

## 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

CAROLINE MALACHOWSKI, R.N.,  
RESPONDENT.

FINAL DECISION AND ORDER

0005870

Division of Legal Services and Compliance Case No. 17 NUR 015

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

Caroline Malachowski, R.N.  
116 N. Cudd Avenue  
River Falls, WI 54022

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 Caroline Malachowski, R.N., (D.O.B. April 21, 1963) is licensed in the State of Wisconsin as a professional nurse, having license number 228036-30, first issued on April 21, 2016, and current through February 28, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 116 N. Cudd Avenue, River Falls, Wisconsin 54022.

2. Respondent is also licensed as a professional nurse in Minnesota, having license number 2298166, first issued August 4, 2015, and current through April 30, 2019.

3. At all times relevant to this proceeding, Respondent was employed as a professional nurse at a skilled nursing facility (Facility) located in Stillwater, Minnesota.

4. On January 13, 2017, Respondent was provided various medications to destroy. This included fifty-seven (57) methadone 2.5 mg tablets prescribed to Patient A.

5. On January 16, 2017, another staff member went to administer methadone to Patient A and discovered the medication was missing.

6. The Facility discovered that the methadone was inadvertently given to Respondent for destruction.

7. Based upon questions the Facility had regarding the destruction, Respondent submitted to a urine drug screen on January 16, 2017.

8. The urine drug screen was positive for oxymorphone, oxycodone, and lorazepam.

9. Respondent expressed that she injured her knee on January 14, 2017, in a snowmobile accident. On the morning of January 15, 2017, she took two (2) hydrocodone-acetaminophen 5-325 mg tablets for her knee pain. She later took two (2) oxycodone 5 mg tablets. Respondent also took one (1) Ativan® 0.5 mg tablet.

10. Respondent provided a copy of a February 2016 prescription for hydrocodone-acetaminophen, which was prescribed following a dental surgery. She also presented a prescription from December 2014 for oxycodone that was prescribed following a foot surgery.

11. Respondent did not present a valid prescription for Ativan®. She stated the lorazepam was prescribed to her mother and was left at her home in 2016.

12. Respondent denied diversion of Patient A's medication. Respondent asserts that another nurse witnessed destruction of Patient A's medication, but that the nurse forgot to document the destruction in the narcotic log book.

13. 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. 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).

3. By the conduct described in the Findings of Fact, Caroline Malachowski, R.N., violated Wis. Admin. Code § N 7.03(8)(e), by obtaining, possessing or attempting to possess a drug without lawful authority.

4. As a result of the above conduct, Caroline Malachowski, 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 Caroline Malachowski, R.N., is REPRIMANDED.
3. The professional nurse license issued to Caroline Malachowski, R.N., (license number 228036-30) and her privilege to practice in Wisconsin pursuant to the Enhanced 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 four (4) hours of education on the topic of professional accountability 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 Enhanced 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, Caroline Malachowski, R.N., shall pay COSTS of this matter in the amount of \$1308.00.
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 (228036-30), 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:

  
A Member of the Board

9/13/18  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

CAROLINE MALACHOWSKI, R.N.,  
RESPONDENT.

STIPULATION

0005872

Division of Legal Services and Compliance Case No. 17 NUR 017

Respondent Caroline Malachowski, 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 Marit M. Sivertson.

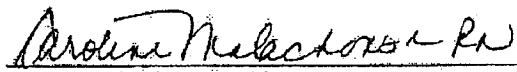
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives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

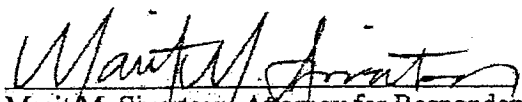
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's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

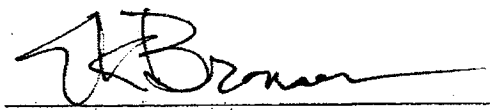
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Caroline Malachowski, R.N., Respondent  
116 N. Cudd Avenue  
River Falls, WI 54022  
License no. 228036-30

8/16/18  
Date

  
Marit M. Sivertson, Attorney for Respondent  
Sivertson & Barrette  
1465 Arcade Street  
St. Paul, MN 55106

8-16-18  
Date

  
Elizabeth K. Bronson, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

8/16/18  
Date