated Wis. Admin. Code § N 7.03(1)(c), by failing to cooperate in a timely manner with the board's investigation of a complaint filed against a license holder.

3. As a result of the above conduct, Kevin J. Fitzgerald, 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 Kevin J. Fitzgerald, R.N., is REPRIMANDED.



3. The professional nursing license issued to Kevin J. Fitzgerald, R.N., (license number 119108-30) and his 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 his own expense, successfully complete three (3) hours of education on the topic of ethics and professionalism 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. Pursuant to 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.

5. Within 120 days from the date of this Order, Kevin J. Fitzgerald, R.N., shall pay COSTS of this matter in the amount of \$445.00.

6. Request 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)

7. In the event Respondent violates any term of this Order, Respondent's license (119108-30), or Respondent's right to renew his license, 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.



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

WISCONSIN BOARD OF NURSING

by: Sheryl Krause  
A Member of the Board

06-11-18  
Date



STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

KEVIN J. FITZGERALD, R.N.,  
RESPONDENT.

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STIPULATION

**00055 87**

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Division of Legal Services and Compliance Case No. 16 NUR 471

Respondent Kevin J. Fitzgerald, 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.

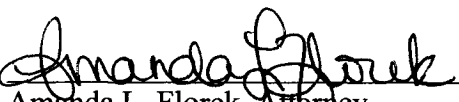
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

  
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Kevin J. Fitzgerald, R.N., Respondent  
7608 Livingston Avenue  
Wauwatosa, WI 53213  
License no. 119108-30

12-18-17  
Date

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

1/3/17  
Date