

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

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
TIMOTHY S. DROBKA, R.N., : FINAL DECISION AND ORDER
RESPONDENT. :
ORDER U007538

Division of Legal Services and Compliance Case No. 20 NUR 124

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

Timothy S. Drobka, R.N.
Pewaukee, WI 53072

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. Timothy S. Drobka, R.N. (Respondent), (Year of Birth 1980) is licensed in the state of Wisconsin as a registered nurse, having license number 218935-30, first issued on August 19, 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 Pewaukee, Wisconsin 53072.

2. At all times relevant to this proceeding, Respondent was employed as a registered nurse at a hospital, located in Waukesha, Wisconsin (Hospital).

3. In early January 2020, the Hospital began investigating Respondent for possible diversion of controlled substances.

4. On January 17, 2020, the Hospital contacted the Waukesha Police Department (WPD) to report Respondent's behavior which the Hospital believed was indicative of diversion. The WPD began surveilling Respondent.

5. On January 19, 2020, Respondent left the Hospital at 12:15 a.m., during his shift, without notifying leadership. Respondent left the Hospital in his vehicle, and was pulled over by WPD for driving in an erratic and suspicious manner. Respondent consented to a search of his vehicle where one (1) vial of lorazepam, one (1) vial of prochlorperazine, two (2) syringes with a cloudy substance, and saline flush syringes were found in the center console. Respondent was arrested for theft of prescription drugs and subject to a drug screen test to which he consented. Respondent's drug screen test results were negative. Respondent did not possess a valid prescription for the controlled substances found in his vehicle.

6. During the Hospital's investigation of Respondent, it was discovered that Respondent, on multiple occasions, left the Hospital, during his breaks, without handing off care to another registered nurse and/or notifying his supervisors.

7. On January 21, 2020, the Hospital terminated Respondent's employment.

8. On May 6, 2021, in Waukesha County Circuit Court Case No. 2020CM002054 Respondent was convicted (via a no contest plea) of Possession of Controlled substance (misdemeanor) in violation of Wis. Stat. § 961.41(3g)(b), Disorderly Conduct (misdemeanor) in violation of Wis. Stat. § 947.01(1), and Possess/Illegally Obtained Prescription (misdemeanor) in violation of Wis. Stat. § 450.11(7)(h). Respondent was sentenced to one-year probation, thirty (30) hours of community service, an alcohol and other drug abuse (AODA) assessment, and random drug screens.

9. 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. 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). The effective date of the Compact is July 20, 2017.

3. Having been convicted of a misdemeanor offense related to the practice of nursing is a disqualifying event pursuant to Wis. Stat. § 441.51(3)(c)8.

4. By the conduct described in the Findings of Fact, Respondent violated a law substantially related to the practice of nursing within the meaning of Wis. Admin. Code § N 7.03(2).

5. By the conduct described in the Findings of Fact, Respondent failed to report to or left a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client within the meaning of Wis. Admin. Code § N 7.03(6)(d).

6. By the conduct described in the Findings of Fact, Respondent obtained, possessed, or attempted to obtain or possess a drug without lawful authority within the meaning of Wis. Admin. Code § N 7.03(8)(e).

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent's multistate license granted pursuant to the Enhanced Nurse Licensure Compact (Compact) is deactivated.
3. Respondent is REPRIMANDED.
4. The registered nurse license issued to Respondent (license number 218935-30) is LIMITED as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall at his own expense, successfully complete six (6) hours of education on the topic of handling and wasting of controlled substances, six (6) hours of education on the topic of nursing ethics, and six (6) hours of education on the topic of patient safety, for a total of eighteen (18) 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. Respondent's license to practice as a registered nurse in the state of Wisconsin (license number 218935-30) is further LIMITED as follows:
- a. For a period of at least two (2) years from the date of this Order:
 - i. Respondent shall enroll and participate in a drug monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
 - ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends, and holidays.
 - 2. Production of a urine, blood, sweat, fingernail, hair, saliva, or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
 - 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year (one of which may be a hair test at the Board's discretion), for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
 - iii. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed, or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall, at the time the controlled substance is ordered, immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor. Respondent shall disclose the name

and address of such practitioner to the Department Monitor within five (5) business days of receipt of a prescription for controlled substances.

- iv. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within twenty-four (24) hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered, or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- v. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that he may take from time to time. Respondent shall abstain from all use of over-the-counter medications, products, or other substances (including but not limited to natural substances, such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or alcohol, create false positive screening results, or otherwise interfere with Respondent's test results, treatment, or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph 3(a)iv. It is Respondent's responsibility to educate himself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- vi. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- vii. If any urine, blood, sweat, fingernail, hair, saliva, or other specimen is positive or suspected positive for any controlled substances, Respondent shall promptly submit to additional tests or examinations as the Board, or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- viii. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- ix. Respondent shall provide his or her nursing employer with a copy of this Order and any subsequent order modifying this Order before engaging in any nursing employment. Respondent shall provide the

Department Monitor with written acknowledgment from each nursing employer that a copy of this Order and any subsequent order modifying this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order and any subsequent order modifying this Order for employment current as of the date of this Order.

- x. Respondent shall not work as a nurse or other health care provider in a setting in which Respondent has access to controlled substances without prior approval from the Board. Respondent shall provide the Department Monitor with written acknowledgment from each nursing employer that Respondent does not have access to controlled substances. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each nursing employer.
- xi. It is Respondent's responsibility to arrange for quarterly written reports to be submitted to the Department Monitor from his or her supervisor at each setting in which Respondent practiced as a nurse in the previous quarter. These reports shall be submitted as directed by the Department Monitor, and shall assess Respondent's work performance, and shall include the number of hours of active nursing practice worked during that quarter. If a report indicates less than satisfactory performance, the Board may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.

6. A violation of this Order includes a positive drug screen.

7. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

8. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1607.00.

9. 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
DPSMonitoring@wisconsin.gov

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

10. In the event Respondent violates any term of this Order, Respondent's license (number 218935-30), 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. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee. 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.

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

WISCONSIN BOARD OF NURSING

By:



A Member of the Board

8/12/2021

Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

TIMOTHY S. DROBKA, R.N.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0007538

Division of Legal Services and Compliance Case No. 20 NUR 124

Timothy S. Drobka, 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 Kristen Nelson.

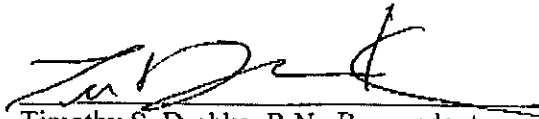
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Board of Nursing (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives 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.

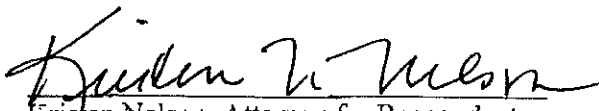
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's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


Timothy S. Drobka, R.N., Respondent
Pewaukee, WI 53072
License No. 218935-30

6/9/21
Date


Kristen Nelson, Attorney for Respondent
Gimbel, Reilly, Guerin, Brown, LLP
330 E Kilbourn Ave., Ste. 1170
Milwaukee, WI 53202

6/9/21
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

6/10/21
Date