

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF :
 :
 : FINAL DECISION AND ORDER
 : FOR REMEDIAL EDUCATION
BRIAN K. BAILEY, L.P.N., :
 LICENSEE :

ORDER 0007431

Division of Legal Services and Compliance Case Nos. 20 NUR 324 and 21 NUR 014

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

Brian K. Bailey, L.P.N.
Sheboygan, WI 53081

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. Brian K. Bailey, L.P.N. (Licensee), (Year of Birth 1968) is licensed in the state of Wisconsin as a licensed practical nurse, having license number 314126-31, first issued on July 13, 2011, and current through April 30, 2023. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Sheboygan, Wisconsin 53081.

2. At all times relevant to this proceeding, Licensee was employed as a professional nurse at an assisted living nursing facility (Facility), located in Milwaukee, Wisconsin.

3. On May 28, 2020, Resident A returned to the Facility from the hospital with restraints in place.

4. On June 15, 2020, Licensee placed a wrist restraint on a Resident A's left wrist and then tied it around Resident A's waist to prevent the resident from decannulation. Resident A could then move his arm but could not reach the tracheostomy tube.

5. Licensee did not check to see if Resident A had a physician order for the use of a restraint prior to Licensee using a restraint because he had observed a "mitt" placed on Resident A's hand in the past and he was unaware that the Facility was a "no restraint" facility.

6. The Facility had not properly trained Licensee on its use of restraints policy prior to June 15, 2020.

7. On June 26, 2020, Licensee received a disciplinary action from the Facility and was educated on the Facility's policy of no restraints.

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

CONCLUSIONS OF LAW

1. The Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.

2. Within six (6) months of the date of this Order, Licensee shall at his own expense take and successfully complete three (3) hours of education on the topic of patient's rights, three (3) hours of education on the topic of restraints, and four (4) hours of education on the topic of ethics in nursing as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the course(s) from the Board or its designee. Licensee must take and pass any exam offered for the course(s).
- b. Licensee 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 and may not be used in any future attempt to upgrade a credential.
- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Licensee. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.


3. Requests for course approval and proof of successful course completion shall be sent by Licensee 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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

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

WISCONSIN BOARD OF NURSING

By:  _____
A Member of the Board

10 June 2021
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF
BRIAN K. BAILEY, L.P.N.,
LICENSEE

:
:
:
:
:

STIPULATION

ORDER 0007431

Division of Legal Services and Compliance Case Nos. 20 NUR 324 and 21 NUR 014

Brian K. Bailey, L.P.N. (Licensee) 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. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, 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 Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee'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 Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Licensee 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. Licensee 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 Licensee, 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. Licensee 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 Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Brian K. Bailey

Brian K. Bailey, L.P.N., Licensee
Sheboygan, WI 53081
License No. 314126-31

5-26-21

Date

Gretchen Mrozinski

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

5/26/2021

Date