

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



### Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

#### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DSPS website:** An individual who believes that information on the website is inaccurate may contact [DSPS@wisconsin.gov](mailto:DSPS@wisconsin.gov)

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

---

IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
JAMES M. WHELAN, R.N., :  
RESPONDENT. :  
**ORDER 0007258**

---

Division of Legal Services and Compliance Case No. 19 NUR 605

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

James M. Whelan, R.N.  
Gilman, WI 54433

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 James M. Whelan, R.N., (dob xx-xx-1950) is licensed in the State of Wisconsin as a registered nurse, having license number 184334-30, first issued on January 4, 2012 and current through February 28, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Gilman, Wisconsin 54433.

2. Respondent was previously licensed as a licensed practical nurse, license number 310176-31, which expired on April 30, 2013.

3. On September 2, 2010, the Board disciplined Respondent as the result of his conviction of Felony Theft >\$10,000 in Taylor County Case Number 2010CF000022. The Board

limited Respondent's licensed practical nurse license and prohibited Respondent from working in any setting where his duties include the handling of money or negotiable instruments. (Order No. 382).

4. On December 15, 2011, Respondent was granted a limited registered nursing license which imposed the limitations pursuant to Order No. 382 as well as the following:

- a. Respondent shall practice only in a preapproved work setting;
- b. Respondent shall not work in a home health care, hospice, pool nursing, or agency setting; and
- c. Respondent shall on an annual basis submit annual reviews from his employer to the Department Monitor.

5. On March 18, 2016, the Board removed all limitations and Respondent's registered nursing license was restored to full, unrestricted status.

6. At all times relevant to this proceeding, Respondent was employed as a registered nurse at nursing home (Facility), located in Altoona, Wisconsin.

7. The Facility commenced an investigation following a co-worker report that on September 15, 2019, Respondent administered four doses of Carbidopa Levodopa to Patient A, a female aged 84 years old, all at once, rather than at the ordered intervals.

8. During the Facility's investigation, Respondent denied improper medication administration to Patient A. Respondent admitted marking off all medication doses at the end of his shift rather than at the time of actual administration.

9. Respondent also admitted utilizing a medication cup which contained multiple doses of the same medication on several occasions.

10. Respondent has resigned from the Facility.

11. 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(6)(a), by failing to perform nursing with reasonable skill and safety.

3. As a result of the above conduct, James M. Whelan, 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 James M. Whelan, R.N. is REPRIMANDED.
3. The registered nurse license issued to James M. Whelan, R.N. (license number 184334-30) and his privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact, are LIMITED as follows:
  - a. Within ninety (90) days of the date of this Order, Respondent shall at his own expense, successfully complete three (3) hours of education on the topic of medication administration, two (2) hours of education on the topic of resident rights, and one (1) hour of education on the topic of documentation 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. Pursuant to Nurse Licensure Compact regulations, Respondent's nursing practice is limited to Wisconsin during the pendency of this limitation. This requirement may be waived only upon the prior written authorization of both the Wisconsin Board of Nursing and the regulatory board in the state in which Respondent proposes to practice.
5. Within 120 days from the date of this Order, James M. Whelan, R.N., shall pay COSTS of this matter in the amount of \$400.00.
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

Respondent may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dspsmonitoring.wi.gov/>

7. In the event Respondent violates any term of this Order, Respondent's license (184334-30), or Respondent's right to renew his 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

11 March 2021

\_\_\_\_\_

Date

PAGE 2/3 REC'D 2/23/2021 2:36:58 PM [Central Standard Time] PRD 082692284

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JAMES M. WHELAN, R.N.,  
RESPONDENT.

:  
:  
:  
:  
:

STIPULATION

**ORDER 0007258**

Division of Legal Services and Compliance Case No. 19 NUR 605

Respondent James M. Whelan, 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


PAGE 3/3 REC'D 2/23/2021 2:36:56 PM [Central Standard Time] PRD 082662264

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.

  
James M. Whelan, R.N., Respondent  
Gilman, WI 54433  
License No. 184334-30

2-23-21  
Date

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

2/24/2021  
Date