

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

THERESA A. MINIKEL, L.P.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

0005623•

Division of Legal Services and Compliance Case No. 16 NUR 643

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

Theresa A. Minikel, L.P.N.
1825 Drexel Boulevard, Apt. 5
South Milwaukee, WI 53172

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 Theresa A. Minikel, L.P.N., (dob May 6, 1969) is licensed in the State of Wisconsin as a practical nurse, having license number 32712-31, first issued on October 1, 1994 and current through April 30, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1825 Drexel Boulevard, Apartment 5, South Milwaukee, Wisconsin 53172.

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

3. On September 3, 2016, at 4:30 a.m., Respondent documented in the narcotic sign out book that she dispensed one (1) tablet of Vicodin® 5/325 mg for Patient C. Respondent did not document the administration of the Vicodin® in Patient C's analgesic record/pain flow sheet or the medication administration record (MAR). Patient C's physician ordered one (1) tablet of Vicodin® every four (4) hours as needed for pain.

4. At 5:00 a.m., Respondent documented in the narcotic sign out book that she dispensed one (1) tablet of Percocet® 5/325 mg for Patient G. Respondent did not document the administration of the Percocet® in Patient G's analgesic record/pain flow sheet or the MAR. Patient G's physician ordered one (1) tablet of Percocet® every four (4) hours as needed for pain.

5. At 7:15 a.m., Patient G requested pain medication and was advised the next dose could not be administered until 9:00 a.m. because she had received a dose at 5:00 a.m. Patient G told the nurse she did not receive Percocet® at 5:00 a.m.

6. The RN unit manager of the Center reviewed video surveillance of patient rooms from September 3, 2016. The video revealed a discrepancy between the times the Percocet® had been signed out and when Respondent was visible in Patient G's room.

7. On September 5, 2016, the director of nursing (DON) for the Center met with Respondent and reviewed the video surveillance. Respondent told the DON she must have made an error and could not remember who she administered the Percocet® to.

8. Later that day, Respondent contacted the DON and told her she made an error in her statement that she needed to explain. Respondent gave the DON three different statements to explain her error:

- a. She administered two (2) Vicodin® and two (2) Percocet® to Patient C.
- b. She did not give Patient C the medications, rather she destroyed them with another nurse present.
- c. She did not administer Vicodin® or Percocet® to either Patient C or G, rather she had destroyed the pills and administered both patients Tylenol®.

9. On September 5, 2016, Respondent submitted to a urine drug screen which tested positive for benzodiazepines and opioids.

10. Respondent advised the Department in a written response that she had taken Percocet® that she found at home which had been prescribed to her following a procedure in 2010. Respondent's medical records verified she had been prescribed Percocet® in June of 2010.

11. Respondent's medical records revealed prescriptions for Ativan® in August of 2014 and March of 2015. Respondent's prescription for Ativan® was discontinued in April of 2015.

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. Percocet® contains oxycodone. Pursuant to Wis. Stat. § 961.16(2)(a)11., oxycodone is a schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

3. Vicodin® contains hydrocodone. Pursuant to Wis. Stat. § 961.16(2)(a)7., hydrocodone is a Schedule II controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(2).

4. Ativan® is a brand name for lorazepam. Pursuant to Wis. Stat. § 961.20(2)(er), lorazepam is a schedule IV controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

5. By the conduct described in the Findings of Fact, Theresa A. Minikel, L.P.N., violated Wis. Admin. Code § N 7.03(6)(c), by departing from or failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety. Actual injury to a patient need not be established.

6. As a result of the above conduct, Theresa A. Minikel, L.P.N. is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Theresa A. Minikel, L.P.N., is REPRIMANDED.

3. The practical nurse license issued to Theresa A. Minikel, L.P.N., (license number 32712-31) 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 five (5) hours of education on the topic of documentation, four (4) hours of education on the topic of medication errors and 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, Theresa A. Minikel, L.P.N., shall pay COSTS of this matter in the amount of \$845.00.

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

7. In the event Respondent violates any term of this Order, Respondent's license (32712-31), or Respondent's right to renew her 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: Heidi Krause
A Member of the Board

2-8-18
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THERESA A. MINIKEL, L.P.N.,
RESPONDENT.

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:

STIPULATION

0005623

Division of Legal Services and Compliance Case No. 16 NUR 643

Respondent Theresa A. Minikel, L.P.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 Medical Examining Board (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.

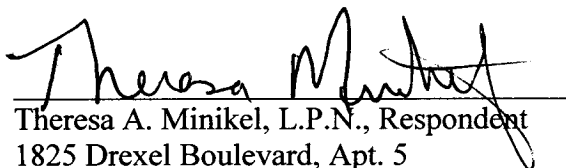
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

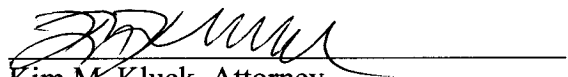
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

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.


Theresa A. Minikel, L.P.N., Respondent
1825 Drexel Boulevard, Apt. 5
South Milwaukee, WI 53172
License no. 32712-31

12-29-17
Date


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

1/8/18
Date