

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
DAVID BOOZER, L.P.N., :
 : Order No. 0007247
RESPONDENT. :

Division of Legal Services and Compliance Case No. 19 NUR 428

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

David Boozer L.P.N.
Green Bay, WI 54302

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 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 David Boozer L.P.N., (Year of Birth 1953) is licensed in the state of Wisconsin as a licensed practical nurse, having license number 321260-31, first issued on January 3, 2017. This license expired on April 30, 2021, and has not been renewed. Respondent's license is currently suspended pursuant to Interim Order No. 7247, issued by the Board on March 11, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Green Bay, Wisconsin 54302.

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

3. On July 7, 2019, Respondent abused a resident with dementia (Resident A) on two occasions.

4. The first occurred while two CNAs were attempting to redirect Resident A into his room. Resident A was being uncooperative and slid onto the floor. The CNAs were unable to lift Resident A due to his size. Respondent arrived and punched Resident A in the chest. Respondent then placed his foot on Resident A's chest to hold him down and called Resident A "motherfucker." Respondent took Resident A's shirt, twisted it around Resident A's neck, and dragged Resident A to his wheelchair. With Resident A in the wheelchair, Respondent pushed the wheelchair into Resident A's room with great force. The wheelchair flipped over and Resident A fell out of it onto the floor.

5. The second incident occurred later when a CNA was again attempting to redirect Resident A back into his room. Respondent approached Resident A from behind with a wheelchair and rammed the wheelchair into Resident A's legs. When Resident A tried to flee into another resident's room, Respondent grabbed Resident's A shirt, twisted it, and dragged Resident A out of the room. Respondent continued to pull Resident A backwards across the hall by his shirt, eventually pulling the shirt off of Resident A.

6. Resident A had multiple visible injuries on his neck and armpits. Facility staff called 911 and the Sheboygan Police Department responded.

7. On July 8, 2019, in Sheboygan County Case No. 2019CF000487, Respondent was charged with two counts of Intentionally Subject an Individual at Risk to Abuse – Likely to Cause Great Bodily Harm, a felony, in violation of Wis. Stat. § 940.285(2)(a)1. and two counts of Aggravated Battery – Elderly, a felony, in violation of Wis. Stat. § 940.19(6)(a).

8. On July 15, 2021, in Sheboygan County Case No. 2019CF000487, Respondent was convicted of all counts detailed in paragraph 7.

9. On September 30, 2021, Respondent agreed to surrender his nursing license to resolve this matter.

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, Respondent was convicted of a crime substantially related to the practice of nursing within the meaning of Wis. Admin. Code § 7.03(2).

3. By the conduct described in the Findings of Fact, Respondent abused 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 within the meaning of Wis. Admin. Code § 7.03(4)(c).

4. By the conduct described in the Findings of Fact, Respondent departed from or failed to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to the patient's life, health, or safety within the meaning of Wis. Admin. Code § 7.03(6)(c).

5. A nurse who possesses a multistate license from Wisconsin is ineligible to retain or renew the multistate license should the nurse incur a disqualifying event after the effective date of the Compact, pursuant to Wis. Stat. § 441.51(3)(g).

6. Having been convicted of a felony offense under applicable state or federal criminal law is a disqualifying event pursuant to Wis. Stat. § 441.51(3)(c)7.

7. By the conduct described in the Findings of Fact, Respondent is ineligible to retain or renew a Wisconsin multistate license to practice nursing pursuant to Wis. Stat. §§ 441.51(3)(c)7. and 441.51(3)(g).

ORDER

1. The attached Stipulation is accepted.

2. The SURRENDER by Respondent of his license to practice as a practical nurse in the state of Wisconsin (license no. 321260-31), as well as his right to renew such license, is accepted.

3. Respondent's Wisconsin multistate privilege to practice as a licensed practical nurse is DEACTIVATED.

4. Respondent shall not petition the Board for reinstatement of his license to practice as a licensed practical nurse in the State of Wisconsin for at least two years from the date of this order.

5. In the event Respondent petitions the Board for reinstatement of his license to practice as a practical nurse in the state of Wisconsin or applies for another credential in the state of Wisconsin under Wis. Stat. chs. 440 through 480, Respondent shall pay the costs of this matter in the amount of \$2,195.00, before any petition or application for a credential will be considered by the applicable board or Department.

6. In the event Respondent petitions the Board for reinstatement as a licensed practical nurse, 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 sole discretion of the Board and such decision is not reviewable.

6. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>

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

WISCONSIN BOARD OF NURSING

by: *Gregory J. Jolietowski*
A Member of the Board

11/11/2021
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID BOOZER, L.P.N.,
RESPONDENT.

STIPULATION
Order No. 0007247

Division of Legal Services and Compliance Case No. 19 NUR 428

David Boozer, L.P.N. (Respondent), 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 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.

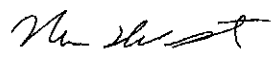
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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


David Boozer, L.P.N., Respondent
Green Bay, WI 54302
License No. 321260-31

Date 10/11/21


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

Date 10/12/2021