

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 :
 : FINAL DECISION AND ORDER
JEAN M. KIRKEBY, L.P.N., :
RESPONDENT. :

ORDER 00070 22

Division of Legal Services and Compliance Case No. 18 NUR 681

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

Jean M. Kirkeby, L.P.N.
Racine, WI 53404

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 Jean M. Kirkeby, L.P.N., (DOB xx/xx/1955) is licensed in the state of Wisconsin as a practical nurse, having license number 21422-31, first issued on May 18, 1979, and current through April 30, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Racine, Wisconsin.

2. On April 9, 2015, the Board issued Final Decision and Order for Remedial Education #0003902(Order #0003902) against Respondent for an incident that occurred on July 9, 2014, when Respondent was employed as a licensed practical nurse at a residential facility. Respondent grabbed a verbally disruptive resident by the arm and pulled the resident toward their room. The resident pulled away and yelled that Respondent get away from them. Respondent and the resident began yelling at each other. Board Order #0003902 required Respondent to complete

four (4) hours of education on the topic of patient's rights and four (4) hours of education on the topic of ethics and professionalism. Respondent was required to submit proof of completion.

3. At all times relevant to this proceeding, Respondent was employed as a licensed practical nurse at nursing home facility (Facility), located in Kenosha, Wisconsin.

4. The Department received a complaint alleging Respondent was rude and verbally abusive to a resident of the Facility.

5. On September 13, 2018, Resident A eloped from the Facility. Resident A was found outside of the Facility.

6. Certified Nursing Assistant (CNA) B informed the Administrator that Respondent was rude to Resident A and called Resident A an idiot when bringing him back into the building.

7. On September 14, 2018, CNA C was interviewed and stated that she observed Respondent call Resident B an idiot when re-entering the building.

8. On September 17, 2018, Respondent submitted a written statement to the Administrator stating she did not recall calling Resident A an idiot and that if she did it was done in the heat of the moment. Respondent stated that she would never intentionally call a resident a name.

9. On September 17, 2018, Respondent was suspended pending an investigation by the Facility.

10. On September 18, 2018, the Facility Administrator met with Respondent to educate Respondent on customer service and tips and techniques for handling residents with dementia. Respondent refused to sign the education for tips and techniques for handling residents with dementia.

11. The Administrator informed Respondent that she would be receiving a final written warning and that if another incident were to occur, Respondent would be terminated. Respondent refused to sign the write up, picked up her belongings, and walked out of the office.

12. On September 20, 2018, Respondent was terminated based on a lack of participation in the investigation and education.

13. On April 26, 2019, Respondent provided the Department with a response to the allegations. Respondent stated that Resident A was missing on the day of the incident and Respondent was upset and worried about Resident A and what could have happened to him. Respondent did not recall calling Resident A an idiot and that if she did say anything, that it was not with malicious intent, but rather "an excited utterance out of concern and being upset over what may have happened. Also the stress and anxiety over the situation [sic]."

14. 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, Respondent violated Wis. Admin. Code § N 7.03(4)(c), by abusing a patient by a single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain, injury, mental anguish, or fear.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b) and (d).

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. The practical nurse license issued to Respondent (license number 21422-31) 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 two (2) hours of education on the topic of stress management, four (4) hours of education on the topic of working with dementia patients, and four (4) hours of education on the topic of ethics and professionalism 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. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

d. 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 the Enhanced Nurse Licensure Compact (Compact), Respondent may not practice in another Compact State, other than Wisconsin, while their license is encumbered by any term or restriction of this Order.

5. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$702.00.

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

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

<https://dpsmonitoring.wi.gov>

7. In the event Respondent violates any term of this Order, Respondent's license (21422-31), 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

10/8/2020
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEAN M. KIRKEBY, L.P.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0007032

Division of Legal Services and Compliance Case No. 18 NUR 681

Respondent Jean M. Kirkeby, 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.

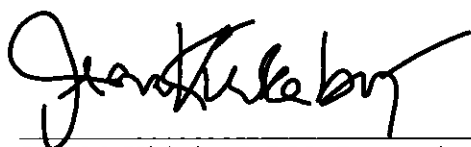
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.



Jean M. Kirkeby, L.P.N., Respondent
Racine, WI 53404
License No. 21422-31

9/9/2020

Date



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

September 10, 2020

Date