

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
KEMBA M. BANYARD, R.N., A.P.N.P., :
RESPONDENT. :

ORDER 0007974

Division of Legal Services and Compliance Case No. 20 NUR 125

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

Kemba M. Banyard, R.N., A.P.N.P.
River Hills, WI 53217

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. Kemba M. Banyard, R.N., A.P.N.P. (Respondent), (Year of Birth 1978) is licensed in the state of Wisconsin as a registered nurse, with multistate privileges pursuant to the Enhanced Nurse Licensure Compact (Compact), having license number 140438-30, first issued on February 21, 2002 and current through February 29, 2024. Respondent is also certified in the state of Wisconsin as an advanced practice nurse prescriber, having certificate number 4887-33, first issued on July 20, 2012, and current through September 30, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in River Hills, Wisconsin 53217.

2. At all times relevant to this proceeding, Respondent worked as a registered nurse and advanced practice nurse prescriber in Milwaukee and Kenosha, Wisconsin.

3. On August 28, 2019, Respondent applied for an individual Medicaid provider number which became effective on September 16, 2019.

4. On March 18, 2020, the Department of Health Services, Office of the Inspector General (OIG) referred Respondent to the Department based on information OIG obtained during an investigation involving Medicaid claims and data analysis that suggested Respondent had engaged in practices that do not meet standards of practice, federal regulations, or both. Respondent had allegedly been prescribing controlled substances such as oxycodone, codeine, benzodiazepines (alprazolam), and stimulants such as amphetamines to family members and persons identified as living, or who had been living, at her address of record. The Department opened Division of Legal Services and Compliance Case No. 20 NUR 125 to investigate the allegations.

5. The Department's investigation uncovered the following conduct by Respondent occurring between January 1, 2016, though January 31, 2020.

- a. On frequent, multiple occasions occurring each year from 2016 through 2020, Respondent prescribed various prescription medication, including controlled substances, to various family members including but not limited to her mother, daughter, son, sister, and niece.
- b. Respondent was not the primary care provider for the various family members identified in subparagraph a.
- c. Respondent did not maintain and/or was unable to produce patient records for multiple dates of service she provided treatment to her family members.
- d. Patient records were incomplete (missing documentation that patient was treating with Respondent because primary care provider unavailable, missing documentation as to why patient treating with Respondent when record notes patient receiving treatment for same issue from another provider, missing documentation of patient's current prescription drugs, missing vitals, missing labs, missing history, etc.).
- e. Respondent did not charge family members for her services on multiple occasions.

6. Respondent stopped prescribing medication to family members several years ago.

7. 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 engaged in unsafe practice or substandard care, including failing to perform nursing with reasonable skill and safety within the meaning of Wis. Admin. Code § N 7.03(6)(a).

3. By the conduct described in the Findings of Fact, Respondent engaged in unsafe practice or substandard care, including departing from or failing to conform to the minimal standards of acceptable nursing practice that may create unnecessary risk or danger to a patient's life, health, or safety within the meaning of Wis. Admin. Code § N 7.03(6)(c).

4. By the conduct described in the Findings of Fact, Respondent engaged in improper prescribing, dispensing, or administering medication or drug related offenses, including prescribing of any drug other than in the course of legitimate practice or as otherwise prohibited by law within the meaning of Wis. Admin. Code § N 7.03(8)(a).

5. By the conduct described in the Findings of Fact, Respondent engaged in improper prescribing, dispensing, or administering medication or drug related offenses, including committing errors in prescribing, dispensing, or administering medication within the meaning of Wis. Admin. Code § N 7.03(8)(d).

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 441.07(1g)(e) by violating any state or federal law that regulates prescribing or dispensing drugs or devices if the person has a certificate to prescribe drugs or devices under s. 441.16.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Respondent's license to practice as a registered nurse and certificate to practice as an advanced practice nurse prescriber (license no. 140438-30 and certificate no. 4887-33), and privilege to practice in Wisconsin pursuant to the Compact, are LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall at their own expense, successfully complete six (6) hours of education on the topic of ethics, six (6) hours of education on the topic of prescribing controlled substances, and completion of the Wisconsin Nurse Practice Act course (offered by the NSCBN). The education on the topics of ethics and prescribing must be 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.
4. Respondent agrees to permanently refrain from prescribing medication to her parents, siblings, nieces and nephews, current or former spouse(s), father of her children, and any individual residing with Respondent.
5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,666.00.
5. 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>.

7. Pursuant to Wis. Stat. § 441.51(5)(b), Respondent's multistate licensure privilege to practice in all Compact states besides Wisconsin is deactivated during the pendency of this Order.
8. In the event Respondent violates any term of this Order, Respondent's license and certificate (nos. 140438-30 and 4887-33), or Respondent's right to renew her license and certificate, 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: Robert Weirman, RN-CCNP
A Member of the Board of Nursing

5/12/2022
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KEMBA M. BANYARD, R.N., A.P.N.P.,
RESPONDENT.

:
:
:
:
:
:

STIPULATION

ORDER 0007974

Division of Legal Services and Compliance Case No. 20 NUR 125

Kemba M. Banyard, R.N., A.P.N.P. (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 Dan Sanders.

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.

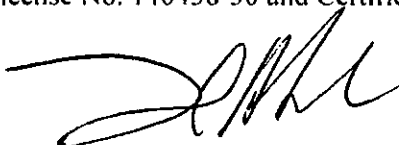
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Kemba M. Banyard, R.N., A.P.N.P., Respondent
River Hills, WI 53217
License No. 140438-30 and Certificate No. 4887-33

4/11/22

Date



Daniel Sanders, Respondent's Attorney
Hart Powell, S.C.
735 N. Water Street, Suite 1212
Milwaukee, WI 53202

4/12/22

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

4/15/22

Date