

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 W. KOSOSKI, R.N., : Order No. 0007248
RESPONDENT. :

Division of Legal Services and Compliance Case Nos. 19 NUR 679, 20 NUR 033,
and 20 NUR 283

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

David W. Kososki, R.N.
Waukesha, WI 53186

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

An Interim Order was issued in this matter on March 21, 2021. 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. David W. Kososki, R.N. (Respondent), (Year of Birth 1979) is licensed in the state of Wisconsin as a registered nurse, having license number 173100-30, first issued on June 9, 2010, and current through February 28, 2022. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is in Waukesha, Wisconsin.

2. Respondent's license to practice as a registered nurse was suspended via a stipulated agreement resulting in Board Interim Order number 0007248 issued on March 11, 2021.

19 NUR 679

3. At all times relevant to 19 NUR 679, Respondent worked as a registered nurse for a hospital in Menomonee Falls, Wisconsin (Hospital A).

4. Hospital A reviewed Respondent's administration of controlled substances from September 1, 2019, through October 18, 2019, and found multiple issues with his administering and wasting of medications.

5. On October 28, 2019, Respondent underwent a reasonable suspicion urine drug screen and tested positive for propofol, amphetamine, antihistamines (diphenhydramine), fentanyl, and norfentanyl.

6. Respondent denies the use of any narcotic controlled substance. He explained that the positive urine drug screen was due to the prescription order that he had for Adderall and that he had been taking an anabolic steroid substance that was manufactured in China and probably contained many contaminants and other unknown substances.

7. Respondent was terminated from Hospital A on November 7, 2019.

20 NUR 033

8. At all times relevant to 20 NUR 033, Respondent worked at a hospital located in Waukesha, Wisconsin (Hospital B).

9. In November 2019, Hospital B met with Respondent to discuss concerns that Respondent may be diverting controlled substances. Respondent denied diversion of controlled substances. Respondent admitted to stealing from Hospital B multiple saline flushes and syringes that he used to inject HCG and B12 into his system. Respondent admitted to using anabolic steroids and marijuana. Respondent submitted to a urine drug screen which was positive for marijuana and norfentanyl.

10. Respondent was terminated from Hospital B on December 9, 2019.

20 NUR 283

11. At all times relevant to 20 NUR 283, Respondent worked at a hospital located in Cudahy, Wisconsin (Hospital C).

12. In June 2020, Hospital C provided Respondent with a verbal warning concerning Respondent's unsatisfactory performance concerning wasting and administering controlled substances.

13. On June 6, 2020, Hospital C staff reported concerns that Respondent had been observed impaired while at work. Staff had found items in an employee bathroom after Respondent exited that were consistent with someone injecting themselves; a ripped glove, an alcohol swab with a blood spot, a needle cap, a push needle shell, and a medication cap to a Dilaudid syringe on the floor.

14. When questioned by Hospital C staff on June 6, 2020, Respondent declined assessment, and instead submitted his resignation and he was escorted from the building.

15. Between January 1, 2018, and September 18, 2020, the only controlled substances prescribed to Respondent were Adderall and Ambien.

16. Respondent does not admit or deny the above allegations. However, Respondent has decided to surrender his license to practice as a registered nurse in Wisconsin due to personal reasons and to bring resolution to the cases at hand.

17. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Board 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 committed acts which show Respondent to be unfit or incompetent by reason of negligence, abuse of alcohol or other drugs or mental incompetence within the meaning of Wis. Stat. § 441.07(1g)(c).

3. By the conduct described in the Findings of Fact, Respondent committed unsafe practice or substandard care by practicing nursing while under the influence of alcohol, illicit drugs, or while impaired by the use of legitimately prescribed pharmacological agents or medications within the meaning of Wis. Admin. Code § N 7.03(6)(e).

4. By the conduct described in the Findings of Fact, Respondent committed unsafe practice or substandard care by practicing nursing while unable to practice safely by reason of alcohol or other substance use within the meaning of Wis. Admin. Code § N 7.03(6)(f).

5. By the conduct described in the Findings of Fact, Respondent committed a drug related offense by obtaining, possessing, or attempting to obtain or possess a drug without lawful authority within the meaning of Wis. Admin. Code § N 7.03(8)(e).

6. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b), (c), and (d), and Wis. Admin. Code § N 7.03.

ORDER

1. The attached Stipulation is accepted.

2. The SURRENDER by Respondent of his license to practice as a registered nurse in the state of Wisconsin (license no. 173100-30), as well as his right to renew such license is accepted.

3. Should Respondent seek any credential under Wis. Stat. chs. 440 through 480, Respondent, shall first pay costs of this matter in the amount of \$2829.00, before his application for a credential will be considered by the applicable board or Department.

4. In the event Respondent petitions the Board for reinstatement of his license to practice as a registered nurse or licensed practical nurse in the future, the Board may enter an order denying such petition. Should the Board grant Respondent a license to practice nursing, whether to impose any limitations or restrictions on any license granted to Respondent shall be in the sole discretion of the Board, and such decision is not reviewable. The Board's review of any petition for restatement will include consideration of the Findings of Fact and Conclusions of Law in this Order.

5. If applicable, payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at:

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

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

WISCONSIN BOARD OF NURSING

By:



A Member of the Board

13 May 2021

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID W. KOSOSKI, R.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION
Order No. 0007248

Division of Legal Services and Compliance Case Nos. 19 NUR 679, 20 NUR 033,
and 20 NUR 283

Respondent David W. Kososki, 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 Kristen Nelson.


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.

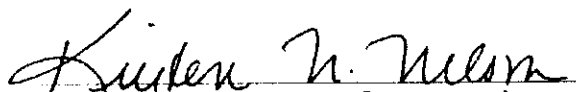
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David W. Kososki, R.N., Respondent
Waukesha, WI 53186
License No. 173100-30

4-19-21


Date



Kristen Nelson, Attorney for Respondent
Gimbel, Reilly, Guerin & Brown, LLP
330 East Kilbourn Ave, Suite 1170
Milwaukee, WI 53202

4/19/21

Date



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

4/19/2021

Date