

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
GINA M. HERNANDEZ, R.N., : FINAL DECISION AND ORDER  
RESPONDENT. :  
 : **ORDER 0008009**

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Division of Legal Services and Compliance Case No. 21 NUR 132

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

Gina M. Hernandez, R.N.  
Andover, NJ 07821

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 Gina M. Hernandez, R.N., (Year of Birth 1987) 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 254231-30, first issued on June 30, 2020, and current through February 29, 2024. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is in Andover, New Jersey 07821.

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

3. During a routine monthly audit of controlled substances, the Hospital's drug diversion investigation team discovered that Respondent had eleven unexplained controlled substance discrepancies from November 2020 to February 2021.

4. On March 3, 2021, the Hospital met with Respondent to discuss the discrepancies. Respondent initially denied any wrongdoing, but later admitted to diverting controlled substances for her own use.

5. Respondent submitted to a rapid drug and alcohol screen and tested positive for antihistamines and doxylamine. The Hospital terminated Respondent's employment.

6. Respondent reported to the Department that she would take an oxycodone from the Pyxis machine when she felt a migraine coming on. In order to account for the pills that she took, Respondent would create discrepancies in the Hospital's Pyxis machines.

7. On May 6, 2022, Respondent entered into an impairment program, separate from this Order, and signed the impairment program contract.

8. 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 improper prescribing, dispensing, or administering medication or drug related offenses by dispensing 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)(b).

3. By the conduct described in the Findings of Fact, Respondent engaged in improper prescribing, dispensing, or administering medication or drug related offenses, by obtaining, possessing or attempting to obtain or possess a drug without lawful authority within the meaning of Wis. Admin. Code § N 7.03(8)(e).

4. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 441.07(1g)(b), (c), 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 in the state of Wisconsin (license number 254231-30) and her privilege to practice in Wisconsin pursuant to the Compact are LIMITED as follows:

- a. Respondent shall comply with the impairment program contract dated May 6, 2022.
- b. Any violation of the terms of the impairment program contract dated May 6, 2022, is a violation of this order.
- c. Respondent may petition for termination of the limitation upon successful completion of the impairment program.

4. In the event Respondent is discharged from the impairment program prior to successful completion, Respondent's license, and appurtenant right to renew, may, in the discretion of the Board or its designee, be immediately SUSPENDED. In addition to, or instead of, the suspension, the Board may impose additional limitations to address any concerns with the conduct described in the Findings of Fact and Respondent's discharge from the impairment program.

5. 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.

6. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,628.00.

7. 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 payment online at: <https://dspsmonitoring.wi.gov>.

8. In the event Respondent violates any term of this Order, Respondent's license (254231-30), 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: James P. Delabreux  
A Member of the Board

6/8/22  
Date

STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

GINA M. HERNANDEZ, R.N.,  
RESPONDENT.

:  
:  
:  
:  
:  
:

STIPULATION

**ORDER 0008009**

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Division of Legal Services and Compliance Case No. 21 NUR 132

Respondent Gina M. Hernandez, 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. 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

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

*Gina Marie Hernandez*

5/13/2022

\_\_\_\_\_  
Gina M. Hernandez, R.N., Respondent  
Andover, NJ 07821  
License No. 254231-30

\_\_\_\_\_  
Date

*Kristen Nelson*

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Kristen Nelson, Attorney for Respondent  
Gimbel, Reilly, Guerin, & Brown, L.L.P.  
330 E. Kilbourn Ave., Suite 1170  
Milwaukee, WI 53202

*5/16/22*  
\_\_\_\_\_  
Date

*Nicholas Dalla Santa*

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Nicholas Dalla Santa, Prosecuting Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance

*5/17/22*  
\_\_\_\_\_  
Date

P.O. Box 7190  
Madison, WI 53707-7190