

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

JONATHAN BERENS, R.N.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0006715**
:

Division of Legal Services and Compliance Case No. 18 NUR 167

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

Jonathan Berens, R.N.
South Milwaukee, WI 53172

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 Jonathan Berens, R.N., (DOB XX-XX-1993) is licensed in the state of Wisconsin as a registered nurse, having license number 226106-30, first issued on January 28, 2016, and current through February 28, 2022.
2. At all times relevant to this proceeding, Respondent was employed as a registered nurse at a hospital located in Cudahy, Wisconsin (Hospital).
3. On November 28, 2017, the Hospital began an investigation after receiving a report that Respondent pulled a patient's narcotics from Pyxis 45-60 minutes before the scheduled administration time.

4. The Hospital requested an Audit Transaction Summary (Summary) of Respondent's patients. The Summary showed that Respondent removed more narcotics than any other nurse in the Intensive Care Unit (ICU). Over the prior sixty (60) days, Respondent had 116 transactions for Vicodin and 145 transactions for Percocet, while two (2) of his peers, who worked similar hours, had two (2) and four (4) transactions for Vicodin, respectively, and eight (8) transactions for Percocet each.

5. During an interview with Hospital staff on January 11, 2018, Respondent admitted he had diverted medications for approximately one (1) year, after he developed an addiction to pain medication. Respondent admitted to diverting at least 100 tablets of Vicodin and 100 tablets of Percocet in the past 60 days.

6. Respondent also admitted to sometimes ingesting one (1) or two (2) Vicodin and/or Percocet tablets during his work shift to "[g]et himself up."

7. The Hospital terminated Respondent effective January 15, 2018.

8. In his response to the Department of Safety and Professional Services, Respondent said he did not harm any patients as a result of his diversion, and he is truly remorseful for his actions.

9. Respondent entered into an impairment program, separate from this Order, on September 13, 2018.

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, Jonathan Berens, R.N., violated Wis. Admin. Code § N 7.03(6)(e), by practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications.

3. By the conduct described in the Findings of Fact, Jonathan Berens, 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.

4. As a result of the above conduct, Jonathan Berens, 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 registered nursing license issued to Jonathan Berens, R.N., (license number 226106-30) is **SUSPENDED** for fourteen (14) days, beginning the day after the Board signs this Order.

3. The license to practice registered nursing issued to Respondent Jonathan Berens, R.N., (license number 226106-30) is **LIMITED** as follows:

- a. Respondent Jonathan Berens, R.N., must comply with the impairment program contract, dated September 13, 2018.
- b. Any violation of the terms of the impairment program contract, dated September 13, 2018, is a violation of this Order.
- c. Respondent may petition for termination of the limitation upon successful completion of the impairment program.

4. In the event Respondent is unsuccessfully discharged from the impairment program, Respondent's license may, in the discretion of the Board or its designee, be immediately suspended. In addition to, or instead of, the suspension, the Board may impose additional limitations to address any concerns with the conduct surrounding the Findings of Fact and Respondent's unsuccessful discharge from the impairment program.

5. Within ninety (90) days from the date of this Order, Jonathan Berens, R.N., shall pay **COSTS** of this matter in the amount of \$1,025.00.

6. 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 the Department's Monitoring Case Management System at: <https://dspsmonitoring.wi.gov>

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

WISCONSIN BOARD OF NURSING

By:


A Member of the Board

3/12/2020
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JONATHAN BERENS, R.N.,
RESPONDENT.

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STIPULATION

ORDER 00067 15

Division of Legal Services and Compliance Case No. 18 NUR 167

Respondent Jonathan Berens, R.N., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

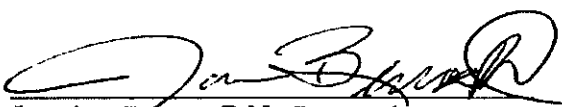
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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.


Jonathan Berens, R.N., Respondent
License No. 226106-30

2/10/2020
Date


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

2/10/2020
Date