

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

DIANE F. WHITE, R.N.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0008086

Division of Legal Services and Compliance Case No. 21 NUR 103

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

Diane F. White, R.N.
Beaver Dam, WI 53916

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 Diane F. White, R.N., (Year of Birth 1976) is licensed in the state of Wisconsin as a registered nurse, having license number 172352-30, first issued on May 26, 2010, and current through February 29, 2024. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is in Beaver Dam, Wisconsin 53916.

2. From approximately November 2015 to February 23, 2020, Respondent was exclusively employed as a home health care nurse, at a private residence located in Monona, Wisconsin (Home). The residents of the Home were Patient A, a male, his sister, Patient B, and their mother. Both patients are diagnosed with spinal muscular atrophy, are wheelchair-bound, and require 24-hour nursing care. While employed in the Home, Respondent cared for both Patient A and Patient B.

3. During the course of her employment at the Home, Respondent gained the trust of Patient A, Patient B, and their mother, and became intimately familiar with the workings of the home. Respondent became involved in the daily lives of Patient A and Patient B beyond her professional nursing duties, including attending family events.

4. Respondent's relationship and communication with Patient A gradually became more inappropriate over time. Respondent was possessive of her care of Patient A and would get jealous and accuse Patient A of being romantically involved with other nurses who worked for him. By 2019, Patient B and the patients' mother were aware of the nature of the relationship, which contributed to an overall harmful home environment.

5. On February 23, 2020, Respondent abruptly left her employment at the Home, without notice to either patient. At the time Respondent resigned, she was Patient A's case manager and responsible for hiring new staff. Respondent later told Patient A that she quit due to stress exacerbated by physical and mental health deterioration, and because other nursing staff threatened to report Respondent for having too close of a relationship with Patient A. Patient A asked for proof of these threats, but Respondent did not provide any.

6. On April 12, 2020, Respondent sent Patient B an e-mail in which she acknowledged her inappropriate relationship with Patient A and that her abrupt resignation was harmful to both patients. Respondent asserts the email did not come from her.

7. Respondent continued to communicate with Patient A regularly following her resignation, and at times they would discuss issues with nursing staff in the Home. Respondent was therefore familiar with the staffing schedule for the Home, including which nurses were scheduled at which times, and would advise Patient A regarding staffing and hiring decisions. On February 12-13, 2021, while discussing the schedule of a nurse working at the Home, Respondent sent Patient A profane, insulting, and sexually demeaning text messages regarding his relationships with other nurses. Patient A viewed these messages, but did not respond to them. Respondent asserts the messages did not come from her.

8. On February 11, 2021, Respondent, using her personal Facebook account, messaged a different nurse employed by the Home advising that the nurse should stop working there. Respondent stated that the Home "has a lot of issues," that Patient A "targets lesbians," and claimed she can provide "all kinds of proof," but did not provide further information when asked.

9. Respondent denies the matters set forth in the above Findings of Fact, but to resolve 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 report to or left a nursing assignment without properly notifying appropriate supervisor personnel and ensuring

the safety and welfare of the patient or client within the meaning of Wis. Admin. Code § N 7.03(6)(d).

3. By the conduct described in the Findings of Fact, Respondent violated principles of professional boundaries by failing to establish, maintain, or communicate professional boundaries with the patient within the meaning of Wis. Admin. Code § N 7.03(4)(e)1.a.

4. By the conduct described in the Findings of Fact, Respondent violated principles of professional boundaries by engaging in relationships with patients that could impair the nurse's professional judgement within the meaning of Wis. Admin. Code § N 7.03(4)(e)1.b.

5. By the conduct described in the Findings of Fact, Respondent engaged in sexual misconduct by transmitting information about a patient via electronic media that can be reasonably interpreted as sexual or sexually demeaning by the current or former patient within the meaning of Wis. Admin. Code § N 7.03(4)(f)1.d.

6. 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. This Final Decision and Order (Order) is effective on the date of its signing.
3. The registered nurse license issued to Respondent, (license number 172352-30) is **SUSPENDED** as follows:
 - a. The license of Respondent to practice as a nurse in the state of Wisconsin is **SUSPENDED** for an indefinite period.
 - b. The privilege of Respondent to practice as a nurse in the state of Wisconsin under the authority of another state's license pursuant to the Nurse Licensure Compact (Compact) is also **SUSPENDED** for an indefinite period.
4. After one year from the effective date of this Order, Respondent may petition for a stay of the suspension, after showing compliance with the terms and conditions in paragraphs 5. and 6. below. Whether or not to stay the suspension is solely within the discretion of the Board or its designee.
5. Within 90 days from the date of this Order, Respondent shall at her own expense, successfully complete three hours of education on the topic of ethics and professionalism and three hours of education on the topic of professional boundaries offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.
 - a. 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.

- b. 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.

6. If the suspension is stayed pursuant to paragraph 4., Respondent's license to practice as a registered nurse in the state of Wisconsin (license number 172352-30), and her privilege to practice in Wisconsin pursuant to the Nurse Licensure Compact (Compact), are LIMITED as follows:

- a. Respondent shall practice only under the direct supervision of a licensed nurse or other licensed health care professional, approved by the Board or its designee, who has received a copy of this Order.
- b. Respondent shall practice only in a work setting pre-approved by the Board or its designee. Requests for pre-approval must be accompanied by a current job description, name and contact information of the direct supervisor, and written acknowledgment from the employer that a copy of this Order and any subsequent orders modifying this original Order have been received and that the restrictions will be accommodated.
- c. Respondent may not work as a nurse in the following settings: home health care, hospice, pool nursing, assisted living, agency, or in a correctional setting.
- d. Respondent shall provide a copy of this Order, and any subsequent order modifying this original Order, immediately to supervisory personnel at all settings where Respondent works as a nurse or care giver or provides health care, currently or in the future. Within 14 days from the date of this Order, including any subsequent order modifying this original Order, Respondent shall provide the Department Monitor with written acknowledgment from the employer that a copy of this Order, and any subsequent order modifying this original Order, have been received and that the restrictions will be accommodated.
- e. 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 nursing 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.

- f. Respondent shall report to the Board any change of employment status, residence, mailing address, email address, or telephone number within five (5) days of the date of a change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.
- g. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any provision of this Order. The Board or its designee may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay
- h. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

7. Respondent may petition the Board on an annual basis for modification of the terms of this Order; however, no such petition for modification shall occur earlier than one year from the date of the stay of the suspension. After two consecutive years of successful compliance with all terms, including at least 600 hours of approved nursing practice every year, Respondent may petition for return to full license. 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 \$3,182.00.

9. Any requests, petitions, reports, payment 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://dspsmonitoring.wi.gov>.

10. In the event Respondent violates any term of this Order, Respondent's license (number 172352-30), 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. 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: Robert Weimer, DNP, CCNP
A Member of the Board

8/11/2022
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DIANE F. WHITE, R.N.,
RESPONDENT.

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STIPULATION

ORDER 0008086

Division of Legal Services and Compliance Case No. 21 NUR 103

Respondent Diane F. White, 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.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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. 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.



Diane F. White, R.N., Respondent
Beaver Dam, WI 53916
License No. 172352-30

7/18/2022

Date



Mario Mendoza, Attorney for Respondent
Murphy Desmond, S.C.
33 E. Main St., Ste. 500
Madison, WI 53701-2038

July 18, 2022

Date



Nicholas Dalla Santa, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison WI 53707-7190

7/25/22

Date