

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES B. MOORE, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **0005842**

Division of Legal Services and Compliance Case No. 15 NUR 597

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

James B. Moore, R.N.
1414 97th Ave.
Kenosha, WI 53144-7755

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 James B. Moore, R.N., (dob September 10, 1971) is licensed in the State of Wisconsin as a professional nurse, having license number 129834-30, first issued on July 7, 1998 and current through February 28, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1414 97th Avenue, Kenosha, Wisconsin 53144-7755.

2. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a hospital in Kenosha, Wisconsin.

3. On June 11, 2014, Respondent was arrested during an undercover drug operation based on the following facts:

- a. Respondent and his cousin (the Cousin) met an undercover Drug Enforcement Administration special agent (the Agent), who was believed to be a drug dealer, to purchase narcotic medication and marijuana.
- b. Upon entering the Agent's vehicle, Respondent sat in the front passenger seat and the Cousin sat in the rear passenger seat.
- c. The Agent gave Respondent and the Cousin a 1-ounce package of marijuana to inspect.
- d. The Agent and Respondent began discussing the price of a half-pound of marijuana. The Agent quoted Respondent a price of \$1,000 for a quarter-pound and \$2,000 for a half-pound. Respondent stated he was interested and agreed that \$2,000 was a good price.
- e. Respondent said he did not have nor could he get \$1,000 at the time but would be able to get it tomorrow. Respondent further stated he was not prepared for it and otherwise would have come with money.
- f. The Agent asked Respondent if he could come up with the money tomorrow if the Agent gave him the marijuana now, and Respondent stated that he could.
- g. Respondent then told the Agent he wanted Percocet®, and that he and the Cousin would take \$160 worth of Percocet® at \$5.00 per pill.
- h. The Agent said he only had Vicodin®. Respondent stated he did not want a whole bottle of Vicodin®, just some for himself, and Respondent told the Cousin he would take 20 Vicodin® pills.
- i. Before exiting the vehicle, the Agent confirmed that Respondent would pay him \$2,000 for a half-pound of marijuana tomorrow, and that the Cousin would pay him \$600 for the bottle of Vicodin®.
- j. After the deal was complete, Respondent had a half-pound of marijuana in his possession, the Cousin had 120 Vicodin® pills in his possession, and then they were arrested.

4. On October 8, 2015, in Kenosha County Circuit Court case number 14-CF-783, Respondent pled no contest and was convicted of one (1) count of possessing with intent to deliver THC (≤ 200 grams), in violation of Wis. Stat. § 961.41(1m)(h)1, a felony.

5. Respondent was sentenced to and completed 40 hours of community service and one year of probation, including home inspections, regular visits with a probation officer, and random drugs screens.

6. Respondent timely reported this conviction.

7. On May 26, 2016, Respondent was interviewed by a Department investigator and admitted the following:

- a. He had previously used marijuana and purchased it for his wife at the time.
- b. He had previously been prescribed various opioid pain medications for a degenerative knee condition and subsequently became addicted to opioid pain medications.
- c. He had on several occasions obtained opioid pain medications from others when his own prescriptions ran out.
- d. He had checked himself into a treatment facility when his efforts to wean off opioid pain medications resulted in raised blood pressure.

8. 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. By the conduct described in the Findings of Fact, James B. Moore, R.N., engaged in unprofessional conduct as defined by Wis. Admin. Code § N 7.04(2), by administering, supplying, or obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law.

5. As a result of the above conduct, James B. Moore, 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 professional nursing license issued to James B. Moore, R.N., (license number 129834-30) to practice nursing in the State of Wisconsin, and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:
 - a. Within sixty (60) days from the date of this Order, Respondent shall, at his own expense, undergo an AODA assessment with a treater, pre-approved by the Board or its designee.
 - b. Prior to the assessment, Respondent shall provide a copy of this Order to the treater.
 - c. Respondent shall provide and keep on file with the treater current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department to obtain a copy of the assessment. Copies of these releases shall immediately be filed with the Department Monitor.
 - d. Respondent shall comply with the treater's recommendations.
3. The professional nursing license issued to James B. Moore, R.N., (license number 129834-30) to practice nursing in the State of Wisconsin, and his 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 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 4(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 his 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.

4. 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.

5. 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. The Board or its designee may, in conjunction with the suspension, prohibit Respondent from seeking termination of the suspension for a specified period of time.

6. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee.

7. After nine (9) months from the date of the Order, Respondent may petition the Board on an annual basis for a modification of subsection 3.a.x. of this Order, the prohibition on working as a nurse or other health care provider in a setting in which Respondent has access to controlled substances.

8. After one (1) year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of all other 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 six (6) months from the date of this Order, James B. Moore, R.N., shall pay COSTS of this matter in the amount of \$1,325.00.

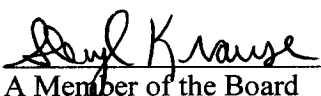
10. Any requests, documents, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

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

11. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent engages in the practice of nursing while suspended, fails to timely undergo an AODA assessment, fails to provide a copy of this Order to the treater, fails to keep releases on file with the treater, fails to comply with the treater's recommendations, fails to timely enroll in an approved drug monitoring program, fails to comply with the requirements for participation in an approved drug monitoring program, practices in an unapproved work setting, fails to timely submit acknowledgments, or fails to timely submit payment of the costs as ordered, Respondent's license (no. 129834-30) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has undergone and AODA assessment, provided proof that a copy of this Order was provided to the treater, kept signed releases on file with the treater, complied with the treater's recommendations, enrolls in an approved drug monitoring program, complied with the requirements for participation in an approved drug monitoring program, ceased practice in an unapproved work setting, submitted acknowledgments and has complied with payment of costs.

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

WISCONSIN BOARD OF NURSING

by: 
A Member of the Board

8-9-18
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES B. MOORE, R.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005842

Division of Legal Services and Compliance Case No. 15 NUR 597

Respondent James B. Moore, 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 Gary George.

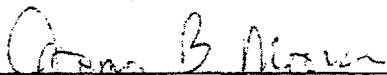
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives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

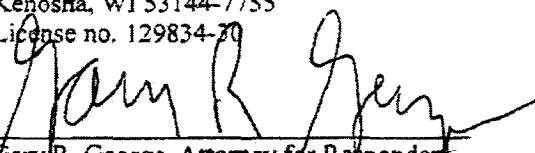
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

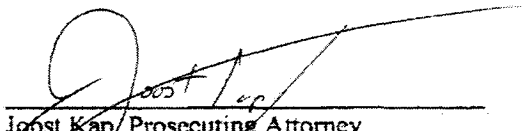
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


James B. Moore, R.N., Respondent
1414 97th Ave.
Kenosha, WI 53144-7755
License no. 129834-70

7/25/18
Date


Gary R. George, Attorney for Respondent
Law Office of Gary R. George
P.O. Box 1605
Milwaukee, WI 53201-1605

7/25/18
Date


Joost Kap, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/30/18
Date