

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

ELLEN M. MISKOWSKI, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

ORDER 0006534

Division of Legal Services and Compliance Case No. 18 NUR 205

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

Ellen M. Miskowski, R.N.
N66W23505 Linda Drive
Sussex, WI 53089

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 Ellen M. Miskowski, R.N., (DOB December 9, 1957) is licensed in the state of Wisconsin as a registered nurse, having license number 101387-30, first issued on April 5, 1989, and current through February 28, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is N66W23505 Linda Drive, Sussex, Wisconsin 53089.

2. At all times relevant to this proceeding, Respondent was employed as a registered nurse at a hospital (Hospital), located in West Allis, Wisconsin.

3. On March 6, 2018, Respondent pulled two (2) tablets of methylphenidate CR 36 mg from the automated dispensing system (ADS) for Patient A, once at 5:01 p.m. and again at 5:58 p.m.

4. The duplicate pull prompted the managing pharmacist to review Respondent's medication withdrawal records from the ADS.

5. The audit showed that Respondent had a 38.7% discrepancy rate between March 6, 2016 and March 6, 2018. It was discovered on 442 occasions, controlled substances were stolen from the ADS by Respondent.

6. On or about March 7 or March 8, 2018, Respondent was interviewed by the Hospital. Respondent admitted responsibility for the missing medication. Respondent stated that she intentionally left the medications on the counter or threw them away in order "get back" at the Hospital by making them pay for unused medication.

7. Respondent denied diverting medication for personal use.

8. Respondent estimated that she had been stealing medication for approximately one and a half years.

9. On April 22, 2019, Respondent was convicted in Milwaukee County Circuit Court case number 18 CF 1904, of one (1) count of theft-movable property <=\$2500, a class A misdemeanor, in violation of Wis. Stat. § 943.20(1)(a).

10. 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, Ellen M. Miskowski, R.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, Ellen M. Miskowski, R.N., violated Wis. Admin. Code § N 7.03(6)(a), by failing to perform nursing with reasonable skill and safety.

4. By the conduct described in the Findings of Fact, Ellen M. Miskowski, R.N., violated Wis. Admin. Code § N 7.02(2), by violating any law substantially related to the practice of nursing or being convicted of a crime substantially related to the practice of nursing.

5. As a result of the above conduct, Ellen M. Miskowski, 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 Ellen M. Miskowski, R.N., is REPRIMANDED.
3. The registered nurse license issued to Ellen M. Miskowski, R.N., (license number 101387-30) 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 five (5) hours of education on the topic of documentation, and three (3) hours of education on the topic of ethics 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. The registered nurse license issued to Ellen M. Miskowski, R.N., (license number 101387-30) and her privilege to practice in Wisconsin pursuant to the Enhanced Nurse Licensure Compact, are further LIMITED as follows:
 - a. Within sixty (60) days from the date of this Order, Respondent shall, at her own expense, undergo an AODA assessment with an evaluator pre-approved by the Board or its designee who has experience conducting these assessments.
 - b. Prior to the assessment, Respondent shall provide a copy of this Order to the evaluator. Respondent shall provide the Department Monitor with written acknowledgment from the evaluator that a copy of this Order has been received by the evaluator. Such acknowledgment shall be provided to the Department Monitor prior to the assessment.

- c. Respondent shall provide and keep on file with the evaluator 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 identify and provide the evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
- e. The Board, or its designee, may impose additional limitations upon Respondent's license based on the results of the assessment and/or the evaluator's recommendations.
- f. Respondent shall comply with the evaluator's recommendations.

5. Pursuant to Enhanced Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation.

6. Within 120 days from the date of this Order, Ellen M. Miskowski, R.N., shall pay COSTS of this matter in the amount of \$688.00.

7. 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>

8. In the event Respondent violates any term of this Order, Respondent's license (101387-30), 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.

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

WISCONSIN BOARD OF NURSING

by:


A Member of the Board

11/14/19
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ELLEN M. MISKOWSKI, R.N.,
RESPONDENT.

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:
:

STIPULATION

ORDER 0006534

Division of Legal Services and Compliance Case No. 18 NUR 205

Respondent Ellen M. Miskowski, 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.

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.

Ellen M. Miskowski
Ellen M. Miskowski, R.N., Respondent
N66W23505 Linda Drive 240 Nob Hill Drive West
Sussex, WI 53089 Colgate, WI 53017
License no. 101387-30

10/26/19
Date

Alicia M. Kennedy
Alicia M. Kennedy, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison WI 53707-7190

10/28/19
Date