

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 :
 :
ERICA KOERNER, R.N., : FINAL DECISION AND ORDER
RESPONDENT. : **ORDER 0007533**

Division of Legal Services and Compliance Case No. 20 NUR 194

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

Erica Koerner, R.N.
Waupun, WI 53963

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. Erica Koerner, R.N. (Respondent), (Year of Birth 1984) is licensed in the state of Wisconsin as a registered nurse, having license number 199453-30, first issued on February 13, 2014, 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 Waupun, Wisconsin 53963.

2. At all times relevant to the proceeding, Respondent was employed as a registered nurse at a veteran's hospital in Madison, Wisconsin (Hospital).

3. On June 17, 2019, Patient A was admitted to the alcohol and other drug abuse (AODA) treatment program at the Hospital for alcohol use disorder, severe. On July 16, 2019,

Patient A was discharged from the AODA treatment program and admitted to the residential treatment program at the Hospital. On January 14, 2020, Patient A voluntarily discharged from the residential treatment program.

4. From August 3, 2019, to January 11, 2020, Respondent provided nursing services to Patient A including reviewing and confirming medical appointments with Patient A, conducting/collecting urine drug screens on Patient A, providing vaccines to Patient A, and conducting suicide screenings with Patient A.

5. Respondent entered into a personal relationship with Patient A while he was admitted to the residential treatment program at the Hospital. During this time, Respondent and Patient A spent time together outside of the hospital for personal reasons.

6. Sometime prior to the end of February 2020, Respondent and Patient A entered into a sexual relationship and began living together .

7. Patient A was readmitted to the Hospital in March 2020 for intoxication and alcohol/drug dependence issues.

8. On March 19, 2020, the Hospital conducted an investigatory interview with Respondent who admitted the following:

- a. Respondent was in a relationship with Patient A, but it did not begin until after Patient A left the residential treatment program at the Hospital.
- b. While Patient A was in the residential treatment program, Respondent spent time with Patient A outside of the Hospital, including giving him rides to the store, hiking at a state park, bowling, taking Patient A to her home twice, and to a hotel to eat sushi and swim in the pool.
- c. Respondent and Patient A currently live together and have for approximately one month.
- d. In December 2019, while Patient A was in the residential treatment program, he called Respondent drunk in the middle of the night from a hotel room and Respondent picked him up, took him back to her house, sobered him up, and brought him back to the Hospital.
- e. Respondent advised Hospital staff that she needed to leave work early on March 7, 2020, because a family member had overdosed. Respondent admitted that such statement was a lie and that she actually left work early because Patient A was supposed to be visiting his mom but never showed up and Respondent was worried about him.
- f. Respondent arrived at work early on March 8, 2020, to check on Patient A, and did not announce to staff who were caring for Patient A that she was an employee of the Hospital.

9. As of April 2021, Respondent continues to be in a personal and sexual relationship with Patient A.

10. 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 failed to establish, maintain, or communicate professional boundaries with the patient within the meaning of Wis. Admin. Code § N 7.03(4)(e)1.a.

3. By the conduct described in the Findings of Fact, Respondent engaged in a relationship with a patient that could impair Respondent's professional judgment within the meaning of Wis. Admin. Code § N 7.03(4)(e)1.b.

4. By the conduct described in the Findings of Fact, Respondent engaged in a dual relationship in mental health nursing within the meaning of Wis. Admin. Code § N 7.03(4)(e)1.e.

5. By the conduct described in the Findings of Fact, Respondent engaged in sexual misconduct by evincing sexually explicit conduct, sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient within the meaning of Wis. Admin. Code § N 7.03(4)(f)1.a.

6. By the conduct described in the Findings of Fact, Respondent engaged in sexual misconduct by evincing sexual or seductive conduct with a former patient that created a risk that the relationship could cause harm to or exploit the former patient within the meaning of Wis. Admin. Code § N 7.03(4)(f)1.e.

7. For the purposes of defining and identifying sexual misconduct, nurses are prohibited from engaging in or attempting to engage in sexual or seductive conduct with former mental health patients, including patients with substance use disorders for a period of at least 2 years after termination of nursing services within the meaning of Wis. Admin. Code § N 7.03(4)(f)2.

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

ORDER

1. The attached Stipulation is accepted.

2. The registered nurse license issued to Respondent (license 199453-30) in the state of Wisconsin is SUSPENDED for one (1) year beginning August 26, 2021.

3. The registered nurse license issued to Respondent (license 199453-30) is LIMITED as follows:

- a. Within ninety (90) days prior to the termination of the one (1) year suspension, Respondent shall, at her own expense, undergo a fitness to practice evaluation with a pre-approved psychiatrist or psychologist (Evaluator) who has not provided treatment to Respondent and is experienced in evaluating whether a health care professional is fit to practice.
- b. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the Evaluator.
- c. Respondent shall identify and provide the Evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
- d. Within fifteen (15) days of the completion of the evaluation, a written report regarding the results of the assessment shall be submitted to the Department Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with her ability to practice safely and competently and, if so, shall provide any recommended limitations for safe and competent practice.
- e. Respondent shall execute necessary documents authorizing the Division to obtain records of the evaluation, and to discuss Respondent and her case with the Evaluator. Respondent shall execute all releases necessary to permit disclosure of the final evaluation report to the Board or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Board.
- f. If the Evaluator determines that Respondent is not fit to practice or is fit for practice with limitations, the Board or its designee may continue to suspend Respondent's license until Respondent provides proof sufficient to convince the Board or its designee that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
- g. If the Evaluator determines that Respondent is fit to practice or is fit to practice with limitations, the Board or its designee may limit Respondent's license in a manner to address any concerns the Board or its designee has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the evaluation, including, but not limited to:

- i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with quarterly reports to the Board by the therapist.
 - ii. Additional professional education in any identified areas of deficiency.
 - iii. Restrictions on the nature of practice, practice setting, or requirements for supervision of practice by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- h. Respondent is responsible for ensuring that the results of the evaluation are sent to the Department Monitor at the address listed in this Order.

4. The registered nurse license issued to Respondent (license 199453-30) is further LIMITED as follows:

- a. Prior to the termination of any suspension required by this Order, Respondent shall at her own expense, successfully complete three (3) hours of education on the topic of boundaries and three (3) hours of education on the topic of dual relationships, for a total of six (6) hours, 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 the ordered education.

5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1234.00.

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. Should Respondent have a Wisconsin multistate license pursuant to the Compact, Respondent may not practice in any Compact state, other than Wisconsin, while Respondent's license is encumbered by any term(s) of this Order.

8. In the event Respondent violates any term of this Order, Respondent's license (199453-30), 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.

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

WISCONSIN BOARD OF NURSING

By:



A Member of the Board of Nursing

8/12/2021

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ERICA KOERNER, R.N.,
RESPONDENT.

:
:
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:
:

STIPULATION

ORDER U007533

Division of Legal Services and Compliance Case No. 20 NUR 194

Erica Koerner, R.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. Respondent is represented by Attorney Stacie Rosenzweig.


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 or Respondent's attorney, 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.


Erica Koerner, R.N., Respondent
Waupun, WI 53963
License No. 199453-30

07/14/21
Date


Stacie Rosenzweig, Attorney for Respondent
Halling & Cayo, S.C.
320 E. Buffalo St., Suite 700
Milwaukee, WI 53202

07/15/2021
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

7/16/21
Date