

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

FILE COPY

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST: : **FINAL DECISION AND ORDER**
 : **96 NUR 160**
 :
CYNTHIA L. EWERT, L.P.N., :
RESPONDENT. : **LS9709124NUR**

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Cynthia L. Ewert
3786 S. 21 Street
Milwaukee, WI 53221

Represented By:

Wanda L. Hurr, Esq.
Davis & Kuelthau, S.C.
111 E. Kilbourn Avenue
Suite 1400
Milwaukee, WI 53202

Wisconsin Board of Nursing
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the 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

1. Cynthia L. Ewert (D.O.B. 9/22/50) is a licensed practical nurse licensed to practice in the state of Wisconsin (license #12081). This license was first granted December 13, 1971.
2. At all times relevant to this action, Respondent was employed as a licensed practical nurse at South Shore Manor Nursing Home, Milwaukee, Wisconsin.
3. On April 30, 1996, a pharmacy technician at Pharmacy Corporation of America, Glendale, Wisconsin, filled a 30 day prescription supply of Coumadin for patient AH who was a resident of South Shore Manor. The physician's order for the medication called for 0.5 milligram tablets (which are a one-half tablet size and a brilliant pink color). Instead, 5.0

milligram tablets (which are whole tablets with a number "5" stamped on one side and a peach color) were prepared. The tablets were placed in blister packs of 14 doses per packet and were then checked by a pharmacist before they were shipped to the nursing home. The blister packs were labeled on the front as 0.5 milligram.

4. Respondent administered 5 milligram doses of Coumadin to resident AH on 5/01/96, 5/05/96 and 5/07/96 after checking the front label on the blister pack, which was labeled "0.5 mg.". A co-worker administered 5 milligram doses on 5/03/96, 5/09/96, 5/11/96 and 5/13/96. The nursing home physician's order and medication administration record called for 0.5 milligram dosage.

5. Respondent's conduct did not meet the minimum standard of practice because the criterion for safe medication administration was not followed, i.e., incorporating the procedure of checking the labeling of the medication (both front and back) three times against the Medication Administration Record (MAR).

6. Respondent has successfully completed a course of instruction and evaluation in medication administration and has been evaluated on successive supervised medication passes, during which she demonstrated a safe and competent medication administration technique.

CONCLUSIONS OF LAW

7. The Wisconsin Board of Nursing has jurisdiction to act in this matter pursuant to §441.07(1)(b) and (c) Wis. Stats., and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

8. The conduct of Respondent violated § N 7.03(a) and (b), and N 7.04(15), Wis. Adm. Code.

ORDER

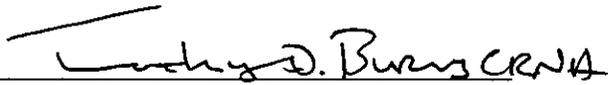
NOW THEREFORE, IT IS HEREBY ORDERED:

1. The Stipulation of the parties is accepted.
2. Cynthia L. Ewert is REPRIMANDED for her unprofessional conduct.

This Order shall become effective upon the date of its signing.

Dated this 12TH day of SEPTEMBER, 1997.

WISCONSIN BOARD OF NURSING

By 
A Member Of The Board

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY .
PROCEEDINGS AGAINST: : **STIPULATION**
 : **96 NUR 160**
CYNTHIA L. EWERT, L.P.N., .
RESPONDENT. :

IT IS HEREBY STIPULATED by and between Cynthia L. Ewert, personally on her own behalf and by her attorneys, Davis & Kuelthau, S.C., and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.
2. Respondent understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent is aware of her right to seek legal representation and has sought legal advice prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board of Nursing. 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 be returned to the Division of Enforcement for further proceedings. In the event that this 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. Attached to this Stipulation is the current licensure card of the Respondent.
7. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear before the Board of Nursing for the purpose of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation. Respondent will be notified of the time and date for any such deliberations, and will be given the opportunity to be present, or to have counsel present on her behalf.
8. Respondent's recommendation of adoption of this Stipulation does not constitute an admission against interest of the truth of the Findings of Facts or the legal conclusions contained in the documents for any purpose other than Matter No. 96 NUR 160 pending before the Wisconsin Department of Regulation and Licensing.
9. The Division of Enforcement joins respondent in recommending the Board of Nursing adopt this Stipulation and issue the attached Final Decision and Order.

Cynthia L. Ewert
Cynthia L. Ewert, L.P.N.

July 12, 1997
Date

Wanda L. Hurr
Davis & Kuelthau, S.C.
By Wanda L. Hurr, Esq.
State Bar #1001983

7/18/97
Date

James W. Harris
James W. Harris, Attorney
Division of Enforcement

August 13, 1997
Date

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

SEPTEMBER 17, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)