

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

DANIEL G. KERR, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

7/16/23

Division of Legal Services and Compliance Case No. 16 NUR 721

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

Daniel G. Kerr, R.N.
N6410 Lake Dorothy Lane
Watertown, WI 53094

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 Daniel G. Kerr, R.N., (DOB April 10, 1968) is licensed in the state of Wisconsin as a registered nurse, having license number 125179-30, first issued on February 4, 1997, and current through February 28, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N6410 Lake Dorothy Lane, Watertown, Wisconsin 53094.

2. At all times relevant to this proceeding, Respondent was employed as a registered nurse consultant and a Regional Director of Cares at a senior living facility (Facility) with locations in Wisconsin Dells, Wisconsin, Cambridge, Wisconsin, and Janesville, Wisconsin.

3. Respondent began his employment with the Facility, as a registered nurse consultant in October 2015, and became the Southern Regional Director of Cares in June of 2016.

4. On October 28, 2016, the Facility reviewed Resident A's medication administration record (MAR) and noticed there was no documentation of the administration of Resident A's monthly Vitamin B-12 injection, which Respondent should have administered.

5. The Facility contacted the pharmacy who reported that Resident A's prescription for Vitamin B-12 injections was first filled on October 24, 2016, even though the prescription had been on his file since March 2016.

6. The Facility's Area Director was notified and began a review of the MARs for the residents in the Southern Region who were also prescribed Vitamin B-12 injections.

7. The Facility's Area Director's review identified another resident, Resident B, who had prescriptions for Vitamin B-12 injections that should have been administered by Respondent.

8. The pharmacy indicated that Vitamin B-12 injections were dispensed for Resident B in December 2015, April 2016, and June 2016.

9. The pharmacy confirmed that Vitamin B-12 injections were not sent monthly as it does not fit in the strip medication packaging and someone must call and reorder the injection each month.

10. Respondent indicated to the Facility that he did not give Resident B a Vitamin B-12 injection because the resident was out the last week of the month, which is when the injection would have been administered.

11. On August 28, 2017, Respondent, through his attorney, provided a supplemental response in which he stated that administering Vitamin B-12 injections was not his responsibility, nor was it his responsibility as the Southern Regional Director of Cares to confirm that each resident received their medications, due to his infrequent contact with patients.

12. Respondent maintains that he performed the responsibilities that were required of him as the Southern Regional Director of Cares and he disputes that he engaged in unsafe practice or substandard care. However, in resolution of this matter and to avoid the costs of a hearing, 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, Daniel G. Kerr, R.N., violated Wis. Admin. Code § N 7.03(6)(a), by failing to perform nursing with reasonable skill and safety.

3. As a result of the above conduct, Daniel G. Kerr, 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 Daniel G. Kerr, R.N., is REPRIMANDED.
3. The registered nursing license issued to Respondent Daniel G. Kerr, R.N., (license number 125179-30) and his 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, at his own expense, shall complete four (4) hours of education on the topic of medication errors, and five (5) hours of education on the topic of documentation. Respondent is responsible for finding an appropriate course and submitting the course information to the Board or its designee for approval prior to taking the course and in sufficient time to obtain Board approval within the 90-day time frame, taking into account the Board's meeting schedule. Respondent shall provide proof of completion of the education to the Department Monitor.
 - b. Respondent shall provide his nursing employer with a copy of this Order before engaging in any nursing practice. 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 14 days of beginning new employment and/or within 14 days of the date of this Order for employment current as of the date of this Order.
 - c. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a home health, assisted living, agency, pool or as a nurse in a correctional setting unless Respondent seeks pre-approval of the work setting from the Board and approval is granted.
 - i. Respondent's current nursing employment as a nurse caretaker for Minor A in a home health setting is an approved work setting under this Order, subject to continued compliance with the limitations set forth in paragraphs 3(b) and 3(d) of this Order.
 - d. For a period of at least two (2) years while working at least half-time as a nurse, Respondent shall arrange for his nursing employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of Respondent's employment and evaluating his work performance.

- e. Pursuant to the Enhanced Nurse Licensure Compact, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation.
- f. Respondent shall notify the Department Monitor of any change of nursing employment during the time in which the Order is in effect. Notification shall occur within 15 days of a change of employment and shall include an explanation of the reasons for the change.
- g. After two (2) years of working at least half-time as a nurse, Respondent may petition the board for the modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

4. Within 120 days from the date of this Order, Daniel G. Kerr, R.N., shall pay COSTS of this matter in the amount of \$1,577.00.

5. 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

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


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

6. In the event Respondent violates any term of this Order, Respondent's license (125179-30), 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.

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

WISCONSIN BOARD OF NURSING

by:


A Member of the Board

6/13/19
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DANIEL G. KERR, R.N.,
RESPONDENT.

:
:
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:
:

STIPULATION

006228

Division of Legal Services and Compliance Case No. 16 NUR 721

Respondent Daniel G. Kerr, 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 Myranda Cotant.


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.

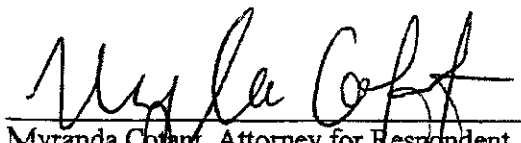
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's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

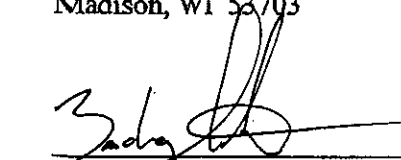
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Daniel G. Kerr, R.N., Respondent
N6410 Lake Dorothy Lane
Watertown, WI 53094
License no. 125179-30

23 May 19
Date


Myranda Coyne, Attorney for Respondent
Coyne, Schultz, Becker & Bauer S.C.
150 East Gilman Street, Suite 1000
Madison, WI 53703

5/23/19
Date


Zachary J. Peters, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

5/23/19
Date