

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
MICHAEL J. LEE, R.N., :
RESPONDENT. : **ORDER 0008484**

Division of Legal Services and Compliance Case No. 21 NUR 801

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

Michael J. Lee, R.N.
New Richmond, WI 54017-9766

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. Michael J. Lee, R.N. (Respondent), (Year of Birth 1985) is licensed in the state of Wisconsin as a registered nurse with multistate practice privileges pursuant to the Nurse Licensure Compact (Compact), having license number 225044-30, first issued on August 28, 2015, and current through February 28, 2022.¹ Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in New Richmond, WI 54017-9766.

¹ Respondent filed an application for renewal of this license in February 2022. Pursuant to Wis. Stat. § 227.15(2), the license remains active until the Board acts upon the renewal.

2. At all times relevant to this proceeding, Respondent worked as a registered nurse.

3. On January 8, 2019, Respondent was charged with Strangulation and Suffocation (Domestic Abuse), Misdemeanor Battery (Domestic Abuse), Disorderly Conduct (Domestic Abuse), and Criminal Damage to Property, in Eau Claire County case number 19 CF 43. The charges were based on an incident on January 7, 2019, when officers responded to a domestic disturbance call and Respondent's girlfriend J.L. (J.L.) alleged that Respondent had been consuming alcohol, they began arguing, and Respondent choked her and damaged personal property. On August 22, 2019, Respondent pled guilty to Strangulation and Suffocation (Domestic Abuse), a class F felony in violation of Wis. Stats. §§ 940.235(1) and 968.075(1)(a), pursuant to a twenty-four month Deferred Acceptance of a Guilty Plea (DAGP) Agreement. The other charges were dismissed and read in. Conditions of the DAGP Agreement included no contact with J.L. or her children and no commission of further crimes. On December 15, 2021, the remaining charge was dismissed pursuant to the DAGP Agreement.

4. On January 15, 2021, Respondent entered a Guilty Due to No Contest Plea in regard to a charge of OWI 1st, a forfeiture in violation of Wis. Stat. § 346.63(1)(a), in Chippewa County Circuit Court case number 20 TR 2501. The charge was based on an incident on September 14, 2020, when officers found Respondent sitting in a vehicle in a hotel parking lot, with a "glassy appearance to his eyes, and a reddish appearance to his cheeks" and an odor of intoxicants. Respondent told officers he had gone to the hotel to meet his family after he had a verbal argument with J.L. Respondent took a breathalyzer test which confirmed his Blood Alcohol Content (BAC) was .21%. As a result of his Guilty Plea, Respondent was ordered to undergo an alcohol assessment and his drivers' license was revoked for six months.

5. On April 26, 2021, Respondent was charged with Felony Bail Jumping, Misdemeanor Intimidation of a Victim (Domestic Abuse), Disorderly Conduct (Domestic Abuse), and Criminal Damage to Property, in Eau Claire County Circuit Court case number 21 CF 421. The charges were based on an incident on April 23, 2021, when officers responded to a domestic disturbance call and Respondent's girlfriend J.L. alleged that Respondent was drinking, they had an argument, and Respondent was yelling and slamming the bedroom door so that it ripped from the door trim. J.L. reported being scared of Respondent and that Respondent took her phone and threw it so she could not call 911. Officers found Respondent at a tavern where he was arrested and provided a preliminary breath test which registered a BAC of .268 %. On December 15, 2021, Respondent pleaded no contest to and was convicted of Misdemeanor Intimidation of a Victim (Domestic Abuse), a class A misdemeanor in violation of Wis. Stats. §§ 940.44(1) and 968.075(1)(a). The remaining charges were dismissed but read in.

6. Respondent did not report the conviction referenced in paragraph 5 above to the Department until December 20, 2021.

7. On October 1, 2021, Respondent was working as a nurse for a health care provider in Chippewa Falls, Wisconsin. Fellow staff members reported that Respondent was slower than usual, talkative, and looked "less put together" than usual. Respondent was interviewed by the nursing home administrator (NHA) and the RN unit manager, who noted he appeared impaired. Respondent was asked to submit to a drug/alcohol test per the employer's reasonable suspicion policy and he refused. Respondent's employment was terminated.

8. On March 1, 2023, Respondent entered into an impairment program, separate from this Order.

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. By the conduct described in the Findings of Fact, Respondent violated or aided and abetted a violation of any law substantially related to the practice of nursing or being convicted of any crime substantially related to the practice of nursing within the meaning of Wis. Admin. Code § N 7.03(2).

3. By the conduct described in the Findings of Fact, Respondent failed to notify the board of a felony or misdemeanor in writing within 48 hours after the entry of the judgment of conviction, including the date, place, and nature of the conviction or finding within the meaning of Wis. Admin. Code § N 7.03(1)(h).

4. By the conduct described in the Findings of Fact, Respondent was unable to practice safely by reason of alcohol or other substance use within the meaning of Wis. Admin. Code § N 7.03(6)(f).

5. 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. The license to practice as a registered nurse issued to Respondent (license no. 225044-30) is LIMITED as follows:

a. Respondent must comply with the impairment program contract dated March 1, 2023.

b. Any violation of the terms of the impairment program contract dated March 1, 2023, is a violation of this Order.

c. Respondent may petition for termination of this 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 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 regarding the conduct described in the Findings of Fact and facts leading to Respondent's discharge from the impairment program.

5. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$2,929.00.

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. 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 (number 225044-30), 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, 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 Weirmon
A Member of the Board of Nursing

4.13.23
Date

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL J. LEE, R.N.,
RESPONDENT.

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:
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:
:

STIPULATION
ORDER 0008484

Division of Legal Services and Compliance Case No. 21 NUR 801

Michael J. Lee, 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 Mario Mendoza.

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

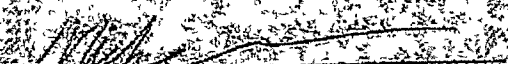
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.


Michael J. Lee, R.N., Respondent
New Richmond, WI 54001-2976
License No. 225044-30

3-14-2023
Date


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

3-21-2023
Date

Matthew Valley, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
R.O. Box 7190
Madison, WI 53707-7190

Date

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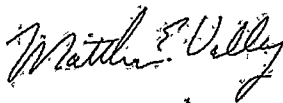
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Michael J. Lee, R.N., Respondent
New Richmond, WI 54017-9766
License No. 225044-30

Date

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

Date



March 21, 2023

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

Date