

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

SYLVIA L. HENRY, L.P.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

0005981

Division of Legal Services and Compliance Case No. 18 NUR 065

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

Sylvia L. Henry, L.P.N.
3224 Midway St.
Eau Claire, WI 54703

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 Sylvia L. Henry, L.P.N., (D.O.B. February 14, 1971) is licensed in the State of Wisconsin as a practical nurse, having license number 305874-31, first issued on April 13, 2005, and current through April 30, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3224 Midway Street, Eau Claire, Wisconsin 54703.

2. At all times relevant to this proceeding, Respondent was employed as a practical nurse at a facility (Facility), located in Altoona, Wisconsin.

3. On January 20, 2018, Nurse A witnessed Respondent crush a Tylenol and give it to Patient A in place of Patient A's prescribed oxycodone-acetaminophen. Nurse A informed the Facility that Respondent was potentially diverting narcotics.

4. On January 20, 2018, Respondent was questioned about the incident. Respondent admitted to diverting oxycodone-acetaminophen 5-325 mg tablets from Patient A. She stated that she would crush up Tylenol and substitute it for oxycodone-acetaminophen. Respondent would then document administering oxycodone-acetaminophen for the patient.

5. After Respondent was dismissed from work, the Facility discovered that two (2) tablets of oxycodone-acetaminophen 5-325 mg were missing for Patient A, two (2) tablets of hydrocodone-acetaminophen 10-325 mg were missing for Patient B, and one (1) tablet of hydrocodone-acetaminophen 5-325 mg was missing for Patient C.

6. The Facility notified the Altoona Police Department.

7. On January 23, 2018, Respondent's employment at the Facility was terminated.

8. On April 17, 2018, a complaint was filed in Eau Claire County Case Number 2018CF000591. The Respondent was charged with the following:

- a. One (1) count of intentionally subjecting an individual at risk to abuse likely to cause bodily harm, a class I felony in violation of Wis. Stat. § 940.285(2)(a)1;
- b. One (1) count of intentionally subjecting an individual at risk to abuse causing bodily harm, a class H felony in violation of Wis. Stat. § 940.285(2)(a)1;
- c. Three (3) counts of theft-movable property-special facts, a class H felony in violation of Wis. Stat. § 943.20(1)(a);
- d. Two (2) counts of falsely present non-controlled substance; a class I felony in violation of Wis. Stat. § 961.41(4)(am)1a;
- e. One (1) count of intentionally subjecting an individual at risk to abuse not likely to cause bodily harm, a class B misdemeanor in violation of Wis. Stat. § 940.285(2)(a)1;
- f. One (1) count of obtaining a prescription drug with fraud, a class U misdemeanor in violation of Wis. Stat. § 450.11(7)a.

9. 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, Sylvia L. Henry, L.P.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. By the conduct described in the Findings of Fact, Sylvia L. Henry, 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.

4. As a result of the above conduct, Sylvia L. Henry, 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. The SURRENDER of the license and privilege of Sylvia L. Henry, L.P.N., (license no. 305874-31) to practice nursing in the state of Wisconsin or under another state license pursuant to the Enhanced 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. In the event that Respondent petitions for reinstatement of her nursing license, or applies for any license with the Department of Safety and Professional Services, she must immediately pay costs of this matter in the amount of \$874.00.

5. If applicable, payment of costs shall be made payable to Wisconsin Department of Safety and professional services and sent 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

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

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

WISCONSIN BOARD OF NURSING

by: 
A Member of the Board

12-13-18
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SYLVIA L. HENRY, L.P.N.,
RESPONDENT.

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STIPULATION

000598 1

Division of Legal Services and Compliance Case No. 18 NUR 065

Respondent Sylvia L. Henry, 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 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.

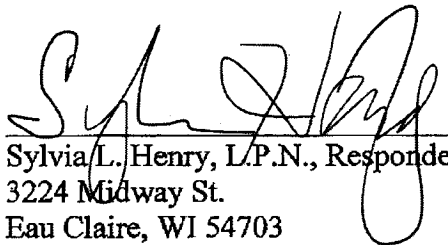
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.


Sylvia L. Henry, L.P.N., Respondent
3224 Midway St.
Eau Claire, WI 54703
License no. 305874-31

11-30-18
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

11/30/18
Date